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Crl.O.P.(MD)No.6581 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.04.2023**

CORAM:

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

Crl.O.P.(MD)No.6581 of 2023
and Crl.M.P.(MD).No.5755 of 2023

Arivazhagan

... Petitioner/Accused

Vs.

The State Rep.by
Inspector of Police,
Thilagar Thidal,
Madurai.

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash F.I.R.No.21 of 2018 dated 07.01.2018 on the file of the respondent Police.

For Petitioner	:Mr.K.M.Mohammed Ali
For Respondent	: Mr.R.Suresh Kumar Government Advocate (Crl.Side)

ORDER

This petition is filed seeking quashment F.I.R.No.21 of 2018 dated 07.01.2018 on the file of the respondent Police.



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

3. The case of the petitioner is that on the date of occurrence, the petitioner made comments against the election in R.K.Nagar. Hence, a case in Crime No.21 of 2018 for the offences punishable under Section 143 and 188 of IPC have been registered against the petitioner and others. The present petition is filed to quash the First Information Report in Crime No.101 of 2020.

4. Seeking quashment of the same, the petitioner has come up with this Criminal Original Petition, mainly on the ground that the offences alleged against the petitioner i.e., the maximum punishment for the offence under Section 143 IPC is six months or with fine or both and Section 188 IPC is non-cognizable offence and the police has no right to register the case and investigate the matter.

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



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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 roaming in the road without any reason should not be a reason for spoiling the future of the petitioner. Taking all these aspects into account, I am of the considered view that the case in F.I.R.No.21 of 2018 on the file of the respondent police, is liable to be quashed and accordingly, the same is quashed.

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

27.04.2023

NCC : Yes/No
Index : Yes/No



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Internet : Yes/No
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To

- 1.The Inspector of Police,
Thilagar Thidal,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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