



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P. (MD) .No.6073 of 2019

and

Crl.M.P. (MD) .Nos.3932 and 3933 of 2019

Vanaraja

... Petitioner/ Accused No.3

Vs.

1.State represented by the
Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District
(Crime No.361 of 2016)

..1st Respondent/Complainant

2.Mr.Vairava Sundaram

...2nd Respondent / De facto
complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C.No.403 of 2019 on the file of the Judicial Magistrate Court No.1, Sivakasi and quash the same as against the petitioner/A3.

For Petitioner : Mr.M.Jothi Basu

For R-1

: Mr.A.P.G.Ohm Chairma Prabhu

Government Advocate (Crl. Side)

O R D E R

The present petition is filed to quash the charge sheet in S.T.C.No.403 of 2019 on the file of the Judicial Magistrate Court No.1, Sivakasi, as against the petitioner/accused No.3.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the first respondent.

3. The case was registered by the first respondent police for the offences under Sections 143, and 188 IPC r/wSection 4 AA (1a) of the Tamil Nadu Open Places (Prevention of Disfurgement) Act, 1959, on the allegation that on 14.05.2016, the petitioners and others have conducted two wheeler procession.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that after completion of investigation, case has been charge sheeted in S.T.C.No.403 of 2019 on the file of the Judicial Magistrate Court No.1, Sivakasi,



5. The learned counsel for the petitioner submitted that under Section 468 (2)(b) Cr.P.C, it is the duty of the police to complete investigation and file final report within a period of one year, but in this case, charge sheet was filed after a period of 3 years.

6.1 Any complaint under Section 188 I.P.C., cannot be taken cognizance and it is not cognizable offence. This Court on perusing the papers satisfied that Section 143 IPC is inserted only to get over the initial lapse in not preferring the complaint for the alleged commission of offence under Section 188 IPC.

6.2 This Court vide its judgment in **Jeevanandham and Others Vs. State rep. By Inspector of Police, Velayuthampalayam Police Station, Karur District and another** [2018-2-L.W.(CrI.)606] has already held that the court can take cognizance under Section 188 IPC only on the basis of a complaint preferred before the Magistrate by the concerned public servant. This Court is in agreement with the reasoning of the said judgment.

7. In view of the above, the proceedings in S.T.C.No.403 of 2019 on the file of the Judicial Magistrate Court No.1, Sivakasi, is hereby quashed.

8. In fine, this Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

CM

To

1. The Judicial Magistrate Court No.1, Sivakasi

2. The Inspector of Police, Sivakasi Town Police Station,
Virudhunagar District

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.G.M.LAW OFFICE, Advocate Sr. No. 63167

CrI.O.P. (MD).No.6073 of 2019 and
CrI.M.P. (MD).Nos.3932 and 3933 of 2019

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