

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 13.03.2017****CORAM****THE HON'BLE MR.JUSTICE P.N.PRAKASH****Cr1.O.P.(MD) No.23689 of 2016**

1. K.Thiyagarajan
2. Ramkumar
3. Thirumurugan Karunanithi
4. Muthu Lakshmi
5. T.Gayathiri

... Petitioners

-vs-

S.Sargurunathan

... Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records on the file of the Hon'ble Judicial Magistrate No.1, Trichy in C.C.No.286 of 2016 registered against the petitioners and quash the same.

For Petitioner : Mr.M.Siddharthan

For Respondent : Mr.N.Sudhagar Nagaraj

Reserved on	Pronounced on
06.03.2017	13.03.2017

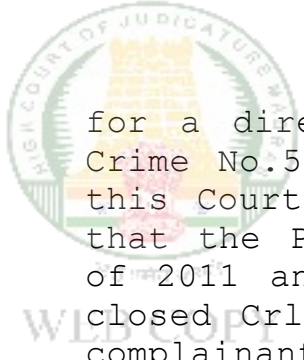
O R D E R

This petition has been filed to call for the records on the file of the learned Judicial Magistrate No.1, Trichy in C.C.No.286 of 2016 registered against the petitioners and quash the same.

2. The defacto complainant is an Advocate by profession. It is the case of the defacto complainant that he is the neighbour of the accused and on 23.04.2011, when the defacto complainant was repairing a sewage water pipe outlet in his house, the accused abused him in filthy language and attacked him with deadly weapons. On the complaint given by the defacto complainant, the Police registered a case in Crime No.559 of 2011 under Sections 294, 324 and 506(ii) IPC against the accused. The Police completed the investigation and closed the case in Crime No.559 of 2011 as false case.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The defacto complainant filed Cr1.O.P.(MD) No.8973 of 2011



for a direction to the Police to complete the investigation in Crime No.559 of 2011. When the matter came up for hearing before this Court on 03.08.2011, it was brought to notice of this Court that the Police have completed the investigation in Crime No.559 of 2011 and had closed the same. Recording the same, this Court closed Crl.O.P.(MD) No..8973 of 2011 with liberty to the defacto complainant to file a protest application before the concerned Magistrate.

4. It appears that the accused had filed a suit in O.S.No.731 of 2011 before the Additional District Munsif Court, Trichy for certain reliefs and the said suit was dismissed and thereafter, the defacto complainant had filed the private complaint on 26.02.2016 before the learned Judicial Magistrate No.I, Tiruchirappalli against all the family members of the accused in respect of the incident that is said to have taken place on 23.04.2011.

5. On a reading of the complaint, it does not inspire the confidence of this Court, inasmuch as the defacto complainant, being a Lawyer and is practising in Trichy Court, has not stated in his complaint that he had filed Crl.O.P.(MD) No.8973 of 2011 before this Court. In fact, in the private complaint in C.C.No.286 of 2016, the defacto complainant has stated that he was waiting for disposal of O.S.No.731 of 2011 and only after disposal, he has come forward to file the present private complaint. In the considered opinion of this Court, the private complaint filed by the defacto complainant is clearly an abuse of process of law and deserves to be quashed.

6. In the result, this Criminal Original Petition is allowed and the private complaint filed by the respondent/defacto complainant herein in C.C.No.286 of 2016, pending on the file of the learned Judicial Magistrate No.1, Trichy is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate No.1,
Trichy.

+1cc to Mr.M.SIDDHARTHAN Advocate in SR. No.13051

AR/

JS/MR/21.03.2017/2P-3C

PRE-DELIVERY ORDER IN
Cr1.O.P.(MD)No.23689 of 2016

13.03.2017