



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.04.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD)No.3096 of 2021

and

Crl.M.P (MD)Nos.1685 and 1687 of 2021

WEB COPY

1.P.Sugantharaj
2.Rajesh
3.Sivakumar

... Petitioners/Accused Nos.1 to 3
Vs.

The Sub Inspector of Police,
Thiruchendur Police Station,
Thiruchendur,
Thoothukudi District.
(Crime No.181 of 2020)

...Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to quash the charge sheet filed by the respondent in S.T.C.No.2 of 2021 on the file of the Judicial Magistrate Court, Tiruchendur.

For Petitioners : Mr.K.Muthurakkan

For Respondent : Mr.R.Srinivasan

Government Advocate (Crl.side)

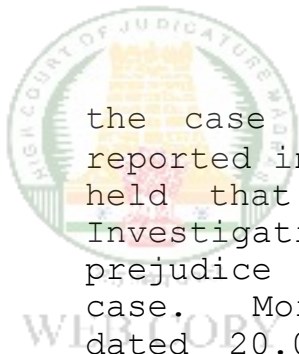
O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.2 of 2021 on the file of the Judicial Magistrate Court, Tiruchendur.

2.The case of the prosecution is that on 23.05.2020 at about 1.30 p.m., the petitioners herein were roaming in the road in their two wheeler when covid-19 prohibition was imposed. On the basis of the complaint given by one Nambi, Sub Inspector of Police, the case was registered in Crime No.181 of 2020 for the offence punishable under Sections 188 and 269 IPC. Based upon which, the Sub Inspector of Police, Tiruchendur, took up the investigation and recorded the statement of the witnesses and filed a final report on 23.05.2020 on the same day itself. Challenging the final report seeking quashment of the same, this petition has been filed mainly on the ground that the officer who registered the first informant and the officer who investigated the case is one and the same namely the Sub Inspector of Police.

3.On perusal of records it shows that the contention made by the petitioner is correct. In this regard, the learned counsel for the petitioner relied upon a judgment of this Court in Crl.O.P(MD) No.13633 of 2020 for the proposition that the first informant as well as the Investigation Officer should not be the same person.

<https://hcservices.ecourts.gov.in/hcservices> relied upon the judgment of the Hon'ble Supreme Court in



the case of **Mukesh Singh Vs. State (Narcotic Branch of Delhi)** reported in **AIR 2020 SC 4794**, wherein the Hon'ble Supreme Court has held that there is no role that informant should not be an Investigation Officer. It is held that if there is any bias or prejudice would depend upon the facts and circumstances of each case. Moreover, as per the judgment in Jeevanandham Vs. State, dated 20.09.2018, in Crl.O.P.(MD)Nos.1356 of 2018 etc., batch, police has no power to register case under Section 188 I.P.C. So, I am of the considered view that on this ground the final report is liable to be quashed.

5. Accordingly, the Criminal Original Petition is allowed and the proceedings in S.T.C.No.2 of 2021, pending on the file of the learned Judicial Magistrate Court, Tiruchendur, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsd

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate,
Tiruchendur.

2.The Sub Inspector of Police,
Thiruchendur Police Station,
Thiruchendur,
Thoothukudi District.

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

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-17658[F] dated 27/04/2021)

Crl.O.P. (MD)No.3096 of 2021

and

Crl.M.P (MD)Nos.1685 and 1687 of 2021

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