



Crl.O.P.No.18490 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.08.2025

CORAM

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Criminal Original Petition No. 18490 of 2022
and
Crl.M.P.No.12227 of 2022

I.Pravin Kumar
S/o.Ilango

... Petitioner

versus

1.N.Sakthivel
S/o.Nandagopal

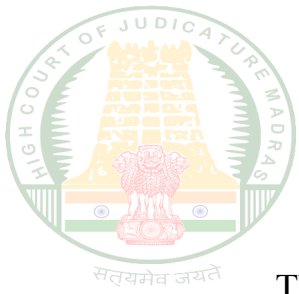
2.The State represented by its
Station House Officer,
CB-CID (Crime Branch-Crime Investigation Department)
Puducherry UT.

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the entire records in connection with the proceedings taken in C.C.No.82 of 2020 based on the complaint case dated 09.04.2008 on the file of the Chief Judicial Magistrate, Puducherry and quash the same.

For Petitioner	:	Mr. P. Parthiban
For R1	:	Mr. T.SaiKrishnan
For R2	:	Mr.K.S.Mohandass
		Public Prosecutor (Puducherry)

ORDER



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The petitioner/A1 has filed the present petition to call for the entire records in connection with the proceedings in C.C. No. 82 of 2020, based on a complaint dated 09.04.2008, on the file of the Chief Judicial Magistrate, Puducherry, and to quash the same.

2. The petitioner submits that, in the capacity of a Sub-Inspector of Police and while discharging his official duties, he registered a case against the first respondent/defacto complainant in Crime No.12 of 2008. The current complaint and the proceedings initiated by the first respondent are contrary to the settled principles of criminal procedure.

3. In fact, the first respondent filed a private complaint before the Chief Judicial Magistrate, Puducherry, on 09.04.2008 against this petitioner and two other police officials. He alleged that a false case had been filed against him, that he was severely threatened, subjected to police excesses, and physically assaulted. He prayed that a case be registered against the officials involved.

4. Based on this, the learned Magistrate, exercising his powers under Section 156(3) of the Criminal Procedure Code, directed an investigation into the complaint. Accordingly, a case was registered in Crime No. 6 of 2008,



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dated 23.04.2008, under Sections 341, 325, 343, 357, 201, and 506(i) read with 34 IPC by the CB-CID Police Station, Puducherry.

5. After investigation, the second respondent filed a final report stating that the case was false. Consequently, the learned Magistrate closed the private complaint as a “mistake of fact” and dropped further proceedings. Aggrieved by this, the first respondent filed a Criminal Revision Petition in C.R.P. No.1 of 2015, which was allowed. The court directed that the statement of the complainant be recorded.

6. Subsequently, the petitioner was summoned in C.C. No. 82 of 2020 to answer charges under Sections 341, 323, and 506(ii) IPC read with 34 IPC. Aggrieved by the revival of the proceedings, the petitioner has filed the present petition under Section 482 Cr.P.C. to quash the entire proceedings.

7. The allegation against the petitioner is that, on 21.01.2008, while discharging his official duties, he booked a case against the first respondent under Sections 294, 332, and 506(ii) IPC for assaulting a police constable on duty. On the same day, the first respondent was produced before the Judicial Magistrate, Puducherry, and was remanded to judicial custody. At that time, no allegation of ill-treatment by the police was made before the Magistrate.



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WEB COPY8. However, the first respondent subsequently lodged a private complaint alleging assault by the petitioner, which the petitioner contends is a fabricated complaint intended to harass him. He further submits that the first respondent pursued the private complaint only after he was acquitted in the earlier criminal case filed against him on 11.11.2020, indicating a motive of vengeance.

9. The petitioner also states that he was not the Investigating Officer in C.C. No. 3 of 2014. One Nagamuthu, an Inspector (now retired), was the Investigating Officer, but he was not summoned as a witness in the earlier proceedings. Moreover, the complaint filed by the first respondent was already found to be false upon earlier investigation and was closed as a “mistake of fact.” Therefore, reopening the same allegations and proceeding with the case again is illegal and arbitrary.

