



Crl.O.P.(MD)No.19870 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19870 of 2024

and

Crl.M.P.(MD)Nos.12249 and 12250 of 2024

1.Prasanth

2.Ramachandran

3.Kannadossan

... Petitioners

Vs.

1.State of Tamil Nadu, Rep. by
The Inspector of Police,
Siruganur Police Station,
Trichy District.
(Crime No.369 / 2017)

2.Balasubramaniyan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to call for the records pertaining to the charge sheet in C.C.No.61 of 2019, on the file of the Judicial Magistrate Court, Lalgudi, and quash the same as illegal.

For Petitioners : Mr.T.Lenin Kumar

For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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The petitioners, who are accused facing trial in C.C.No.61 of 2019, have filed this Petition on the ground that the uncontroverted statements of the witnesses and materials filed and there is no ground to proceed against them. Further, the Investigating Officer failed to follow Police Standing Order 566(2), which mandates that in case of a counter-case, the Investigating Officer must first determine the aggressor. On identifying the aggressor, the Investigating Officer is required to seek the opinion of the Public Prosecutor before proceeding further. There is no material in this case, whether the Investigating Officer had followed the guidelines enumerated under Clause 566(2) of the Police Standing Orders. Further, it is submitted that the counter case in C.C.No.35 of 2018 is also posted along with the petitioners' case and both cases are proceeding simultaneously, which is in violation of the judgment of a Full Bench of this Court in **T.Balaji and another vs. State, Rep. by the Inspector of Police, New Washermenpet Police Station, Chennai and another** reported in **2024 (3) MLJ (Crl) 458**, wherein the Full Bench of this Court had given a guideline and held that both the case and counter cases cannot proceed simultaneously. The evidence in one case must be



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recorded first, and at the stage of judgment, the proceedings for the second case should be kept on hold. Thereafter, the evidence for the second case must be recorded, and finally, the judgment in both cases should be rendered on the same day. But, in this case, on 26.11.2024, the case is posted for examination of L.W.1 to L.W.3 in both C.C.Nos.35 of 2018 and 61 of 2019, which would only create an anomaly and the Public Prosecutor will also be put in a poignant situation. Hence, the learned counsel prayed to quash the proceedings.

2. The learned Additional Public Prosecutor opposed the petitioners' contentions and submitted that the grounds raised by the petitioners to follow the Full Bench judgment as well as the Police Standing Order, would not be grounds to quash the proceedings. He fairly submitted that both cases have been posted for examination of witnesses on 26.11.2024 and the trial Court can proceed with any of the case in C.C.No.61 of 2019 or C.C.No.35 of 2018 and not to proceed simultaneously and it has to proceed one after another. In this case, C.C.No.61 of 2019 is the first occurrence.



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3. Considering the submissions and on perusal of the materials, it is not in dispute that C.C.No.61 of 2019 and C.C.No.35 of 2018 are the case and case in counter. It is seen that both the cases have been posted for examination of witnesses on 26.11.2024. It may not be proper. In view of the same, the trial Court to proceed with one of the cases, complete the trial, not to pronounce judgment, thereafter to proceed with the second case and in both the cases, judgment to be pronounced on the same day.

4. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

18.11.2024

To

1.The Judicial Magistrate,
Lalgudi.

2.The Inspector of Police,
Siruganur Police Station,
Trichy District.



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



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M.NIRMAL KUMAR, J.

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Order made in
Crl.O.P.(MD)No.19870 of 2024

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