



Crl.O.P.(MD)No.21074 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21074 of 2024

Raja

... Petitioner

Vs.

State of Tamil Nadu, Rep. by

1.The Superintendent of Police,
O/o. the Superintendent of Police,
Kanyakumari District.

2.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Kolachel Division,
Kanyakumari District.

3.The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking a direction to the first respondent to transfer the investigation in connection with Crime No.148 of 2024, on the file of the third respondent to any other competent investigation agency, within the time frame that may be fixed by this Court, by considering the petitioner's representation dated 28.08.2024.



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For Petitioner : Mr.A.Balaji
For Respondents : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal side)

ORDER

The petitioner/de-facto complainant has filed this petition stating that on 21.08.2024, both he and his brother, Sahaya Rajesh, were attacked by Radhakrishnan and others using a cutting machine. As a result, they sustained severe injuries and were admitted to the hospital for inpatient treatment. On receiving the information, the respondent Police arrived at the scene of occurrence, recorded the petitioner's statement, and subsequently registered an F.I.R.

2. The learned counsel for the petitioner submits that the Sub-Inspector of Police attached to the respondent Police Station, one Rajendran, who registered the case, is related to the assailants, as they are from the same Village. The case presented against the petitioner alleges that he had installed an LED screen inside the Church facing the road, which was objected to by another group of villagers. Without permission, the group used a cutting machine to damage the LED screen's holdings.



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The petitioner resisted, but the cutting machine was used against him and his brother, causing injuries. On the other hand, it is being projected that the petitioner instigated a quarrel, assaulted Radhakrishnan and others, and a case was registered against him based on their complaint in Crime No.147 of 2024, under Sections 191(2), 191(3), 296(b), 121(1), 115(2), and 351(2) of the Bharatiya Nyaya Sanhita, 2023. This case is being presented as a counter-complaint. From the outset, Rajendran played an active role in pushing the case forward. The petitioner submitted a representation on 28.08.2024, detailing the facts and explaining how the case and counter-case should be investigated. However, Rajendran seems to be exerting undue influence to close the petitioner's complaint and, conversely, to file a final report against the petitioner based on the counter-complaint. Hence, the petitioner seeks a change of investigation.

3. The learned Government Advocate (Criminal side) submitted that in Crime No.147 of 2024, a charge sheet has been filed against the petitioner and others through e-filing on 18.11.2024 (e-filing No. 4873/2024). As regards the petitioner's complaint in Crime No.148 of 2024, it was closed as a 'mistake of fact', with a final report filed through



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e-filing No.4927/2024 on 18.11.2024. The RCS notice is soon to be served to the petitioner. The learned Government Advocate (Criminal side) fairly submitted that the petitioner's representation dated 28.08.2024 was received by the respondent Police on 29.08.2024. In the complaint, a specific allegation has been made against the Sub-Inspector of Police, who is from the same Village. It is noted that in this case, the petitioner and his brother were treated as inpatients, while in Crime No.147 of 2024, Radhakrishnan, the injured, was treated as an outpatient with minor injuries, such as scratches on his knee and some injury on his left thigh.

4. Considering the above submissions and on perusal of the materials on record, it appears that Radhakrishnan's injuries were superficial, while the injuries sustained by the petitioner cannot be dismissed as resulting from a mere scuffle. Furthermore, the petitioner was treated as an inpatient, with medical records to support his claim. In view of the same, this Court finds that the closure of the case should be reconsidered. Therefore, the petitioner is directed to appear before the Judicial Magistrate Court, Eraniel, and file a protest petition. The learned



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Judicial Magistrate, Eraniel, is to consider the protest petition on its own merits and pass appropriate orders. Till such time, proceedings in Crime No.147 of 2024 shall remain pending.

5. With the above direction, this Criminal Original Petition is disposed of.

04.12.2024

NCC : Yes / No

Index : Yes / No

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Copy to:-

The Judicial Magistrate,
Eraniel.

To

- 1.The Superintendent of Police,
O/o. the Superintendent of Police,
Kanyakumari District.
- 2.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Kolachel Division,
Kanyakumari District.
- 3.The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.
- 4.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.21074 of 2024

Dated: 04.12.2024