



Crl.O.P.(MD) No.18152 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.18152 of 2021

and

Crl.M.P.(MD) Nos.9944 & 9945 of 2021

1.M.Barath

2.Santhosh

3.Dhileepkutti

... Petitioners

Vs.

1.The State rep. by its
The Inspector of Police,
M.Chatrapatti Police Station,
Madurai District.
(Crime No.124 of 2019)

2.M.Mohan
S/o.R.Murugan,
PC 915,
M.Chatrapatti Police Station,
Madurai District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.1115 of 2020 on the file of the Judicial Magistrate Court No.V, Madurai and quash the same as against the petitioners.



Crl.O.P.(MD) No.18152 of 2021

For Petitioners : Mr.M.Jagadeesh Pandian

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

Seeking to quash the final report in C.C.No.1115 of 2020 on the file of the Judicial Magistrate Court No.V, Madurai, the present Criminal Original Petition is filed by accused 1, 2 and 4.

2. The case of the prosecution in a nutshell is as follows:

(i) On 08.09.2019 at about 04.50 p.m., when the Sub Inspector of Police Mr.Shanthamoorthy and the Head Constable of Police (second respondent/*de facto* complainant) were on routine rounds, they found all the accused at the banks of a river shouting at each other. When the police requested them to go home after taking bath, all the accused abused them in filthy language and also assaulted them. The accused also took a wooden log and an iron rod and threatened both police officials with dire consequences and attempted to escape in a two-wheeler bearing Reg.No.TN 59 BQ 3376. They were all arrested with the help of general public.



Crl.O.P.(MD) No.18152 of 2021

(ii) Based on the complaint given by the Head Constable of Police (second respondent), an F.I.R. in Crime No.124 of 2019 was registered by the Sub-Inspector of Police, M.Chatrapatti Police Station, against the accused for the offences punishable under Sections 294(b), 332 & 506(2) of IPC. Thereafter, the Sub-Inspector of Police after concluding investigation laid a final report in C.C.No.1115 of 2021 before the Judicial Magistrate Court No.V, Madurai against the accused for the aforesaid offences.

3. Mr.M.Jagadeesh Pandian, learned counsel for the petitioners would contend that the present petitioners were all studying in a college and the first petitioner had also passed the examination for the post of Grade II Police Constable during the year 2020. According to him, on account of the pendency of the present case, he could not join the police service. It is further contended that the petitioners did not abuse the police officials and did not threaten them with dire consequences as alleged by the prosecution. He therefore prayed for quashing the final report as far as the present petitioners are concerned.



Crl.O.P.(MD) No.18152 of 2021

4. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Crl. Side) appearing for the first respondent would contend that the police after conducting proper investigation laid the final report and therefore, there are no valid reasons to quash the final report. He therefore prayed for dismissal of this Criminal Original Petition.

5. It is relevant to extract Sections 332 and 319 of IPC:

Section 332 - Voluntarily causing hurt to deter public servant from his duty.

Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

319. Hurt.—Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

6. As per Section 332 of IPC, a person who causes hurt to any person being a public servant in discharge of his duty or with intent to prevent or deter that person from discharging his duty or in consequence



Crl.O.P.(MD) No.18152 of 2021

of anything done or attempted to be done by that person in the lawful discharge of his duty, should be punished with imprisonment for a term which may extend to three years, or with fine, or with both. To constitute an offence under Section 332 of IPC, they should have caused bodily pain, disease or infirmity to the *de facto* complainant as per the definition of 'hurt'.

7. It is pertinent to point out that the *de facto* complainant did not state that he suffered bodily injury due to the assault. The abusive filthy language has not also been clearly stated in the final report which includes the statement of witnesses recorded by the police under Section 161(3) Cr.P.C. Furthermore, it is not also specifically stated as to which accused assaulted the police. The Head Constable also did not go to any hospital for treatment. Moreover, the petitioners were college students on the date of occurrence and as observed earlier, one of the petitioners had passed the examination for Grade II Police Constable during the year 2020. In the circumstances, the final report in C.C.No.1115 of 2020 on the file of the Judicial Magistrate Court No.V, Madurai is quashed as far as the present petitioners are concerned.



Crl.O.P.(MD) No.18152 of 2021

8. Accordingly, the present Criminal Original Petition is allowed.

Consequently, connected Miscellaneous Petitions are closed.

21.02.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To:

- 1.The Judicial Magistrate No.V,
Madurai, Madurai District.
- 2.The Inspector of Police,
M.Chatrapatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.18152 of 2021

R.HEMALATHA, J.

JEN

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