



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.O.P.[MD]No. 8212 of 2020

and

Crl.M.P. (MD) No. 3892 of 2020

WEB COPY

P. Balamurugan

... Petitioner/A-4

Vs.

1. State represented by the

Inspector of Police,

Karivalamvanthanallur Police Station,

Tenkasi District.

... R-1/Complainant

2. Paramaguru

....R-2/Defacto complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the FIR in Crime No.68 of 2020 on the file of the 1st respondent police, and quash the same as illegal as against the petitioner alone.

For Petitioner

: Mr.T. Indrachithu

For R-1

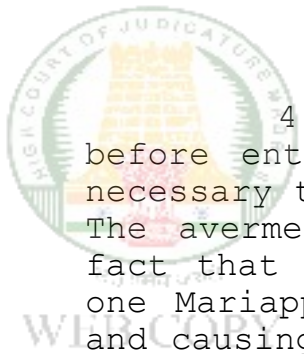
: Mr.APG.Ohm Chairma Prabhu
Government Advocate

O R D E R

This petition has been filed seeking the relief to call for the records relating to FIR in Crime No.68 of 2020, pending on the file of the first Respondent police and quash the same as illegal as against the petitioner concerned.

2.The learned counsel appearing for the petitioner would submit that the petitioner is a college student, studying II year B.Sc. Only due to previous enmity, the second respondent herein lodged a false complaint against this petitioner and thereby, false case has been registered against this petitioner. Hence, considering the age and future of the petitioner, the petitioner prays to allow this petition.

3.Mr.APG.Ohm Chairma Prabhu, learned Government Advocate appearing on behalf of the respondents, on instructions, would submit that the averment set out in the first information report clearly discloses the fact that the petitioner has also involved in the alleged offence and therefore, the submission made by the learned counsel appearing for the petitioner cannot be entertained at this stage.



4. Upon considering the arguments advanced by either side, before entering into the merits and demerits of the case, it is necessary to see the averments made in the First Information Report. The averments found in the First Information Report disclose the fact that during the time of occurrence the petitioner along with one Mariappan attacked the de-facto complainant/ second respondent and causing simple injury. Further, the petitioner had also made a life threat to the second respondent. In this connection, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **SAU. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others in Crl. Appeal No.255 of 2019**, wherein our Hon'ble Apex Court has held as follows :

"Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same."

So applying the principle set out by our Hon'ble Apex Court, in this case also truthfulness of the alleged occurrence against the second respondent has to be decided only at the time of trial and therefore, the reasons now stated by the petitioner for quashing the First Information Report is not substantiated one. Further the averment set out in the First Information Report clearly discloses the fact that at the time of occurrence the petitioner and others attacked the second respondent and causing simple injury which is nothing but a cognizable offence. In otherwise there is no malice is attributed against the respondent. Accordingly, this petition is liable to be dismissed.

5. In view of the above discussions, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

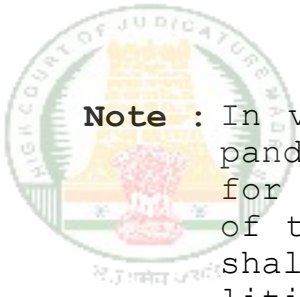
Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1. The Inspector of Police,
Karivalamvanthanallur Police Station,
Tenkasi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.[MD]No. 8212 of 2020
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