



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.6458 of 2022

and

Crl.M.P(MD) No.4476 of 2022

Krishnamoorthy

...Petitioner/Sole Accused
Vs.

1.The State rep. by,
The Inspector of Police,
Kalaiyarkoil Police Station,
Sivagangai.
(Crime No.358 of 2019) ...1st Respondent/Complainant

2. Ravi ...Respondent/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records pertaining to the FIR in Cr.No.358/2019 dated 21.09.2019 on the file of the Respondent No.1 for Offences U/s.42 of Prison Act, 1894 on the file of the Respondent No.1 and Quash the same as illegal as against the petitioner in respect of the petitioner alone.

For Petitioner : Mr.M.Jegadeesh Pandian

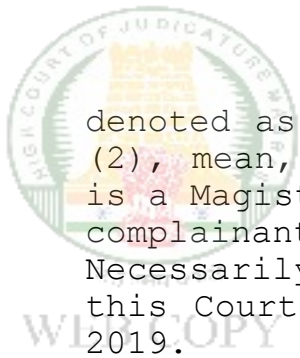
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal side) for R1

ORDER

This Criminal Original Petition has been filed to quash the FIR in Cr.No.358 of 2019 dated 21.09.2019, on the file of the Respondent No.1 for offence under Section 42 of Prison Act, 1894.

2.The learned counsel appearing for the petitioner submitted that as per the First Information Report, during a routine search of the cells, the petitioner has also been roped in by the investigating agency as he was possessing cell phone. The petitioner is the sole accused.

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 I.P.C 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.358 of 2019.

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

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Inspector of Police,
Kalaiyarkoil Police Station,
Sivagangai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.6458 of 2022
and
Crl.M.P(MD) No.4476 of 2022
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MGJ(20.04.2022) 2P 3C