10. Additionally, the petitioner contends that the private complaint dated 09.04.2008 was taken cognizance of by the trial court only in 2020, which clearly amounts to abuse of the process of law. Further, the trial court did not pass a reasoned or speaking order while taking cognizance of the complaint. The petitioner also points out that the Chief Judicial Magistrate’s Court, being presided over by an Assistant Sessions Judge, does not have original



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jurisdiction to take cognizance of such complaints, as per Section 200 Cr.P.C.,

which vests such power only with a Judicial Magistrate. Hence, there is a procedural lapse as well. Finally, the petitioner submits that no prior sanction was obtained to prosecute him, even though the alleged acts were committed while discharging his official duties as a Sub-Inspector of Police. Therefore, the prosecution is not maintainable for want of sanction under Section 197 Cr.P.C. Hence, the petitioner prays that the entire proceedings in C.C. No. 82 of 2020 on the file of the Chief Judicial Magistrate, Puducherry, be quashed as they are legally unsustainable and arbitrary.

11. To support the contention that previous sanction is necessary under Section 197 of the CrPC, the petitioner relied on the following authority:

“Part I (Revolving around Section 197 of the Code)

29. There is no dispute about the fact that A1 to A4, being officers of a company coming within the description contained in the Twelfth item of Section 21 of the IPC, were ‘public servants’ within the definition of the said expression under Section 21 of the IPC. A1 to A4 were also public servants within the meaning of the expression under Section 2(c)(iii) of the PC Act. Therefore, there is a requirement of previous sanction both under Section 197(1) of the Code and under Section 19(1) of the PC Act, for prosecuting A1 to A4 for the offences punishable under IPC and the PC Act.”



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39.2 Once an act or omission has been found to have been committed by a public servant in discharging his duty, it must be given liberal and wide construction so far as its official nature is concerned. A public servant is not entitled to indulge in criminal activities. To that extent, Section 197 CrPC has to be construed narrowly and in a restricted manner.”

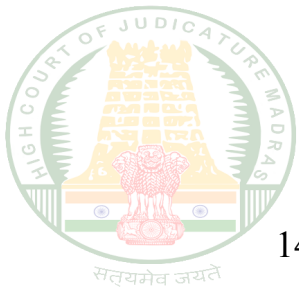
12. The learned counsel for the first respondent submitted that he was assaulted by the petitioner and other police officials. They allegedly intercepted him using abusive language and forcibly took him to the Villianur Police Station. When the complainant attempted to leave and proceed to his motorcycle, he was chased and attacked on his face by the second accused on 21.01.2008 at around 10:00 a.m., due to a previous enmity dated 05.12.2004. Thereafter, the second and third accused joined and severely beat him. He was bundled into a police jeep and taken to the Reddiarpalayam Police Station. At the police station, the petitioner (A1) allegedly kicked the complainant on his chest and, along with the others, brutally assaulted him. He was confined inside the lock-up and forced to make a false confession that he had interfered with police officials. Subsequently, a false case was registered against him in Crime No.12 of 2008. On the way to court, the police officials allegedly threatened him not to report any ill-treatment to the Judicial Magistrate. He was thereafter



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remanded to judicial custody. It is further submitted that he was administered tablets for the injuries sustained and was taken to the Government Hospital, Pondicherry, on 22.01.2008. He suffered multiple contusions due to the assault and received continuous treatment until 25.01.2008. He was discharged on 26.01.2008. On 29.01.2008, he submitted a petition to the Legal Aid Council seeking a jail visit. Eventually, he was released on bail on 31.01.2008. The complainant further contends that his motorcycle was illegally retained at the police station. He alleges that since he was involved in public interest work through an organization called *Mother Theresa Sevai Maiyam*, which had condemned the illegal acts committed by the accused, the police assaulted him out of vengeance. He relies on the MNC medical record dated 31.08.2008 to prove his injuries and contends that he filed the complaint along with the medical documents, based on which the Chief Judicial Magistrate, Puducherry, took cognizance and assigned C.C. No. 82 of 2020.

