



Crl.O.P.No.24745 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.24745 of 2018

and

Crl.M.P.No.13967 of 2018

V.Ramakrishnan

...

Petitioner

/vs/

1.State by:

Inspector of Police,
Attur Police Station,
Salem District.

2.T.Ravichandran

Inspector of Police
Now at Kaveripattinam Police Station,
Krishnagiri District.

...

Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the entire records connected with the FIR in Crime No.573 of 2014 on the file of the 1st respondent police Station and quash the same.

For Petitioner

...

Mr.S.Sathia Chandran

For Respondent
No.1

...

Mr.L.Baskaran
Govt.Advocate (Crl.side)

For Respondent
No.2

....

Notice served
(No appearance)



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ORDER

WEB COPY Challenging the FIR in Crime No.573 of 2014 on the file of the 1st respondent police, the present criminal original petition has been filed.

2.The learned counsel appearing for the petitioner submitted that Section 110 (a) (d) & (e) Cr.P.C is not an offence, so, the case cannot be registered against the petitioner without any substantial commission of crime. Hence, seeking to quash the FIR in Crime No.573 of 2014.

3.The learned Government Advocate (Crl.side) appearing for the first respondent submitted that admittedly, the FIR in Crime No.573 of 2014 has been registered under Section 110 Cr.P.C.

4.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the first respondent.

5. On perusal of the records, it reveals that based on the complaint



given by the 2nd respondent, a case in crime No.573 of 2014 has been registered on 05.08.2014 under Section 110 (a) (d) & (e) Cr.P.C. against the petitioner. 110 Cr.P.C. is not defining an offence, without any substantial crime, a case cannot be registered. Section 110 runs as follows;

110. Security for good behaviour from habitual offenders.—When 2 [an Executive Magistrate] receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code (45 of 1860), or under section 489A, section 489B, section 489C or section 489D of that Code, or

(e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace, or

(f) habitually commits, or attempts to commit, or abets



the commission of—

(i) any offence under one or more of the following Acts, namely:—

(a) the Drugs and Cosmetics Act, 1940 (23 of 1940); 1

[(b) the Foreign Exchange Regulation Act, 1973 (46 of 1973);]

(c) the Employees' Provident Fund 2 [and Family Pension Fund] Act, 1952 (19 of 1952);

(d) the Prevention of Food Adulteration Act, 1954 (37 of 1954);

(e) the Essential Commodities Act, 1955 (10 of 1955);

(f) the Untouchability (Offences) Act, 1955 (22 of 1955);

(g) the Customs Act, 1962 (52 of 1962);

[(h) the Foreigners Act, 1946 (31 of 1946); or]

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous to render his being at large without security hazardous to the community, such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit."



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6.In view of the above provision, the FIR cannot be registered by the respondent police as they are not competent to register the FIR under 110 Cr.P.C. Therefore, the FIR registered in Crime No.573 of 2014 under Section 110 Cr.P.C. against the petitioner is unsustainable. Accordingly, the FIR in Crime No.573 of 2014 is hereby quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
sms

07.07.2023

To

1.State by:

Inspector of Police,
Attur Police Station,
Salem District.

2.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM,J.



WEB COPY



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