



Crl.O.P.(MD)No.5631 of 2021 and 16165 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE AA.NAKKIRAN**

Crl.O.P.(MD)Nos.16165 of 2019 and 5631 of 2021
Crl.M.P.(MD)Nos.9627 of 2019 and 3229 and 3230 of 2021

Crl.O.P(MD).No.16165 of 2019

1. Thansilas
2. Nesamani
3. Glory Bai
4. Derin
5. Binthu
6. Binu

... Petitioners / accused

Vs.

1. The State
rep. by the Sub Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.
(Crime No.37 of 2018)

..1st respondent / complainant

2. Sibin

... 2nd Respondent / informant

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records pertaining to the case in C.C.No.283 of 2018 on the file of the Judicial Magistrate No.I, Kuzhithurai and quash the same.



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For Petitioner	: Mr.N. Dilipkumar
For R1	: Mr.R.M.Anbunithi, Additional Public Prosecutor
For R2	: Mr.N.Karthikeyan

CrI.O.P(MD).No.5631 of 2021

1.Shibin
2.Shajin

... Petitioners / accused

Vs.

1.The State
rep. by the Sub Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.

..1st respondent / complainant

2.Thanislal

... 2nd Respondent / informant

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records in C.C.No.173 of 2019 pending on the file of the Judicial Magistrate No.I, Kuzhithurai and quash the same.

For Petitioners	: Mr.N. Karthikeyan
For R1	: Mr.R.M.Anbunithi, Additional Public Prosecutor
For R2	: Mr.N. Dilipkumar



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COMMON ORDER

These Criminal Original Petitions have been filed to call for the records pertaining to the case in C.C.No.283 of 2018 and C.C.No.173 of 2019 on the file of the Judicial Magistrate No.I, Kuzhithurai and quash the same.

2.The case of the prosecution is that the first accused in Crl.O.P(MD).No.16165 of 2019 is the 2nd respondent / defacto complainant in Crl.O.P(MD).No.5631 of 2021. He has married the sister of the first accused in Crl.O.P(MD).No.5631 of 2021 / 2nd respondent in Crl.O.P(MD).No. 16165 of 2019. Subsequently, due to the mis-understanding they were separated and the matrimonial dispute is pending between them. In such circumstances, there was a wordy quarrel arose between both the family members. Based on the complaint given by both the parties case has been registered in Crime Nos. 35 and 37 of 2018 and thereafter, the said cases have been charged sheeted in C.C.No.173 of 2019 for the offences under Sections 324, 294(b) and 506(ii) IPC and C.C.No.283 of 2018 for the offences under Sections 341,



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342, 324, 323 and 506(i) IPC on the file of the Judicial Magistrate No.I, Kuzhithurai respectively.

3. The learned counsel appearing for the petitioners in CrI.O.P.(MD).No.16165 of 2019 would submit that the alleged occurrence took place on 31.03.2018, but, the FIR has been registered belatedly on 08.04.2018, for which, no reasonable explanation has been furnished by the defeacto complainant. He would further submit that as per the provision of 588 A of Madras Police Standing Orders, both the cases should have been investigated simultaneously by the very same Investigating Officer. But, in the present case, two different charge sheet have been filed for the very same occurrence. In support of his contention, the learned counsel for the petitioners has also relied on the Judgment of the Hon'ble Supreme Court reported in **(2003) 9 Supreme Court Cases, 426 in the case of (State of M.P Vs. Mishrilal (Dead) and another)** wherein at paragraph No.8 it has been held as follows:

“8. In the instant case, it is undisputed, that the Investigating Officer submitted the challan on the basis of the complaint lodged by the accused Mishrilal in respect of the same incident. It would have been just, fair and proper to decide both the cases together by the same court in view of the



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guidelines devised by this Court in Nathi Lal Case. The cross-cases should be tried together by the same court in irrespective of the nature of the offence involved. The rational behind this is to avoid the conflicting judgments over the same incident because if cross-cases are allowed to be tried by two courts separately there is likelihood of conflicting judgments. In the instant case, the investigating officer submitted the challan against both the parties. Both the complaints cannot be said to be right. Either one of them must be false. In such a situation, legal obligation is cast upon the investigating officer to make an endeavour to find out the truth and to cull out the truth from falsehood. Unfortunately, the investigating officer has failed to discharge the obligation, resulting in grave miscarriage of justice.”

He further submitted that no documents have been produced as the defacto complainant has sustained injuries and prays for allowing this petition.

4. The learned counsel appearing for the petitioners in Crl.O.P(MD).No.5631 of 2021 would submit that the information obtained under RTI Act from the hospital clearly reveals that that the 2nd respondent only inflicted injuries against the first petitioner. He would further submit that criminal case is pending against the 2nd respondent, due to that motive, a false case has been given against the petitioners and prays for allowing this petition.



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5. The learned Additional Public Prosecutor appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. Considering the facts and circumstances and also considering the fact that there is a specific overt act attributed against the petitioners, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. Since it is a case and counter case, the above said Judgment of the Hon'ble Supreme Court reported in ***(2003) 9 Supreme Court Cases, 426*** in the case of ***(State of M.P Vs. Mishrilal (Dead) and another)*** is squarely applicable to the facts of the



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present case. The trial Court is directed to try both the cases in C.C.No. 283 of 2018 and C.C.No.173 of 2019 on the file of the Judicial Magistrate No.I, Kuzhithurai and dispose of the same in accordance with law.

8. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.283 of 2018 and C.C.No.173 of 2019 on the file of the Judicial Magistrate No.I, Kuzhithurai. Accordingly, these petitions, being devoid of merits, are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

24.06.2024

Index: Yes/No
Internet: Yes/No
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To

- 1.The Judicial Magistrate No.I, Kuzhithurai
2. The Sub Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AA.NAKKIRAN,J

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