



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2021

CORAM:

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**THE HON'BLE MR JUSTICE G.ILANGO VAN**

Crl.O.P.(MD)No.2800 of 2019

and

Crl.MP(MD)Nos.1543 and 1544 of 2019

1.Chockaiyan

2.Jamapandi

3.Chinna Adaikkan

: Petitioners/A1 to A3

Vs.

1.State rep.

The Inspector of Police,  
Balamedu Police Station,  
Madurai District.

(Crime No.54 of 2018)

: 1<sup>st</sup> Respondent /  
Complainant

2.Perichi

: 2<sup>nd</sup> Respondent / Defacto  
Complainant

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.164 of 2018 on the file of the Judicial Magistrate, Vadipatti and quash the same in respect of the petitioners.

For Petitioner : Mr.M.Ramu

For 1<sup>st</sup> Respondent : Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor

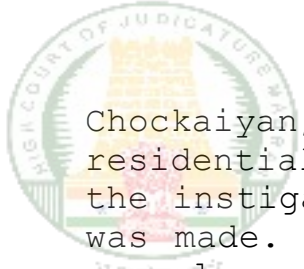
For 2<sup>nd</sup> Respondent : Mr.M.Palani

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

This petition is filed seeking quashment of the case in CC No.164 of 2018 pending on the file of the Judicial Magistrate, Vadipatti.

#### **2.The case of the prosecution in brief:-**

The 2<sup>nd</sup> respondent, who is the de-facto complainant has filed Crl.OP(MD) No.990 of 2018 seeking direction to register a case and investigate the matter. In the complaint, he stated that on 11.11.2017 at about 2.30 pm, the accused persons namely



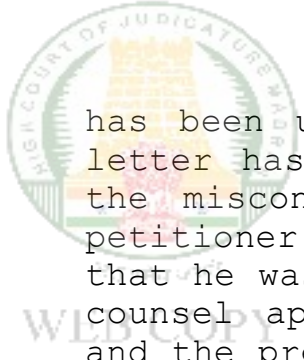
Chockaiyan, Jamapandi, Chinna Adaikkan took photographs of his residential house and that was objected by him. So over that, at the instigation of Chockaiyan and other accused persons assaulted, was made. When that was sought to be prevented by his wife, she was also assaulted.

3. More over, the first Accused Chockaiyan also demanded Rs.5,00,000/- from the de-facto complainant and also criminally intimidated him. So on the basis of the direction issued by this court, FIR was registered and investigation was undertaken and materials were collected and final report was filed making the above said allegations. The first accused is charged under section 294(b), 323, 506(i) IPC and section 4 of TNWH Act and A2 and A3 are charged under section 323 IPC and section 4 of TNWH Act. Seeking quashment of the final report filed in CC No.164 of 2018 pending on the file of the Judicial Magistrate, Vadipatti, this petition came to be filed by the petitioners.

4. Heard both sides.

5. When the matter was taken up for hearing, the learned counsel appearing for the petitioners submitted that the first accused namely Chokkiayan, who according to the prosecution was the prime accused expired, which was also confirmed by the learned Additional Public Prosecutor. Now the petitioners 2 and 3/A2 and A3 are before this court. During the course of argument, allegations and counter allegations were made by the 2<sup>nd</sup> respondent and the petitioners herein against each other with regard to their conduct.

6. The learned counsel appearing for the 2<sup>nd</sup> respondent would submit that the 2<sup>nd</sup> petitioner is in the habit of exerting money by giving anonymous false complaint against the Government Officials. But this was objected by the learned counsel appearing for the petitioners, who submitted that the 2<sup>nd</sup> respondent is involving in corrupt activities. So complaint has been given against him to the higher officials. Taking the same as a motive, this false complaint has been given by the 2<sup>nd</sup> respondent. To establish the same, typed set of papers is also produced to show the motive between the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> petitioner. So, by order, dated 20.06.2017 the 2<sup>nd</sup> respondent was directed to give explanation over the complaint given by the first petitioner. It has been mentioned that the 2<sup>nd</sup> respondent is in the habit of not attending the duty properly and responding public and addressing their grievance. Subsequently, he has been transferred to some other office. Again a complaint has been given by the first petitioner to the Director of Local Body, Chennai. Subsequently, on 16.08.2017, another memo has been issued to the 2<sup>nd</sup> respondent and he has been directed to give explanation over the complaint given by the first petitioner. The further document that has been produced by the 1<sup>st</sup> petitioner shows that continuously the first petitioner was engaged in seeking information with regard to the work that



has been undertaken by the Local Body. On 27.10.2017, again a letter has been sent by the BDO to the District Collector about the misconduct of the 2<sup>nd</sup> respondent. On 07.11.2017, the first petitioner gave a complaint against the 2<sup>nd</sup> respondent stating that he was criminally intimidated. Now, according to the learned counsel appearing for the petitioners, this is dated 07.11.2017 and the present complaint was given on 11.11.2017. When there was no action the side of the 1<sup>st</sup> respondent police, he moved this court by way of the above CrI.OP(MD)No.880 of 2019. So, no doubt this subsequent of event shows that continuous trouble exists between the first petitioner and the 2<sup>nd</sup> respondent herein over official conduct of the 2<sup>nd</sup> respondent. What happened to the complaint that has been given by the first petitioner against the 2<sup>nd</sup> respondent is not clear on record. What happened to the complaint given by the 2<sup>nd</sup> respondent against the first petitioner is also not clear on record. In all probability, the first respondent ought to have conducted proper enquiry or investigate, whatever the case may be.

7.Both the learned counsel appearing for the parties that the complaint has been given by the first petitioner and the 2<sup>nd</sup> respondent against each other. So, because of the in action the part of the first petitioner herein, it appears that the above said CrI.OP(MD)No.990 of 2019 has been filed by the 2<sup>nd</sup> respondent.

8.Coming to the allegations, the learned Additional Public Prosecutor would submit that five witnesses statements were examined. But however, there was an order of interim stay by this court. It appears that the interim stay granted by this court was not taken note of by the trial court. So, the petitioners also permitted to argue the matter on merits. Coming to the allegations as mentioned in the final report, a specific allegation has been made to the effect that at the instance of the deceased first petitioner, all the three accused assaulted the 2<sup>nd</sup> respondent and his wife also. But it appears that there was no treatment for the injury. It appears that no injury has been suffered by the 2<sup>nd</sup> respondent and his wife. If really they have been assaulted, they would have taken treatment. During the course of investigation also, no material has been collected with regard to the injury and treatment. So this clearly shows that because of the enmity exists between the first petitioner and the 2<sup>nd</sup> respondent herein, a complaint has been given and as mentioned above, when there was a counter complaint given by the first petitioner was not properly investigated, I am of the considered opinion that final report that has been filed by the first respondent is nothing, but clear abuse process of law and court. So the final report that has been filed before the concerned court against the petitioners is liable to be quashed.

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

9.Accordingly, this petition is **allowed** in respect of the petitioners 2 and 3 and the charge sheet filed in CC NO.164 of



2018 pending on the file of the Judicial Magistrate, Vadipatti is hereby quashed. In respect of the 1<sup>st</sup> petitioner, since the first petitioner has expired, this petition is **dismissed as abated**.

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Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

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 Judicial Magistrate,  
Vadipatti.
- 2.The Inspector of Police,  
Balamedu Police Station,  
Madurai District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Crl.OP(MD)No.2800 of 2019  
16.11.2021**

MA(CO)  
SB(07.12.2021) 4P 4C