



CRL MP(MD). No.41 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Thirteenth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice DR. D. NAGARJUN

CRL MP(MD). No.41 of 2024

in

CRL OP(MD)No.14532 of 2023

C.Shanmugapriya ... Petitioner/2nd Respondent/Defacto Complainant

Vs

1 Ramasamy @ Ramar

2 Mayakannan @ Kannan

3 Meenakshi

4 Thirupathiammal @ Thirupathi

5 Selvam @ Selvakumar ... Resopondents 1-5/Petitioners 1-5 /
Accused Nos.2,3,4, 8 & 10

6 The Inspector of Police
Sattur Town Police Station
in Crime No. 598/2020
Virudhunagar District. ... 6th Respondent/1st Respondent/Complainant

Prayer in CRL MP(MD). No.41 of 2024

Criminal Miscellaneous Petition filed under section 482 of Cr.p.c. to recall the
order in Crl OP(MD) No.14532/2023 dt.25.09.2023 for Quashment of the case in
<https://www.mhc.tn.gov.in/judis>



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P.R.C No.13/2023 on the file of the Learned Judicial Magistrate No.II, Sattur in Virudhunagar District.

Prayer in CRL OP(MD). 14532/ 2023 :

Criminal Miscellaneous Petition filed under section 482 of Cr.p.c.to quash the Charge Sheet filed by the 1st Respondent Police in PRC.No.13 of 2023 on the file of the Judicial Magistrate No.II,Sattur, Virudhunagar District and to pass such further or other orders as this Honble Court.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.V.Sasi Kumar, Advocate for the Petitioner this Court made the following order:

This criminal miscellaneous petition has been filed seeking to recall the orders dated 25.09.2023 passed by this Court in Crl OP (MD) No.14532 of 2023.

2. The petitioner has filed a complaint on the file of of Sattur town police station on which police have registered a case in crime no.598 of 2020 and after investigation, police have charge sheeted as P.R.C.No.13 of 2023 on the file of learned Judicial Magistrate No.II, Sattur, Virudhunagar District. The respondents one to five who are the accused Nos.2,3,4,8 and 10 respectively in the said P.R.C.No.13 of 2023 have filed Crl MP (MD) No.41 of 2024 seeking for quashment of charge sheen in P.R.C.No.13 of 2023 and the said petition was allowed by this Court



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as per the orders dated 25.09.2023.

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3. Aggrieved by the same, the present petition is filed by the defacto complainant to recall the orders dated 25.09.2023 passed in Crl.O.P.(MD)No.14532 of 2023 on the ground that the petitioner/defacto complainant in P.R.C.No.13 of 2013 was not served with notice in Crl O.P.(MD).No.14532 of 2023.

4. It is submitted by the learned counsel for the petitioner/defacto complainant that on 01.12.2020 at about 03:15 p.m. she along with her children were brutally, inhumanely and indiscriminately attacked by her husband and his relatives. On a complaint given by her a case was registered and on completion of investigation, charge sheet was filed on the file of the Judicial Magistrate, Sattur who has taken on file as P.R.C.No.13 of 2023 under Sections 147, 148, 294 (b), 323, 341, 354, 326, 307 and 506 (ii) of IPC.

5. It is submitted by the learned counsel for the petitioner that in the quash petition in Crl OP (MD) No.14532 of 2023 filed by the respondents though, the petitioner/defacto complainant is shown as the second respondent, the petitioner was not given any notice and without hearing the petitioner/defacto complainant by denying the principles of natural justice Crl.O.P.(MD).No.14532 of 2023 was allowed by this Court on 25.09.2023 and therefore, sought for recalling the said orders.



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6. Heard both sides and perused the record.

7. I have carefully gone through the records pertaining to CrI.O.P.(MD).

No.14532 of 2023 including the orders. In the said petition the respondents one to five are the accused 2,3,4,8 and 10. The petitioner by name C.Shanmugapriya is shown as second respondent in the CrI.O.P.(MD).No.14532 of 2023. However, though, State is being represented by Mr.S.S.Madhavan, Government Advocate (CrI.side) sofar as the petitioner is concerned there is no record to show that notice was ordered and thereby, there was no representation.

8. This Court has allowed the CrI.O.P.(MD).No.14532 of 2023 without serving notice to the petitioner/second respondent mainly on the ground that the P.R.C.No.13 of 2023 and C.C.No.498 of 2022 which are cases and counter cases were investigated by two different investigating officers. Basing on the POS No.566 (2) of the Tamil Nadu Police Standing Orders and considering judgment of this Court in CrI.O.P.33146 of 2021 dated 05.06.2023 this Court has concluded that since P.R.C.No.13 of 2023 and C.C.No.498 of 2020 were investigated by two different investigating officers P.R.C.No.13 of 2023 pending on the file of the Judicial Magistrate, Sattur was quashed.

9. While considering the quashment of the charge sheet under 482 of the

Code of Criminal Procedure, if the defacto complainant is directly affected, notice is

<https://www.mhc.tn.gov.in/judis>



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required to be given to the defacto complainant so that the defacto complainant can also be heard by the Court before deciding as to whether criminal case can be quashed against the accused or not.

10. In Joseph Stephen and others vs.Santhanasamy and others reported in 2022 LiveLaw (SC) 83 it is emphasized that the defacto complainant being directly aggrieved person must be given an opportunity to be heard and that failure to issue notice to the defacto complainant can lead to violation to principles of natural justice.

11. Similarly, in Rajendra Singh Verma vs Lt. Governor, the Hon'ble Supreme Court of India has lighted the importance of adhering to the principles of natural justice by ensuring that the complaint is notified and given a chance to context in the quashment petition.

12. In the case on hand, it is alleged that the defacto complainant/petitioner was beaten by the respondent and on a complaint, as case was registered and after investigation charge sheet was filed by the police in Crl OP (MD) No.14532 of 2023.

13. Considering the nature of the allegation leveled against the accused by the defacto complainant and since the defacto complainant is victimized, notice should have been given to the petitioner/defacto complainant in this case. It

appears, inadvertently notice was not given to the defacto



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complainant/petitioner/second respondent in Crl OP (MD) No.14532 of 2023.

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14. Considering the above. the facts of the case warrants recalling of the orders passed by this Court in Crl OP (MD) No.14532 of 2023 purely on the technical ground that notice has not been give to the second respondent. Once orders are recalled notice must go to the second respondent and then the defacto complainant/second respondent will participate in the proceedings and only thereafter, the Court will decide the matter on merits.

15. In view of the above, petition is allowed and the orders passed in Crl OP (MD) No.14532 of 2023 on 25.09.2023 are hereby recalled. Accordingly, this Crl MP (MD) No.41 of 2024 is allowed.

16. The Registry is directed to restore the Crl OP (MD) No.14532 of 2023 back to its original file. Issue notice to the second respondent and list the matter on 13.09.2024 before the appropriate Bench.

Sd/-

Assistant Registrar (C.S.II)

// True Copy //

/09/2024

Sub Assistant Registrar
(CS-I , II , III, IV)

vca



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TO
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- 1.The Judicial Magistrate No.II,
Sattur in Virudhunagar District.
2. The Inspector of Police
Sattur Town Police Station
in Crime No.598/2020
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai

+ 1 cc to Mr.V.Sasi Kumar, Advocate, CA Sr.No.43141/2024



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ORDER DATED : 13/08/2024

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Restore
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in
CRL OP(MD) No.14532 of 2023

Giving direction and etc.
as stated within.

SL(04.09.2024)/ 8P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.