



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P.(MD)No.6178 of 2019

and Crl.M.P(MD)Nos.4035 and 4034 of 2019

WEB COPY

S.Santhanamarimuthu : Petitioner/ Accused No.9
-Vs-

1.State through
The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District
In Crime No.105 of 2016 : 1st Respondent / Complainant

2.Madhankumar : 2nd Respondent/Defacto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in S.T.C.No.3113 of 2017 on the file of the Judicial Magistrate Court No.II, Sattur and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.M.Kannan
For R1 : Mr.A.P.G.OHM Chairma Prabhu
Government Advocate(Crl.side)

O R D E R

The present petition is filed to quash the proceedings in S.T.C.No.3113 of 2017 on the file of the Judicial Magistrate Court No.II, Sattur.

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

3. Initially, the case was registered by the first respondent police on the allegation that the petitioner and others have agitated and staged a road blockade unlawfully.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the case has been charge sheeted under Sections 143 and 188 IPC and Section 75(1)(c) of the Tamil Nadu City Police Act, 1988.

5.1 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.

5.2 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.(Crl.)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.

6. In view of the same, the case in S.T.C.No.3113 of 2017 on the file of the Judicial Magistrate Court No.II, Sattur, is hereby quashed.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected Crl.M.P(MD)Nos.4035 and 4034 of 2019 are closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.II, Sattur.

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

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

+1 CC to M/s.M.KANNAN, Advocate (SR-63519[F] dated 27/04/2019)

cm

Order made in
CRL.O.P. (MD)No.6178 of 2019
and Crl.M.P(MD)Nos.4035 and 4034 of 2019
27.04.2019

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