



WEB COPY



Crl.O.P.No.6726 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.6726 of 2024
& Crl.M.P.No.4938 of 2024

1. Thirumoorthy.
2. Thulasi.
3. Yugesh Kumar.
4. Sathish Kumar.
5. Raju.
6. Yuvaraj.

... Petitioners/Accused No.1 to 6

/versus/

1. The Inspector of Police,
Podhanur Police Station,
Coimbatore City.
(Crime No.28/2021)

...Respondent/Complainant

2. Ravikumar,
Head Constable – 896,
Podhanur Police Station,
Coimbatore City.

3. P.Jabaraj.

R3 impleaded as per order dated 23.07.2024 in Crl.M.P.No.10367 of 2024 in Crl.O.P.No.6726 of 2024

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.743 of 2022 on the file of the Learned District Munsif Cum Judicial Magistrate, Madukkarai and to quash the same.



Crl.O.P.No.6726 of 2024

For Petitioners : Mr.A.Tamilarasan.
For R1 : Mr.K.M.D.Muhilan,
Government Advocate (Crl.Side)
For R2 : Mr.C.Deivasigamani

ORDER

The case was registered under Section 160 of I.P.C alleging affray against six persons, three from A-party and three from B-party and later suddenly been altered to offences under Section 294(b) and 323 of I.P.C on the intervention of the Superior Officer, who has forwarded the representation given by one Jebaraj, from A party. As a consequence, three new persons, who are not named in the F.I.R been added and three persons named in the F.I.R been dropped and final report filed for offences under Section 143, 294(b), 323, 354, 506(i) of I.P.C. Neither the final report nor in alternation report disclose any material to justify dropping the names of three persons, who are mentioned in the F.I.R. The complaint of affray been enquired by Head Constable of Podhanur Police Station, who has gone to the scene of occurrence and saw two groups rioting in the public. While so, sudden shifting in the investigation, targeting one group and deleting other group is not on any basis, except the representation alleged to have been forwarded by the Superintendent of Police to the Inspector of Police.



WEB COPY

2. Therefore, this Court finds that the investigation not been done following the procedure in Police Standing Order 566. The reason for not including those three accused persons found in the F.I.R and added three persons whose name are not found in the F.I.R are purely based on the statement recorded after alternation of charges.

3. The Investigating Officer ought to have first recorded the statement of witnesses. If he satisfies that the accused are aggressor, then he should have followed the Police Standing Order and place all the material collected in the course of investigation for the magistrate to decide, regrading the offence and offenders in the case. The Investigating Officer has miserably failed to file final report in the manner directed under PSO 566. Therefore, it is liable to be set aside.

4. In the result, S.T.C.No.743 of 2022 filed based on faulty final report stands quashed. The Investigating Officer is directed to conduct further investigation and file fresh final report on the F.I.R.No.28/2021 dated 07.01.2021. Based on the material collected during the course of investigation, if the Investigating Officer is of the opinion that one group is the aggressor and



CrI.O.P.No.6726 of 2024

other group is the victims, then he should furnish his reasonings as well as the statement of victim for the Judicial Magistrate to take appropriate decision. If both group had involved in the act of aggression and violence, apart from affray, same to be probed and final reports to be filed accordingly.

5. With the above observation, this Criminal Original Petition is disposed of. The respondent police is directed to conduct further investigation and complete it within a period of four months. Consequently, M.P is closed.

31.07.2024

Index : Yes/No.
Neutral Citation : Yes/No.
bsm

Copy to:-

1. The Learned District Munsif Cum Judicial Magistrate, Madukkarai.
2. The Inspector of Police, Podhanur Police Station, Coimbatore City.
3. The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.O.P.No.6726 of 2024

Dr.G.JAYACHANDRAN,J.

bsm

Crl.O.P.No.6726 of 2024

31.07.2024