

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5576 of 2021
and Crl.M.P No.3606 of 2021

B.Sankar
Son of P.Balan

.. Petitioner

vs.

1. State represented by
The Inspector of Police,
Nagarasampattu Police Station,
Krishnagiri District.
(Crime No.108 of 2018)

2. Palanivel,
Village Administrative Officer,
06, Vilangamudi Village,
Pochampalli Taluk,
Krishnagiri District.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.108 of 2018 on the file of the Inspector of Police, Nagarasampatty Police Station, Krishnagiri District and quash the same by allowing the Criminal Original Petition.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.C.Raghavan
Government Advocate

ORDER

On consent given by either parties, the Criminal Original Petition itself is taken up for final hearing.

2. The second respondent gave a complaint to the effect that the petitioner along with others indulged in a protest and prevented erecting High Tension Transmission Towers. Based on the complaint given by the second respondent, an FIR came to be registered in Cr.No.108 of 2018 for the offence under Section

505(1)(b) of IPC. Though the FIR has been registered in the year 2018, till date the investigation is pending.

3. Heard Mr.M.Guruprasad, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing for the first respondent.

4. The learned counsel for the petitioner submitted that the offence under Section 505(1)(b) of IPC is a non-cognizable offence and the respondent police ought not to have registered the FIR, without getting a specific order under Section 155(2) of Cr.P.C. The learned counsel further submitted that the FIR is vitiated and the same is liable to be quashed on this ground alone.

5. This Court finds some force on the submission made by the learned counsel for the petitioner. It is seen that the offence under Section 505(1)(b) of IPC is a non-cognizable offence. Section 155(2) of Cr.P.C. mandates a specific order of the jurisdictional Magistrate before an FIR is registered for non-cognizable offence. This mandatory procedure has not been followed by the respondent.

6. In the result, the FIR registered by the respondent police is illegal and the same is liable to be interfered by this Court and accordingly, the FIR registered in Crime No.108 of 2018 pending on the file of the first respondent is hereby quashed and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Inspector of Police,
Nagarasampattu Police Station,
Krishnagiri District.

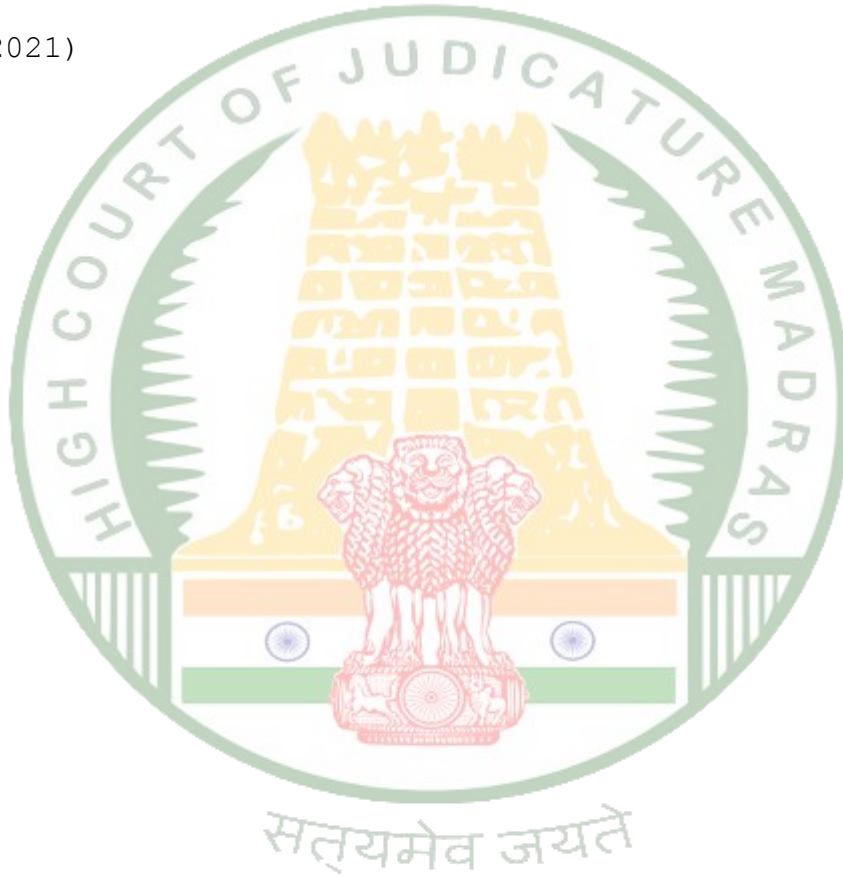
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2. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.18408

Cr1.O.P No.5576 of 2021
and Cr1.M.P No.3606 of 2021

GPL (CO)
KM(16/04/2021)



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