



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.10.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD)No.11055 of 2021

and Crl.M.P. (MD) .No.5653 of 2021

WEB COPY

Suresh

... Petitioner/Accused No.6

Vs.

1.The State represented by
The Inspector of Police,
Karambakudi Police Station,
Pudukottai District.
(In Crime No.126 of 2004)

... 1st Respondent/Complainant

2.Raja

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned First Information Report in Crime No.126 of 2004 on the file of the 1st respondent police station and quash the same as illegal as against the petitioner is concerned.

For Petitioner	: Mr.R.Karunanithi
For Respondents	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.Side)

O R D E R

This criminal original petition has been filed seeking quashment of FIR in Crime No.126 of 2004 on the file of the first respondent.

2.The case of the prosecution as narrated in the FIR is that the defacto complainant was having previous enmity with one Selvaraj and his family members. One Raj brought more than 20 persons to attack him and petitioner is also one among the above said group and he assaulted the defacto complainant. It is alleged that on 18.04.2004, during the noon time, the defacto complainant and others were returning to the village after watching Jallikattu programme. At that time when they were nearing the house of Selvaraj around 20 people with deadly weapons waiting for them and Selvaraj accused assaulted with aruval. The other persons also joined with him and assaulted him with sticks and deadly weapons. Totally 2 Suresh were in the group. Another Suresh caused assault with spear, in which also several persons sustained injuries. On hearing their noise, village people gathered and all the accused persons escaped from the place of occurrence. Based upon the complaint given by the defacto complainant a case in Crime No.126 of 2004 was registered and still



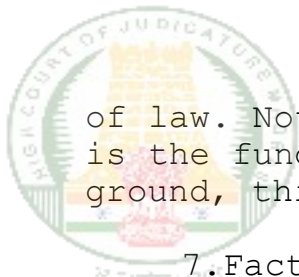
it is kept pending without any progress.

3.Now the petitioner has been selected for the post of Sweeper in Central Reserve Police Force and completed his basic training programme also. But he was terminated from the service in view of the pendency of the above said case. The termination was challenged before this Court in W.P.(MD).No.3225 of 2009, which was allowed on 20.07.2018, against which, a writ appeal has also been filed and that was also dismissed.

4.It is a case in counter case and as per the police standing order, both the cases ought to have been investigated simultaneously and the real aggressor ought to have been found out and if impossible in both the cases final report ought to have been filed by the Investigating Officer. But without following the above said process, the counter case has been registered in Crime No.125 of 2004 and trial was also conducted in S.C.No.100 of 2005 against the defacto complainant namely Raja S/o Rengasamy and others and six persons were acquitted by the Judgment dated 07.09.2007 by the learned Additional District and Session Judge, Pudukottai. It is a case of murder. In the final report in the above said counter case, it has been stated that the defacto complainant party attacked this petitioners and others and in the course of the above said assault one Sankar @ Saminathan was killed. So the defacto complainant parties were charged under Sections 147, 302 r/w 34 of IPC and in that counter case, it has been mentioned that this petitioner also sustained injuries. In the case of the trial, it appears that all the persons namely not only the injured, but also eye witnesses turned hostile. So finding that there is no material to record the conviction upon the defacto complainant parties, they were acquitted.

5.It has also been observed that P.W.1 by name Karthik is also an accused and injured in this case also. He has also stated in the complaint that the defacto complainant's party assaulted them with deadly weapons, for which also he has filed a complaint. Against the above said averment in the complaint, he gave evidence before the Court and turned hostile. So this counter case also been referred in the above said judgment. So as rightly pointed out by the learned counsel for the petitioner, since it is a clear case of case in counter as mentioned above, the Investigating Officer ought to have investigated both the matters simultaneously and would have acted upon that. But without following the proper procedure, it appears that in the counter case, final report has been filed even without mention or finding who were the real aggressors, are.

6.According to the learned counsel for the petitioner it is a clear violation of PSO 588 A. Reading of the final report in the above said counter case does not show that the accused person in that case were real aggressors. So keeping the counter case pending for more than 15 years is clear violation



of law. Not only the speedy trial, but also the speedy investigation is the fundamental right, which has been well recognized. So on that ground, this petition is liable to allowed.

7.Factually also as mentioned earlier, when the counter case has been ended in acquittal, filing of the final report will show that only those accused persons were the real aggressors. So continuation of the proceedings in FIR will amount to clear abuse of the process of law and Court.

8.So this criminal original petition is allowed and the proceedings of the FIR in Crime No.126 of 2004 on the file of the first respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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,
Karambakudi Police Station,
Pudukottai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-32394[F] dated 25/10/2021)

CrI.O.P.(MD)No.11055 of 2021
22.10.2021

NSN (CO)

RS/JGB (02.11.2021) 3P 4C

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