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Crl.O.P.(MD)No.4092 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.06.2023

CORAM

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

**Crl.O.P.(MD)No.4092 of 2023**

**and**

**Crl.M.P.(MD)Nos.3644 and 3647 of 2023**

M.Mahammed Nazir Ali

... Petitioner / A5

Vs.

1.The State represented by

The Inspector of Police,

Achanpudhur Police Station,

Tenkasi District.

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

2.Ansar Ali

... 2<sup>nd</sup> Respondent/ Defacto complainant

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Final Report in P.R.C.No.24 of 2022, on the file of the Judicial Magistrate, Sengottai and to quash the same as illegal as against the petitioner.

For Petitioners : Mr.S.Arunnithy

For R1 : Mr.B.Nambiselvan  
Additional Public Prosecutor



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## **ORDER**

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to quash the Final Report in P.R.C.No.24 of 2022, on the file of the Judicial Magistrate, Sengottai.

2. The case of the prosecution is that on 29.06.2017, at about 9.00 pm., the defacto complainant and others were returning to their houses, after finishing the prayer, at that time, the accused persons assembled in the place in an unlawful manner with deadly weapon and abused the witnesses in filthy language. In the above said occurrence, the accused Nos.1 and 2 caused assault with stick to the defacto complainant. The other accused also joined together and caused repeated assault. Based upon the said occurrence, a case in Crime No. of 168 of 2017, for the offence under Sections 147, 341, 294(b), 323, 307 and 506(ii) I.P.C., was registered and after investigation, charge sheet was filed and the same taken on file as P.R.C.No.24 of 2022, by the Judicial Magistrate, Sengottai.

3. Seeking quashment of the same, this petition has been filed by the petitioner, on the ground that he was not at all present in the



place of occurrence. Due to mis-identification, he is included in the final report; he did not receive any summons from the Magistrate Court also; He went to Abroad, when he was aged about 19 years, now only, he came to know that the present case is pending against him.

4. Heard both sides.

5. Except the above said facts of the ground that the petitioner was not present in the place of occurrence, when the alleged occurrence said to have been taken place, no other legal ground has been raised. It was also informed to the Court that warrant was issued against this petitioner. Due to non-appearance, proclamation was also issued by the trial Court. So, a direction was issued to the petitioner to surrender before the trial Court and got the warrant recalled. With the above said direction, the matter was adjourned for reporting compliance.

6. Today (ie.19.06.2023), when the matter was taken up for hearing, the learned counsel for the petitioner would submit that he could not come to India and he was not in a position to comply with the above said order. But, this contention cannot be accepted. The petitioner has to come to India, get the warrant be recalled, then only this petition can



be entertained. Since the above said order has not been complied, this Court is not inclined to entertain this petition.

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7. Apart from that as stated above, except the facts of the ground, no other legal ground has been raised by the petitioner. Identification of the person, who participated in the above said commission of offence can be undertaken by the trial Court at the time of trial. So, this petition is not maintainable, on this two grounds. Hence, this petition is liable to be dismissed and accordingly, dismissed. Consequently, connected Miscellaneous Petitions are closed.

**19.06.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
Ls

To

1.The Judicial Magistrate,  
Sengottai.

2.The Inspector of Police,  
Achanpudhur Police Station,  
Tenkasi District.



*Crl.O.P.(MD)No.4092 of 2023*



3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**G.ILANGOVAN,J.**

Ls

Order made in  
**Crl.O.P.(MD)No.4092 of 2023**

Dated: 19.06.2023