13. To support his arguments the 1st respondent relied on the following ratio ratio laid down by the *Hon'ble Supreme Court of India*, reported in (i) 2024 SCC Online SC 48, *Shadakshari Vs. State of Karnataka and another*, (ii) (2009) SCC 398, *Choudhury parveen sultana Vs. State of West Bengal and another* and (iii) 2021 SCC Online Ker 3227: (2021) 5KLT 107: 2022 Cri LJ 2415, *D.Rajagopal Vs. Ayyappan and another*.



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14. The learned prosecutor submitted that based on the private complaint filed by the first respondent in 2020, the Chief Judicial Magistrate, Puducherry, took cognizance and assigned C.C. No. 82 of 2020.

15. Upon considering the submissions of both sides, it is revealed that the defacto complainant lodged a private complaint in 2020 for an incident alleged to have occurred in January 2008, approximately 12 years after the occurrence. According to him, he was assaulted by police officials while they were discharging their official duties and was falsely implicated in Crime No. 12 of 2008 under Sections 294, 332, and 506(ii) of the IPC.

16. It is admitted that the said case ended in acquittal after trial. As per the averments in the complaint, the assault and false implication were motivated by vengeance, as the complainant was involved in public interest activities through his organization. However, the complaint lacks any specific details of the alleged illegal acts committed by the accused. No prima facie material is enclosed to show that the false case was registered to wreck vengeance by misusing official power. If indeed the complainant was assaulted by the police, he could have brought this to the notice of the Judicial Magistrate at the time of remand. However, no such complaint was made when he was produced before the Magistrate in Crime No. 12 of 2008 on 21.01.2008.



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18. However, the complainant got admitted to the Government Hospital, Pondicherry, on 22.01.2008, where he was treated with antibiotics. Although the medical records mention assault and contusions, there is no specific reference as to how the injuries occurred. The documents do not clearly establish that the injuries were caused by the police. Neither the judicial record at the time of remand nor the medical reports explicitly show that the complainant was assaulted by police officials. Therefore, there is no prima facie material justifying the cognizance of the case against the petitioner or other police officials. Furthermore, the private complaint was filed in 2020, 12 years after the incident, which clearly appears to be an act of harassment and retaliation against the petitioner and other officials. If the assault was genuine, the complainant could have filed a complaint much earlier, especially after being released on bail in January 2008. The claim that the complaint was filed only after his acquittal in 2020 cannot be accepted as a valid justification for



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such a long delay.

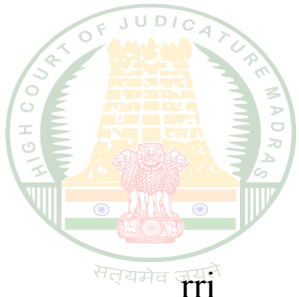
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19. The allegations, even if taken at face value, indicate that the petitioner and other police officials acted while discharging their official duties. If so, previous sanction under Section 197 CrPC is mandatory. The legal authority relied upon by the petitioner is directly applicable to the facts of the present case. Therefore, the present complaint appears to be a clear abuse of the process of law and is liable to be quashed. The authority cited by the first respondent does not apply to the facts and circumstances of this case.

20. Accordingly, this Criminal Original petition is allowed. Thus C.C.No.82 of 2020 pending before Chief Judicial Magistrate, Puducherry is ordered to be quashed against this petitioner. Consequently, the connected miscellaneous petition is closed.

01.08.2025

Speaking Order/ Non Speaking Order
Index: Yes/ No
Neutral Citation: Yes/No



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To

- 1.The Chief Judicial Magistrate, Puducherry.
- 2.The State represented by its
Station House Officer,
CB-CID (Crime Branch-Crime Investigation Department)
Puducherry UT.
- 3.The Public Prosecutor, (Puducherry)
High Court of Madras.

T.V.THAMILSELVI, J.

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