



CRL OP(MD)No.13383 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 12.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

**CRL OP(MD)No.13383 of 2021
and
Crl.M.P(MD)Nos.6946 & 6947 of 2021**

Singampuli @ Annavi

... Petitioner/ Sole Accused

Vs

1.The Sub Inspector of Police

Seithur Police Station,

Virudhunagar District.

... 1st Respondent / Complainant

2.Marimuthu

... 2nd Respondent/ Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to charge sheet in S.T.C.No.1316 of 2016 on the file of Judicial Magistrate, Rajapalayam, and quash the same.

For Petitioner : Mr.C.Susikumar

**For R1 : Mr.K.Sanjai Gandhi
Government Advocate (crl.side)**



WEB COPY



CRL OP(MD)No.13383 of 2021

ORDER

Seeking to quash the final report filed by the police before the Judicial Magistrate, Rajapalayam, in S.T.C.No1316 of 2016, the present Criminal Original Petition is filed.

2. The case of the prosecution is that on 13.05.2016, the accused found distributing money to voters for voting a candidate of a political party by the defacto complainant and on his complaint, the Sub Inspector of Police, Seithur Police Station, went to the spot and recovered a sum of Rs.13,300/- from the accused and registered F.I.R in Crime No.159 of 2016 for the offences punishable under Sections 171 (E), 171 (F), 188 I.P.C and Section 123 (1)(A)(b) of the Representation of People Act, 1950. After completing investigation, he laid a final report for the aforesaid offences before Judicial Magistrate, Rajapalayam.

3. Mr.C.Susikumar, learned counsel for the petitioner would contend that the Sub Inspector of Police, Seithur Police Station (first respondent herein) is not a competent authority to register F.I.R against the petitioner for the offence punishable under Section 188 I.P.C. and



CRL OP(MD)No.13383 of 2021

the present petitioner had a sum of Rs.13,300/-, only for his personal use and not for distributing the same to voters. He therefore, prayed for quashing the final report.

4. Per contra, the learned Government Advocate (Criminal Side) on instructions, would contend that the police, after conducting investigation, laid a final report and there is no reason to quash the same.

5. It is appropriate to extract Section 188 of the Indian Penal Code:

“188. Disobedience to order duly promulgated by public servant —

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one



CRL OP(MD)No.13383 of 2021

month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

6. According to the first Schedule of the Criminal Procedure Code, the offence under Section 188 I.P.C is cognizable, bailable and can be tried by any Magistrate. The offence under Section 188 I.P.C is cognizable where the officer in charge of the police station has to file an F.I.R under Section 154 Cr.P.C and on the other hand, Section 195 Cr.P.C. prohibits the police from filing F.I.R for an offence punishable under Section 188 I.P.C. Whenever such conflict arises between two provisions of law, then, it is important to take notice of the intention of the legislature while interpreting the procedural law. The intention of the legislation in Section 195 Cr.P.C is to bar the Court from taking cognizance and not bar registration of an F.I.R. Cognizance of the case can be taken at the time of filing of final report provided the statutory procedures specified under the provision are complied with. It is the



CRL OP(MD)No.13383 of 2021

responsibility of every citizen to maintain peace and follow the rules and regulations of the Society. The public servant promulgates orders and whoever disobeys such orders shall be punished according to Section 188 I.P.C.

7. In the instant case, the only argument advanced by the learned counsel for the petitioner is that police officer cannot register F.I.R for an offence under Section 188 I.P.C, which cannot be accepted. Moreover, apart from 188 I.P.C, the investigation officer has filed final report for the offence under Section 123 (1)(A)(b) of the Representation of People Act, 1950. The defacto complainant is a public servant and the Magistrate had also taken cognizance of the offences and the case now stands posted for examination of witnesses on 11.03.2024. The contention of the counsel for the petitioner that the present petitioner had in his possession a sum of Rs.13,300/- only for his personal use and not for distributing the same to voters is a disputed question of fact and this Court cannot come to any conclusion in this regard at this stage.



CRL OP(MD)No.13383 of 2021

8. In such circumstances, I do not find any reason to quash the charge sheet in S.T.C.No.1316 of 2016. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

12.02.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
LS



CRL OP(MD)No.13383 of 2021

To

- 1.The Judicial Magistrate,
Rajapalayam.
- 2.The Sub Inspector of Police
Seithur Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL OP(MD)No.13383 of 2021

R.HEMALATHA,J.

LS

CRL.O.P.(MD)No.13383 of 2021

12.02.2024