



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.9269 of 2019

and

Crl.MP(MD)No.5906 of 2019

WEB COPY

1.A.Vadivel

2.K.Palaniyappan

3.P.Andiyappan

: Petitioners/Accused No.1 to 3.

Vs.

State represented by
The Inspector of Police,
Valanadu Police Station,
Trichy District.

(Crime No.65 of 2019)

: Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.65 of 2019 dated 25.05.2019 on the file of the respondent.

For Petitioners

: Mr.C.M.Arumugam

For Respondent

: Mr.SS.Madhavan

Government Advocate

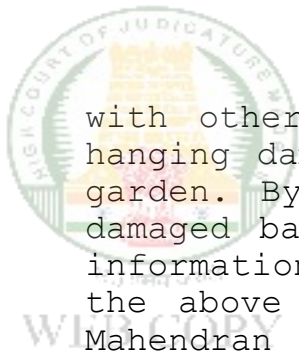
(Crl. side)

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of the FIR in Crime No.65 of 2019 on the file of the respondent.

2.The case of the prosecution in brief:-

It is a *suo motu* registration of the complaint by the Inspector of Police, Valanadu Police Station. The brief facts, which led to the filing of the criminal case is that one Vadivelu, who belongs to a political party gave a complaint to the respondent police that on 25/05/2009 at about 3.00 pm, a banner that was put up by the political party was stolen by Murugan, Sathish @ Sathishkumar and Mahendran. During the course of investigation, it was found that the banner was in the custody of one Alagar. The above said Alagar informed the Investigating Officer that when he was walking along



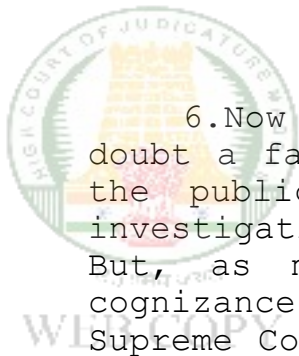
with others, the banner was put up and he found that the banner hanging damaged. So he took the banner and put up the same in his garden. By giving the above said information, he handed over the damaged banner to the Investigating Officer. Finding that a wrong information or complaint has been given by this petitioners against the above said person namely Murugan, Sathish @ Sathishkumar and Mahendran by exercising suo motu power, a case in Crime No.65 of 2019 has been registered under section 211 IPC by the Investigating Officer.

3. Seeking quashment of the same, this petition has been filed mainly on the ground that section 211 IPC is a non-cognizance offence and unless the complaint is given by the affected person, the cognizance is barred and the police has no power to register the complaint.

4. In the light of the above averments, let us extract section 211 IPC. Section 211 IPC reads as follows:-

"211. False charge of offence made with intent to injure.—Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, [imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

5. The learned counsel appearing for the petitioners would straightway rely upon the judgment of this court in the case of **M.Vijayakumar Vs. State [2011(2) TNLR 174 (Mad)]**, wherein a similar situation was under discussion. In that case, a false complaint of threat has been given by the accused. Based upon the false information, offence punishable under section 211 IPC was registered against the petitioner. Investigation was also undertaken and final report was also filed before the concerned court and that was challenged. Noting that it is a non-cognizance offence and the complaint can only be given by the person against whom false accusation has been given is the competent person. On that ground, it was quashed.



6.Now coming to the fact and circumstances of this case, no doubt a false information has been given by the accused persons to the public authority namely the Inspector of Police. Now the investigation has been over and final report is also made ready. But, as mentioned in section 195(1)(b)(ii) Cr.P.C, it is non cognizance offence, which is clearly barred by law. The Hon'ble Supreme Court had a occasion in the case of **Saloni Arora Vs. State of NCT of Delhi (AIR 2017 SC 2013)** has stated that if non-compliance of section 195 Cr.P.C, the entire proceedings are *void ab initio*. On the same ground, the entire proceedings is faulted and this petition is liable to be allowed.

8.In the result, this criminal original petition is **allowed**. The impugned proceedings in crime No.65 of 2019 on the file of the 1st respondent is hereby quashed as against this petitioners. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Valanadu Police Station,
Trichy District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-13797[F] dated 23/03/2022)

CrI.O.P. (MD)No.9269 of 2019
22/03/2022

MGJ(31.03.2022) 3P 4C