



Crl.O.P.(MD)No.5370 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM:

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

Crl.O.P.(MD) No.5370 of 2023

and

Crl.M.P(MD) No.4746 of 2023

Ramki

... Petitioners / Accused
Rank not known

Vs.

1.The Inspector of Police,
Golden Rock Police Station,
Trichy District.
(Crime No.429 of 2020)

... 1st Respondent/Complainant

2. Sagaya Anbarasu

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of impugned FIR in Crime No.429 of 2020 on the file of the 1st respondent and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.V.Angusamy

For R1 : Mr.R.Suresh kumar
Government Advocate (Crl.side)



ORDER

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This petition has been filed seeking to quash the impugned First Information Report in Crime No.429 of 2020 on the file of the 1st respondent police.

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 the petitioner and others who belonged to Communist Party. On 05.08.2020 at about 12.45 hours, they have conducted protest against the Central Government for appointing the North Indians in Southern Railways especially in Tamil Nadu at the time of prohibition due to COVID-19 pandemic. Hence, a case in Crime No.429 of 2020 for the offences punishable under Sections 143, 188, 269 and 270 of IPC has been registered on the same day. The present petition is filed to quash the First Information Report in Crime No.429 of 2020.

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.



5. Heard both sides.

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6. 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.

7. The Government is taken policy to withdraw the case which have been registered during the pandemic period against the public. Even though the learned Additional Public Prosecutor is not clear as to whether these offences are also included in this policy, considering the above said situation, nature of allegations, no useful purpose will be served by keeping the matter pending. Moreover, the Government is also



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dropped all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, I am of the considered view that the First Information Report in Crime No.429 of 2020 on the file of the 1st respondent is liable to be quashed and accordingly, the same is quashed.

8.In the result, this petition is allowed. Consequently, connected miscellaneous petition is closed.

17.04.20223

NCC:Yes/No

Index : Yes/No

Internet : Yes/No

Indu



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To

- 1.The Inspector of Police,
Golden Rock Police Station,
Trichy District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

Indu

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