

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13495 of 2020

and

Crl.M.P.Nos.5231 & 5232 of 2020

Nagendiran,  
S/o.Ponnusamy,  
No.299, 17<sup>th</sup> Block,  
Sathiya Murthy Nagar,  
Vyasarpadi, Chennai-600 039. .... Petitioner/Single Accused

Vs.

1.State:The Inspector of Police,  
M3, Puzhal Police Station,  
Chennai. ....Respondent/Complainant

2.P.Dharmaraj,  
Jailor, Central Prison-I, (Conviction),  
Puzhal, Chennai-600 066. .... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records and quash the FIR in Crime No.456 of 2019 dated 13.09.2019 on the file of the Inspector of Police, M3, Puzhal Police Station, Chennai.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Mr.S.Karthikeyan (For R1)  
Additional Public Prosecutor.

O R D E R

The petitioner is arraigned as accused, though has not been mentioned in the FIR in Crime No. 456 of 2019, has now approached this Court for quashing the First Information Report.

2.The learned counsel for the petitioner submitted that as per the First Information Report, during a routine search of the cells, where prisoners are lodged within the prison premises, few cell phones were recovered along with SIM cards and charger either from open space or from inside the undergarments of the

three prisoners. In the course of investigation, the petitioner and few others have also been roped in by the investigating agency.

3.The learned counsel appearing for the petitioner submitted that section 42 of the Prison Act, 1894, provides a maximum punishment of six months simple imprisonment with or without fine, not exceeding 200 Rupees. He added that as per Part II of Schedule-I 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), mean, the investigation case cannot be registered unless there is a Magisterial sanction to the same. Admittedly, in this case, the complainant has not preferred a complaint before the Magistrate. Necessarily, the First Information Report fails and accordingly, this Court quashes the First Information Report in Crime No.456 of 2019.

4.In view of the above, this Criminal Original Petition stands allowed accordingly. Consequently, connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mpa

To

1. The Inspector of Police,  
M3, Puzhal Police Station,  
Chennai.

2. The Public Prosecutor,  
High Court, Madras.

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CrI.O.P.No.13495 of 2020  
and

CrI.M.P.Nos.5231 & 5232 of 2020

PP(CO)  
SP(07/10/2020)