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Crl.O.P.(MD)No.4664 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31/10/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.4664 of 2023

and

Crl.MP(MD)No.4112 of 2023

Balasubramanian : Petitioner/Sole Accused

Vs.

1.The State rep. by
The Inspector of Police,
Pudukottai Police Station,
Thoothukudi District.
(Crime No.238 of 2022) : R1/Complainant

2.Balasubramanian
S/o.Sundarapandian : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the Charge Sheet filed in CC No.208 of 2023, dated 28/11/2022 pending on the file of the Judicial Magistrate Court-III, Thoothukudi and to quash the same as illegal.

For Petitioner : Mr.P.Rajeshkanna
for M/s.Gandhi Associates

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

For 2nd Respondent : No appearance



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in CC No.208 of 2023 on the file of the Judicial Magistrate No.III, Thoothukudi.

2.The case of the prosecution in brief:-

The de-facto complaint lodged a complaint stating that on 02/09/2022 at about 12.00 pm, when he was standing in Vagaikulam bus stop, the petitioner said to have teased him due to previous enmity with regard to the sale of land. When it was questioned, the petitioner abused him in filthy language, attacked him and also threatened him with dire consequences. Over the above said occurrence, a case in Crime No.238 of 2022 was registered for the offences under sections 294(b), 323 and 506(i) IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.208 of 2023 by the Judicial Magistrate No.III, Thoothukudi.

3. Seeking quashment of the same, this petition has been filed simply on the ground that it is a case and counter case and without following the procedure set out in PSO-588-A, final report has been filed in both matters even without referring to the counter case.



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4. Even the second respondent has served, none appeared.

5. Heard both sides.

6. As mentioned in the preamble portion, it is a case and counter. Reading of the final reports, in both matters, both the occurrences taken place on the very same day and different time. Since both are case and counter case, without verifying, who are the aggressors, final report has been filed in both matters. The Investigating Officer has not followed the procedures enunciated in PS0588-A.

7. On that sole ground, this criminal original petition is liable to be allowed, without going into other aspects.

8. In the result, this criminal original petition stands **allowed**. The case in CC No.208 of 2023 on the file of the Judicial Magistrate No.III, Thoothukudi is herein quashed. Consequently, connected Miscellaneous Petition is closed.

31/10/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.III,
Thoothukudi,
- 2.The Inspector of Police,
Pudukottai Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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