



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P(MD)No.2581 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

1.T.Pillaimuthu
Special Sub-Inspector of Police,
B-3 South Police Station,
Tuticorin, Tuticorin District.

2.Suresh Kumar
The Inspector of Police,
B-3 South Police Station,
Tuticorin, Tuticorin District. ... Petitioners/Accused 1 & 2

Vs.

S.Anandharaj ... Respondent

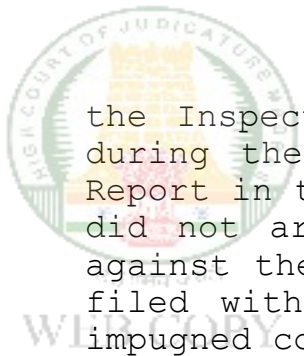
Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Calendar Case No.37 of 2015, pending before the learned Judicial Magistrate Court No.I, Thoothukudi and quash the same.

For Petitioners : Mr.M.Saravanan
For Respondent : Mr.T.Lajapathi Roy

O R D E R

The petitioners herein are facing trial in C.C.No.37 of 2015, on the file of the learned Judicial Magistrate No.I, Thoothukudi, for the offences under Sections 120B, 166, 199, 201, 218, 219 and 221 of IPC.

2.It is a private complaint instituted by the respondent herein. The grievance of the respondent is that he had effected certain supplies to one Ravichandran and Vasuki. The said Ravichandran and Vasuki, even though received iron scraps materials to the tune of Rs.72,97,192/-, did not settle his dues. In this regard, the respondent herein lodged a complaint against them before the Superintendent of Police, Thoothukudi. His case was that the said Ravichandran and Vasuki had not only cheated him, but threatened him. The primary grievance of the respondent is that the petitioners herein who were the Special Sub-Inspector of Police and



the Inspector of Police of B-3 South Police Station, Thoothukudi, during the relevant time, did not register the First Information Report in time, they did not conduct investigation properly and they did not arrest the accused. Even though the offences registered against them were non-bailable in nature, final report was also not filed within 90 days. On the strength of these grievances, the impugned complaint came to be laid.

3.As rightly pointed out by the learned counsel appearing for the petitioners, one of the offences of which, cognizance was taken is under Section 188 of IPC. Section 195 of Cr.P.C., contains statutory bar against taking cognizance of the offence under Section 188 of IPC, unless complaint in that regard is made by the public servant concerned or some other public servant to whom he is administratively subordinate. Of course, as far as the State of Tamil Nadu is concerned, Section 188 of IPC has been notified as a cognizable offence. Even then, it is only the public servant concerned, who could have lodged information or lodged complaint in that regard. It was not open to the respondent herein to have invoked the said offence.

4.That apart, the resume of the aforesaid facts would clearly indicate that the elementary ingredients of the offences, for which, cognizance was taken are not present in this case. The very institution of the private complaint is an abuse of legal process. The fight of the respondent should only be with Ravichandran and Vasuki. I do not know why the ire of the respondent was turned against the petitioners herein. The continuance of the impugned proceedings is an abuse of legal process. To secure the ends of justice, it should be quashed.

5.In view of the above, the impugned proceeding stands quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj/ljs

To

1.The Judicial Magistrate Court No.I,
Thoothukudi.



2. The Inspector of Police,
B3- South Police Station,
Tuticorin, Tuticorin District.

3. The Special Sub Inspector of Police,
B3 South Police Station,
Tuticorin, Tuticorin District.

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

+1 CC to M/s.M.SARAVANAN, Advocate (SR-88427[F] dated
23/09/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-88480[F] dated
23/09/2019)

sjl/l
Cr1.O.P(MD)No.2581 of 2015
20.09.2019

DB(CO)
TR(28.01.2020)3P 7C