



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20154 of 2021

and

Crl.M.P. (MD)No.11373 of 2021

WEB COPY

Azarudeen ... Petitioner / 8th Accused

Vs

1.State represented by
The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
(Crime No.575 of 2021)

... 1st Respondent / Complainant

2.Dharmaraj

... 2nd Respondent / Defacto
Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the FIR in Crime No.575 of 2021 on the file of the first respondent police and quash the same insofar as the petitioner is concerned / 8th accused.

For Petitioner : Mr.T.Lenin Kumar

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for R1.

2. The petitioner is shown as A8 in Crime No.575 of 2021 registered on the file of the Manamelkudi Police Station for the offence under Section 160 of IPC. Information was lodged by none other than the Special Sub Inspector of Police. FIR reads that on 20.11.2021, in the evening hours, there arose a quarrel among Jamath members leading to physical fight. Some persons were also injured. Hence, the impugned FIR has been registered. To quash the same, this criminal original petition has been filed.

3. As rightly pointed out by the learned counsel for the petitioner, FIR has been registered against the petitioner and others at the instance of the Special Sub Inspector of Police, Manamelkudi Police Station. No private individual has given any complaint. It is true that on the occurrence date and time, a quarrel took place among the local Jamath members. The petitioner's specific case is that he was attacked by the other Jamath members and he had also given the complaint. A learned



Judge of this Court vide order dated 27.09.2018 in Crl.O.P.(MD) No.17260 of 2018 had held that merely because there is a fight between two groups, that cannot give rise to an automatic presumption that public peace has been disturbed. I had followed the said order in Crl.O.P.(MD)No.4787 of 2020 dated 23.03.2020. The offence of 'Affray' as defined in Section 159 of IPC will be attracted, if the following four ingredients are fulfilled:-

- 1) it should involve two or more persons
- 2) there must be a fight between or among themselves
- 3) the fight should take place in a public place
- 4) it should disturb the public peace.

4. In the case on hand, there is absolutely nothing to show that public peace was disturbed. Since this fundamental ingredient is absent, the impugned FIR is quashed. This Criminal Original Petition is allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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

Crl.O.P(MD)No.20154 of 2021
17.12.2021

SAR (CO)

<https://hpcivils.courts.gov.in/csr/csr/2P3C>