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Crl.O.P.No.1529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.1529 of 2023

M.Muthukumar

... Petitioner

Vs.

State rep. by Sub Inspector of Police,
Thiruporur Police Station,
Chengalpattu District.
(Crime No.300 of 2019)
Respondent

...

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the F.I.R. in Crime No.300 of 2019 on the file of the respondent police and quash the said F.I.R.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.300 of 2019 on the file of the respondent police.



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2.The learned counsel for the petitioner submitted that the FIR was registered against the petitioner along with other accused in Crime No.300 of 2019 by the Thiruporur Police station for the offences punishable under Sections 143, 341 and 188 of IPC. He also submitted that though this case was registered on 04.10.2019, till now, final report is not filed. Even if the final report is filed, the final report would be barred by limitation. Therefore, the petitioner filed this petition.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the offence under Section 143 IPC is liable to be punished with an imprisonment for a period of six months and 341 IPC is liable to be punished with an imprisonment for a period of one month. He also conceded that the respondent police cannot register the FIR for the offence punishable under Section 188 IPC.

4.Considered the rival submissions and perused the materials available on record.

5.It is seen from the FIR, the allegation is that on 04.10.2019, the



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de-facto complainant i.e., The Sub Inspector of Police, Thiruporur Police Station received information that there was a road blockage in front of Thiruporur Municipality. On visiting the place, he found that a board installed by Labours Union of Thiruporur Sanitary Workers Association, without getting prior permission was removed. Against the removal, accused numbering about 25 had blocked the road causing hindrance to the public movement and traffic. Therefore, a case was registered under Sections 143, 341 and 188 IPC.

6.As rightly pointed out by the learned counsel for the petitioner for the offence under Section 143 IPC is liable to be punished with an imprisonment for a period of six months and the offence under Section 341 IPC is liable to be punished with an imprisonment for a period of one month. Even if the final report is filed now, it is barred by limitation. This Court finds merit on the submissions made by the learned counsel for the petitioner that the case is barred by limitation for the offences under Sections 143 and 341 IPC. So far as the registration of FIR under Section 188 IPC, there is a bar under Section 195 IPC for the *de-facto*



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complainant to register a case, for the reason that no Court can take cognizance of any offence punishable under Section 172 to 188 except on the complaint in writing of the public servant or some other public servant, whom he is administratively subordinate. In the case in hand, no complaint was given by the public servant of Thiruporur Municipality. FIR was registered straightaway on the complaint given by the Sub Inspector of Police, which is impermissible under Section 195 Cr.P.C. Therefore, this Court finds that the continuation or keeping of proceedings in Crime No.300 of 2019 would be an abuse of process of law.

7.In view of the above, this Criminal Original Petition is allowed and as a sequel, the proceedings in Crime No.300 of 2019 on the file of the respondent police is quashed.

27.01.2023

Index:Yes/No
Speaking/Non speaking order
sp



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To

- 1.The Sub Inspector of Police,
Thiruporur Police Station,
Chengalpattu District.
- 2.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN.J.,

sp

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