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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.10401, 11176 and 16810 of 2023
and Crl.MP.Nos.10806 and 6704 of 2023

Crl.O.P Nos.10401 of 2023

M.G.George Stephen (M/43 Y)
S/o.Ghevarghese

.. Petitioner/Accused 2

.VS.

The Inspector of Police
R.S.Puram Police Station
Coimbatore District.

.. Respondent/Complainant

(Crime No.74 of 2023)

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the case in Crime No.74 of 2023, on the file of R.S.Puram Police Station, Coimbatore District and quash the same as for as the petitioners concern.

For Petitioner : Mr.C.Iyyappaaraj

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)

Crl.O.P Nos.11176 of 2023

S.Sivakumar @ Cosmo Siva, M/55
S/o.Mr.Sachiananda Nadar

.. Petitioner/Accused 1

.VS.



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1.State rep.by
The Inspector of Police
B.2,R.S.Puram Police Station
Coimbatore.

.. 1st Respondent/Complainant

2.K.Sugumaran
Sub-Inspector of Police
B.2,R.S.Puram Police Station
Coimbatore.

..2nd Respondent/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the case in Crime No.74 of 2023, on the file of 1st respondent and quash the same as far as the petitioner is concerned.

For Petitioner	: Mr.K.Balasubramaniam
For Respondents	: Mr.A.Gopinath Government Advocate (Crl.side) for R1

Crl.O.P Nos.16810 of 2023

S.Aravind @ Dixon Aravind, M/29 Y
S/o.Suyambulingam

.. Petitioner/Accused 20

.vs.

The Inspector of Police
R.S.Puram Police Station
Coimbatore District.
(Crime No.74 of 2023)

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the case in Crime No.74 of 2023, on the file of R.S.Puram Police Station, Coimbatore District and quash the same as far as the petitioner is concerned.

For Petitioner	: Mr.T.Elumalai
For Respondent	: Mr.A.Gopinath Government Advocate (Crl.side)



COMMON ORDER

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These criminal original petitions have been filed by A.1, A2 and A.20 to quash the FIR registered in Crime No.74 of 2023 dated 23.2.2203 for offence u/s.160 IPC, pending investigation on the file of the 1st respondent.

2.Heard the learned counsel for the petitioner and learned Government Advocate (Crl.side) for respondent Police.

3.On carefully going through the allegations made in the FIR, it is seen that on 23.2.2023, during the evening hours, the concerned Police Officer was going on a routine surveillance and at that point of time, he found certain persons were arguing and creating ruckus near a theater. The concerned Officer found that it pertains to the right over a theatre called as a central theatre. Since the parties were creating a public nuisance and causing disturbance to the general peace, the same was intervened. Ultimately, an FIR came to be registered.

4.On going through the FIR, it is seen that the occurrence had taken place on 18.12.2022 and whereas the FIR came to be registered only on 22.3.2023 after more than 60 days. The offence of affray by its nature involves persons fighting with each other in a public place and thereby, causing disturbance to the general public. If such an occurrence takes place, the police will act immediately to get the situation under control, if the incident had resulted in causing disturbance to the general peace and FIR is registered for offence u/s.160 IPC. Very curiously, for such



type of an offence, an FIR came to be registered after more than 60 days. This by itself shows that there is something more than what meets the eye in this case.

5.As a subsequent development, an alteration report came to be filed by the respondent Police on 16.3.2023, before the concerned jurisdictional Magistrate Court and the offence was altered to Sections 147, 148 and 506(ii) IPC r/w.149 IPC, Section 27(1) of the Arms Act, 1959 r/w 149 IPC, and Section 25(1)(B)(a) of the Arms Act, 1959, r/w 149 IPC against 30 accused persons. On carefully going through the alteration report, it is found that the respondent Police is now proceeding to decide the dispute between the owner of the theatre and the accused persons. Therefore, the respondent is now justifying the continuation of the investigation by virtue of the alteration report filed by the concerned Police.

6.It is quite curious that an FIR that was registered u/s.160 IPC is now altered for a completely different offence based on a different cause of action. In the guise of proceeding further in this case, the respondent has now taken up a different case and dealing with it. That goes beyond the very scope of the registration of the FIR in this case.

7.If really anyone is aggrieved by the action on the part of the accused persons, they must give an independent complaint before the Police and based on that if a cognizable offence is made out, an FIR can be registered and the investigation can be proceeded with. However, such an exercise cannot be done where the FIR has been



registered by the Police Officer for offence u/s. 160 IPC. Hence, the continuation of investigation for a completely different cause of action in the present FIR, will amount to abuse of process of law which requires the interference of this Court.

8.In the light of the above discussion, this Court has absolutely no hesitation to interfere with the investigation in Crime No.74 of 2023 and accordingly, the FIR is quashed in its entirety and all these criminal original petitions stand allowed. Consequently, the connected miscellaneous petitions are closed.

25.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
kp

To

1. The Inspector of Police
B.2,R.S.Puram Police Station
Coimbatore.

2.K.Sugumaran
Sub-Inspector of Police
B.2,R.S.Puram Police Station
Coimbatore.

3.Public Prosecutor
High Court
Madras.



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N. ANAND VENKATESH,, J.

kp

Crl.O.P Nos.10401, 11176 and 16810 of 2023

25.08.2023