



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.4597 of 2021

- 1.Palanisamy
- 2.Revathi
- 3.Ramathal
- 4.Murugesan
- 5.Subramani
- 6.Meenatchi
- 7.Sathiasivam
- 8.Ramasamy
- 9.Manokaran
- 10.Elango
- 11.Kannaiyan
- 12.Selvaraj
- 13.Nachi
- 14.Manivel
- 15.Subramani
- 16.Raman
- 17.Rammaal
- 18.Tamilmani
- 19.Viswanathan
- 20.Palanisamy



21.Sathivel

22.Sundaram

23.Saminathan

24.Dhandapani

25.Kathirvel

26.Ramasamy

...Petitioners

Vs.

The Inspector of Police,
Thennilai Police Station,
Karur District.
(Crime No.146 of 2017)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the charge sheet in S.T.C.No. 43 of 2019 on the file of the learned Judicial Magistrate, Aravakurichi Karur District and quash the same.

For Petitioners : Mr.Raja

For Respondent : Mr.M.Muthumanikkam
Government Advocate

ORDER

This Criminal Original Petition is filed to quash the charge sheet in S.T.C.No.43 of 2019 pending on the file of the learned Judicial Magistrate, Aravakurichi Karur District as against the petitioners, for the offences punishable under Sections 143 and 188 IPC.



WEB COPY

2. The case of the prosecution is that the de-facto complainant one Elangovan, who is working as Grade-I PC.1796, Thennilai Police Station, Karur District, alleged that a dharna was conducted by the petitioners without any permission. Hence, a case has been registered against the petitioners.

3. The learned counsel for the petitioners would submit that the petitioners are said to have unlawfully conducted the dharna against the order of the Deputy Superintendent of Police, Karur and therefore, by virtue of Section 195(1) of the Criminal Procedure Code, no Court can take cognizance of the offence punishable under Sections 172 to 188 of IPC, except on the complaint given by the public servant concerned. In the case on hand, the de-facto complainant, who is the Grade I PC.1796, Thennilai Police Station, Karur District at the time of alleged occurrence had lodged a written complaint. Therefore, he has no *locus standi* or competence to lodge a complaint for the offence under Section 188 of IPC. Further, he would submit that the case of the prosecution is that the petitioners unlawfully conducted a dharna against the order promulgated by the Commissioner of Police, Karur District. But, the Commissioner of



WEB COPY

Police, Karur District, did not lodge any complaint and as such, the complaint as in the entire proceedings as against the petitioners is liable to be quashed.

4. The learned Government Advocate (criminal side) appearing for the respondent would submit that the petitioners, even after the knowledge of promulgation order, unlawfully conducted the dharna. Therefore, they committed the offences under Sections 143, 188 IPC. Therefore, they sought for dismissal of the quash petition.

5. Heard the respective counsels.

6. This Court has carefully considered the rival submissions made on either side.

7. The only question for consideration is that whether the registration of case under Sections 143 & 188 IPC, on the complaint lodged by the respondent is permissible under law or not. In this regard it is relevant to extract Section 195(1)(a) of the Criminal Procedure Code, 1973 :-



“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. (1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit, such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;...”

8. In view of the above, it is very clear that for taking cognizance of the offence under Section 188 of IPC, the public servant should lodge a complaint in writing, other than that, no Court has power to take cognizance.

9. Admittedly, the de-facto complainant is the Grade-I PC.1796, Thennilai Police Station, Karur District, whereas, the Promulgation Order was passed by the Deputy Superintendent of Police, Karur and he is the competent person to prefer the private complaint before the jurisdictional Magistrate Court and hence, the registration of FIR is



against law and as sequel filing of final report on the basis of the said invalid FIR is not valid one and consequently, taking cognizance on the basis of the invalid final report by the learned Judicial Magistrate, Aravakurichi in STC.No.43 of 2019, is not only valid one but also without jurisdiction.

10. In the above circumstances, the learned counsel for the petitioners rightly relied upon the judgements in ***Jeevanandham and Ors. Vs. State and Ors.*** reported in ***2018 (2) LW (CRL) 606*** and ***Raja Vs. State and Ors.*** reported in ***2019 (4) MLJ (CRL) 175***.

11. Apart from that in this case, from the annexure document of the final report, this Court did not find any order of promulgation issued by the Deputy Superintendent of Police, Karur, which is the material document and hence also this Court firmly opined that there was no such document was available and hence on this aspect also the petitioners' case deserves to be allowed.

12. In the result, the Criminal Original Petition stands allowed and the proceedings in S.T.C.No.43 of 2019 pending on the file of the learned



Judicial Magistrate, Aravakurichi, Karur District is quashed.

WEB COPY

05.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
BTR

To

1. The Inspector of Police,
Thennilai Police Station,
Karur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



8

K.K.RAMAKRISHNAN, J.

BTR

Crl.O.P.(MD) No.4597 of 2021

05.04.2023