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Crl.O.P.(MD)No.3260 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD) No.3260 of 2023
and Crl.M.P.(MD).Nos.2979 & 2980 of 2023

K.Pandiyarajan

... Petitioner/Accused No.2

Vs.

1. The Inspector of Police,
Oddanchathiram Police station,
Dindigul district.
(In Crime No.89 of 2017)

... 1st Respondent/Complainant

2. P.Gopalakrishnan

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Charge Sheet in S.T.C.No. 77/2018 on the file of the Learned Judicial Magistrate court, Oddanchathiram, Dindigul district and quash the same against the petitioner is concerned.

For petitioner : Mr.C.Gangai Amaran

For R1 : Mr.S.Manikandan
Government Advocate (Crl. side)



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ORDER

This petition is filed seeking quashment of Charge Sheet in S.T.C.No.77/2018 on the file of the Learned Judicial Magistrate court, Oddanchathiram, Dindigul District.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent.

3.The case of the petitioner is that on 13.03.2017 at about 10.00 a.m., the petitioner along with 15 others conducted protest demonstration at K.K.Nagar Ration Shop and raising slogans against the former Government. Hence, a case in Crime No.89 of 2017 for the offences punishable under Section 143, 188 IPC has been registered and final report also filed before the learned Judicial Magistrate, Oddanchathiram and the same was taken in cognizance in S.T.C.No.77 of 2018. Seeking quashment of the same, the present criminal original petition has been filed.

4.This petition is filed mainly on the ground that Section 188 IPC is non-cognizable offence and the police has no right to register the case



and investigate.

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5.In the judgment reported in **2018(2) L.W (Crl.) 606** In ***Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another***), it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter. A detailed guideline has been issued by this Court in the judgment cited supra. On this aspect, Section 188 IPC will not stand against the petitioner.

6.Considering the nature of allegations and the offences involved in this case, I am of the considered view that it should not be a reason for spoiling the future of the petitioner. Moreover, even though the charge sheet has been filed in the year of 2018 and taken cognizance by the trial Court, it has not been concluded till date and kept pending without any progress. Taking all these aspects into account, I am of the considered



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view that the charge sheet filed against the petitioner in S.T.C.No.77 of 2018 is liable to be quashed and accordingly, the same is quashed.

7.In the result, this petition is allowed. Consequently, connected miscellaneous petitions are closed.

13.03.2023

Index : Yes/No
Internet : Yes/No
TM

To

1.The Judicial Magistrate,
Oddanchathiram,
Dindigul district

2. The Inspector of Police,
Oddanchathiram Police station,
Dindigul district.
(In Crime No.89 of 2017).

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



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G.ILANGOVA. J.

TM

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