



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.08.2020**

CORAM:

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

CrI.O.P.[MD]No.8743 of 2020

and

CrI.M.P(MD) Nos.4115 and 4117 of 2020

WEB COPY

- 1.Chandra
- 2.Marisamy
- 3.Velmurugan

... Petitioners/ A1 to A3

Vs.

- 1.State Rep. by  
The Inspector of Police,  
Kovilpatti West Police Station,  
Thoothukudi District.

...Respondent No.1/Complainant

- 2.Velammal

... Respondent No.2/Defacto  
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records connected with the case in C.C.No.131 of 2019 pending on the file of the learned Judicial Magistrate No.2, Kovilpatti and quash the same as illegal.

For Petitioner

: Mr.S.Saravanan

For R-1

: Mr.A.P.G.Ohm Chairma Prabhu  
Government Advocate

### **O R D E R**

This criminal original petition has been filed to quash the charge sheet filed in C.C.No.131 of 2019 pending on the file of the learned Judicial Magistrate No.2, Kovilpatti.

2.The learned counsel for the petitioner would submit that since the petitioners and the second respondent are having property dispute, the second respondent herein instituted a false complaint against the petitioner and thereafter, the first respondent without conducting a proper investigation, filed a final report against the petitioners which is clearly an abuse of process of law. He would further submit that the statement given by the Doctor, who treated the injured person reveal the fact that nobody has sustained injury during the time of occurrence. Hence, he prays to allow the application and the quash the charge sheet filed in C.C.No.131 of 2019 pending on the file of the learned Judicial Magistrate No.2, Kovilpatti.

3.The learned Government Advocate appearing for the first respondent, on instructions, would submit that the case in



C.C.No.131 of of 2019 on the file of the learned Judicial Magistrate No.2, Kovilpatti, is posted for examination of witnesses.

4.Upon considering the arguments advanced by either side, being dispose of this application it is necessary to see the averments made in the First Information Report in Crime No.36 of 2019 and also in the final report filed in C.C.No.131 of 2019. A perusal of those documents reveal the fact that during the time of occurrence, the petitioners intercepted the second respondent and made a life threat by using abuse words. Further the petitioners 1 and 2 assaulted the second respondent and caused simple injury.

5.At this juncture, it is relevant 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 CrI. 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 said principle set out by the Hon'ble Apex Court herein, the averment made in the final report had clearly constituted that the offence committed by the petitioners are cognizable in nature. Therefore, quashing the final report in C.C.No.131 of 2019 is unwarranted. However, since the dispute between the petitioners and the second respondent is in respect of the family properties, it would be appropriate to give some direction to the learned Judicial Magistrate No.2, Kovilpatti, to dispose of the above said case within a stipulated period. Accordingly, the learned Judicial Magistrate No.2, Kovilpatti, is directed to dispose of the case in C.C.No.131 of 2019 as early as possible preferably within a period of three months after resuming the regular Court work.

6.With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



**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 Judicial Magistrate No.2,  
Kovilpatti.
- 2.The Inspector of Police,  
Kovilpatti West Police Station,  
Thoothukudi District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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AP(02/09/2020) 3P 4C