

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26925 of 2018  
and  
Crl.M.P.No.15566 of 2018

1.Minor S.Manikandan  
S/o.S.Saravanan

2.Minor S.Sanjai  
S/o.S.Saravanan

3.Mrs.Sudha  
W/o.Saravanan

... Petitioners

Vs.

1.The State represented by  
The Inspector of Police,  
New Town Police Station,  
Cuddalore, Cuddalore District.  
Crime No.(312/2018).

2.Mrs.Jaya  
W/o.Sakthivel

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records and to quash the F.I.R. in Crime No.312 of 2018 on the file of the Respondent Police(i.e.) The Inspector of police, New Town Police Station, Cuddalore, Cuddalore District.

For Petitioners: M/s.G.K.R.Pandiyan

For Respondents: Mr.M.Mohamed Riyaz (for R1)  
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.312 of 2018, pending on the file of the first respondent.

2.The learned Counsel for the petitioner would submit that the defacto complainant had attacked the 3rd petitioner and she was undergoing treatment and had also given complaints to the respondent Police on 23.08.2018 and 25.08.2018. The medical records were also furnished to the respondent Police by the 3rd petitioner, who underwent treatment at General Government Hospital, Cuddalore. Immediately thereafter, the defacto complainant gave a false complaint against the petitioners as a counter blast and the respondent police immediately registered an F.I.R. in Crime No.312 of 2018. On the same day, the respondent police also registered a case in Crime No.313 of 2018, based on the complaint given by the 3rd petitioner.

3.The learned counsel for the petitioner would submit that the apparent falsity in the complaint can be seen by the very fact that two minor children, who are aged about 14 and 16 years have been shown as accused in the FIR. The learned counsel would further submit that these two minors were produced before the Juvenile Justice Board and the Juvenile Justice Board by an order dated 22.10.2018, imposed a condition against the petitioners 1 and 2 to sign daily before the Head Master of the school. The learned counsel would submit that this adds insult to the injury already suffered by petitioners 1 and 2. The learned counsel further submitted that the offence involved in this case is bailable.

4.The learned Additional Public Prosecutor on instructions would submit that the respondent Police have registered a case and a counter case. Therefore, both the cases will have to be necessarily investigated by the same Police and a final report has to be filed. The learned counsel would further submit that the investigation in both the cases will be completed within a short time.

5. This Court has carefully consider the submissions made on either side. This Court is thoroughly disappointed and unhappy in the manner in which the respondent Police have gone ahead in this case. The respondent Police have added two minor children of the 3rd petitioner as an accused in this case. Registration of the F.I.R. is a very serious business. It directly infringes upon the liberty of a person under Article 21 of the Constitution of India. Before the registration of F.I.R., the Police must be cautious enough to see that the same is not

registered against innocent persons and minors, without there being sufficient materials against them. In this case, the 1st and 2nd petitioners who are minors, are the children of the 3rd petitioner. The 3rd petitioner and the defacto complainant have a long standing dispute. This dispute has now ended up in each of them filing a complaint against each other and both the complaints have now been registered by the respondent Police. While doing so, the respondent Police have mechanically and in a casual manner added two minors as accused persons.

6.It is even more shocking that these minors were produced before the Juvenile Justice Board. The Learned Judge ought to have satisfied himself about the allegations made against the minor children before imposing any condition. Without any discussion and without assigning any reasons, the learned Judge has imposed a condition against two minor children, asking them to sign before the school Head Master daily. This is one of the most insensitive order this Court has ever encountered. The learned Judge did not understand the consequences it will have in the mind of the minor, when such orders are being passed. The Court has virtually dealt with the minors, like criminals.

7.This Court strongly condemn the order passed by the Juvenile Justice Board dated 22.10.2018 and the order is hereby set aside. It is expected that atleast in future, the Juvenile Justice Board shall Act in a careful manner by being sensitive to the case brought before it and does not deal with the case, as if it is dealing with hardened Criminals.

8.On going through the entire records, this Court is of the considered view that there is no need for the respondent Police to have registered a F.I.R. against two minor children belonging to the 3rd petitioner. Therefore this Court has no hesitation to quash the F.I.R. insofar as the 1<sup>st</sup> and 2<sup>nd</sup> petitioners are concerned and accordingly it is quashed.

9.In all cases which involves a case and counter case, the same Police officer has to necessarily investigate both the cases and file independent reports in both the cases. Therefore, now the case insofar as Crime No.312 of 2018 is concerned is confined only to the 3rd petitioner. This Court cannot consider this petition to quash the F.I.R. in so far as the 3rd petitioner is concerned, since there is a counter case.

10. In the facts and circumstances of the case, there shall be a direction to the respondent Police to investigate Crime No.312 of 2018, in so far as the 3rd petitioner is concerned and also Crime No.313 of 2018 and file a final report or closure report as the case may be within a period of one month from the date of receipt of the copy of this order.

11. This Criminal Original Petition is partly allowed with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Presiding Officer/Magistrate,  
Juvenile Justice Board, Cuddalore.

2. The Inspector of Police,  
New Town Police Station,  
Cuddalore, Cuddalore District.  
Crime No.(312/2018).

3. The Headmaster,  
St. Antony's High School,  
Cuddalore.

4. The Public Prosecutor,  
High Court, Madras. सत्यमेव जयते

+2cc to M/S.G.K.R.Pandiyar, Advocate Sr.79468

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VSN II[co]  
srg 18/12/2018