



WEB COPY

CrI.O.P.(MD)No9728 of 2021



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2023**

CORAM:

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

CrI.O.P.(MD)No.9728 of 2021

and

CrI.M.P.(MD).No.7805 of 2021

Suresh

... Petitioner/Accused rank
not known

Vs.

1. The State, represented by
The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
Crime No.194 of 2021.

...1st Respondent/Complainant

2. Magendran

... 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 impugned FIR in Cr.No. 194 of 2021 on the file of the 1st Respondent Police Station and quash the same as illegal as against the Petitioner is concerned.

For Petitioner : Mr. Karunanidhi R

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor



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.

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.Considering the submission made by the learned Additional Public Prosecutor and considering the nature of allegations and the



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offences involved in this case, I am of the considered view that protest for the victim family and made request to the authorities to take action in favour of the victim should not be a reason for spoiling the future of the petitioner. Moreover, the Government is also going to drop 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.194 of 2021 on the file of the 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.

06.06.2023

NCC:Yes/No

Index : Yes/No

Internet : Yes/No

Indu



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G.ILANGOVAN. J.

Indu

To

- 1.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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