



Crl.O.P(MD).No.2496 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.2496 of 2020

M.Rajkumar

...Petitioner

Vs

1.The Inspector of Police,
Emaneswaram Police Station,
Paramakudi (Tk),
Ramanathapuram.
(Crime No.189 of 2019)

2.M.Ponnuchamy

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the impugned final report in C.C.No.11 of 2019 on the file of the learned Judicial Magistrate, Paramakudi and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner	: Mr.Ramsundarvijayaraj
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.M.S.Jeyakarthick

ORDER

This petition is filed to quash the charge sheet in C.C.No.11 of 2019 on the file of the learned Judicial Magistrate, Paramakudi.



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WEB COPY

2. According to the petitioner, the case in Crime No.189 of 2019 was registered against the petitioner under Sections 147, 148, 323, 324, 294(b), 506(ii) of IPC. The petitioner and others accused are family members. A1 and A4 are the brothers of the defacto complainant and the petitioner is the son of A4, A7 is the son of the brother of A1 and A6 and A8 are the sons of A7. A5 is the sister in law of A1. On the same date, the counter case has been registered against the defacto complainant and the family members in Crime No.190 of 2019 under Sections 147, 148, 323, 324, 294(b) and 506(ii) of IPC. The entire proceedings by the respondent is absolutely false, abuse of process of law. The petitioner is a practicing advocate at Paramakudi and just for defame this petitioner, this vexatious complaint has been filed. The main dispute is against A1 and the defacto complainant. The averments in the final report against the petitioner is that the petitioner and his brother simultaneously come forward to the place of occurrence and abused him in vulgar words and attacked the defacto complainant with iron rod. But no occurrence was happened as alleged in the FIR. Therefore, the aforesaid final report is liable to be quashed.

3. No counter has been filed on the side of the respondents.

4. The learned counsel appearing for the petitioner contended that there



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is a dispute arose between the parties. Thereby, the petitioner and others were falsely arrayed as accused and the defacto complainant is also facing trial in C.C.No.10 of 2020 and there is a case in counter. In fact there is no specific overt act against this petitioner. The allegations levelled against the petitioner are bald one. Therefore, the charge sheet is liable to be quashed.

5.The learned counsel appearing for the second respondent would contend that this is connected to C.C.No.10 of 2020 and the first respondent has investigated both the cases and filed final report. Since *prima facie* case is available to proceed with the case, the trial Court has taken cognizance. Thereby the petition is liable to be dismissed.

6.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered the FIR in Crime No.189 of 2019 for the offence under Sections 147, 148, 323,324, 294(b), 506(ii) of IPC and the same was investigated by the first respondent and thereafter, filed final report. As per investigation and as per final report, *prima facie* materials is available to proceed against the petitioner. Thereby, this is a matter of trial. At this stage, the petition is liable to be dismissed.



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7.This Court heard both sides and perused the materials available on
WEB record.

8.On perusal of records, it is admitted fact that there are case in counter case in Crime No.189 of 2019 and 190 of 2019. The petitioner and others arrayed as accused in C.C.No.10 of 2020 and C.C.No.11 of 2019 is pending as against the defacto complainant and others. The first respondent after elaborate investigation, filed final report in both the cases. At this stage, this Court cannot pass any orders, since *prima facie* materials available as against this petitioner.

9.At this juncture the learned counsel appearing for the petitioner prayed before this Court that if this Court is not inclined to allow this petition may order for dispensing the personal appearance of accused before the trial Court.

10.As far as dispensing the personal appearance of the petitioner is concerned, he has to approach the trial Court and if the application is filed by the petitioner, the trial Court has to decide the application in accordance with law and on merits.



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11.Further the trial Court has to follow the guidelines issued by the Hon'ble Supreme Court for the cases arising out of case in counter in ***Nathilal and others v. State of U.P and another*** reported in ***1990 Supp Supreme Court Cases 145.***

12.With the above observation, this Criminal Original Petition is disposed of.

14.08.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

- 1.The Judicial Magistrate, Paramakudi.
- 2.The Inspector of Police,
Emaneswaram Police Station,
Paramakudi (Tk),
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P. DHANABAL,J.

Mrn

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