



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD)No.18991 of 2019

and

Crl.M.P.(MD)No.11156 of 2019

Jayakumar : Petitioner/Accused No.7
Vs.

1.The State rep
The Inspector of Police,
Karimedu Police Station
Madurai
Crime No.915 of 2018 : Respondent/Complainant

2.Elango
Deputy Jailor
1/C, Jailor
Central Prison, Madurai : Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the FIR in Crime No.915 of 2018 dated 10.11.2018 on the file first respondent for offences under Section 42 of Prison Act,1894 @42,45(12) of the Prisons Act,1894 and 34 of IPC on the file of the first respondent and quash the same as illegal as against the petitioner in respect of petitioner alone

For Petitioner : Mr.T.Sugadev
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in First Information Report in Crime No.915 of 2018 dated 10.11.2018 on the file first respondent for offences under Section 42 of Prison Act,1894 @42,45(12) of the Prisons Act,1894 and 34 of IPC on the file of the first respondent .

2.The learned counsel appearing for the petitioner would submit that the case has been registered for offences under Sections 42 of Prisons Act, 1984 @ 42,45(12) of the Prisons Act, 1894 and 34 of IPC. He would submit that Section 42 provides for maximum punishment for six months with or without fine not exceeding Rs. 200/- and as per Part II of Schedule -I of Cr.P.C any offence punishable with imprisonment for less than three years or fine under other laws



other than IPC have been denoted as non cognizable offence and necessarily under Section 155(2) , the investigation case cannot be registered unless there is Magisterial sanction for the same. Admittedly in this case the complainant has not preferred a complaint before the Magistrate, thereby the First Information Report itself necessarily fails and it has to be quashed. In support of his contention he also relied on the order passed in the Court in Crl.O.P(MD) No. 413 of 2019 dated 13.03.2019.

3.The learned Additional Public Prosecutor submitted that sanction has not been obtained from the concerned Magistrate before registering the First Information Report.

4. In view of the above, this Criminal Original Petition stands allowed. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (records)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Karimedu Police Station
Madurai
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Crl.O.P. (MD)No.18991 of 2019
and
Crl.M.P. (MD)No.11156 of 2019
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MK (08.01.2020) 2P 3C