



Crl.O.P.(MD)No.818 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.818 of 2025

Anbarasan ... Petitioner / A6

Vs.

1.The State of Tamilnadu Represented by
The Sub-Inspector of Police
VK Puram Police Station,
Tirunelveli District ... Respondent / Complainant
(Crime No.318 of 2023)

2.Antony Savarimuthu M ... 2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records of the impugned FIR in Crime NO.1794 of 2023 on the file of the Respondent Police and quash the same as illegal.

For Petitioner : Mr.V.Angusamy

For R1 & R2 : Mr.K.Sanjai Gandhi
Govt. Advocate(Crl.Side)

ORDER

Seeking to quash the proceedings in Crime No.318 of 2023, on the file of the respondent Police, for the offence under Section 160 of



Crl.O.P.(MD)No.818 of 2023

IPC., the Petitioner, who is arrayed as A6, has filed the present Criminal Original Petition.

2. The case of the prosecution is that on 08.09.2023, two groups of students fought before the front gate of the College and there was exchange of heat words against each other. The groups reported consisting of 3 members each in which, the petitioner one among them. The Sub-Inspector of Police, VK Puram Police Station, who was in regular police patrol, noted incident and he made a complaint to the respondent police, upon which the FIR came to be registered in Crime No.318 of 2023 implicating Section 160 of IPC., figuring the petitioner as A6.

3. Mr.V.Angusamy, the learned counsel appearing for the Petitioner / A6 would submit that the petitioner is a Final Year student, studying B.A., at Thiruvalluvar Arts and Science College, Papanasam, Tirunelveli District. The petitioner is nothing to do with the incident and he was a bystander at the scene of occurrence. The petitioner is preparing for competitive examination for Government Services. The implication of the petitioner in the impugned FIR would adversely affect his future, as he pendency of a criminal case is a disqualification for Government Services. None of the members of either side made any complaint against one another and no one



sustained in the said occurrence. Though the Sub-Inspector of Police has authority to register the FIR under Section 160 of IPC., he ought not to have to do so, when he himself stood as a complainant.

4. The learned counsel for the petitioner, in support of his contention, relied on a decision of this Court in ***Crl.O.P(MD)No. 17260 of 2018*** wherein it has been held that “I there was a fight between two parties, there cannot give rise to an automatic presumption that it has resulted in disturbance of public place”. Further, this Court, in the said decision elaborately discussed about Section 159 of IPC., and the extent of its application by referring the Judgment of Orissa High Court in ***Gadadhar Guru and another Vs. State of Orissa*** reported in 1989 Cri.L.J 2080 wherein it has been held as follows:-

5. In the first place annoyance to public, if at all, is not necessarily also disturbance of public peace which is more pervasive and of wider reach. In a prosecution under [Section 159](#), I.P.C. there must be positive evidence of public peace having been disturbed which would mean that by the action of the accused the even tempo of life of the public was disturbed resulting in affecting the peace and tranquillity of the locality. No such evidence has admittedly been led. It was observed



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Crl.O.P.(MD)No.818 of 2023

in (1962) 1 Cri LJ 339 (Ker), Podan v. State of Kerala, that mere causing inconvenience to the public is not disturbance of public peace the two being entirely different notions.

6. In the second place, there is also no conclusive evidence that because of the fight any annoyance has resulted to the public.

7. In view of such fact, it has to be held that the charge under Section 160, I.P.C. has not been established against the petitioners and therefore the conviction is liable to be set aside.”

5. The learned counsel for the petitioner further submitted that there is no averment in the complaint that the dispute between the two groups resulted in disturbance of public peace. Merely because there is a fight between two parties, that cannot give rise an automatic presumption that it result in disturbance of the public peace.

6. Mr.K.Sanjai Gandhi, the learned Government Advocate (crl.side) appearing for the 1st Respondent Police would submit that on 08.09.2023, two groups of students fought before the front gate of the College and there was exchange of heat words against each other. The groups reported consisting of 3 members each, in which,



Crl.O.P.(MD)No.818 of 2025

the petitioner one among them. The Sub-Inspector of Police, VK Puram Police Station, who was in regular police patrol, noted incident and made a complaint to the respondent police, upon which the FIR came to be registered in Crime No.318 of 2023 implicating Section 160 of IPC., figuring the petitioner as A6. Now, the investigation is completed and final report filed before the Judicial Magistrate Court, Ambasamudaram, through e-filing No. 20220001566202400261.

7. I have heard the learned counsels appearing on either side and perused the materials available on record.

8. On perusal of the records it is seen that the de facto complainant is the Sub-Inspector of Police, who, while on regular patrol, witnessed the incident, filed a complaint with the respondent police, FIR registered in Crime No. 318 of 2023, under Section 160 of the IPC, naming the petitioner as Accused No.6. Notably, no complaint was filed by either group involved in the altercation. There is no averment in the complaint that the dispute between the two groups led to a disturbance of public peace. Merely because a fight occurred between the two parties, and none of the parties involved filed a complaint, it cannot be automatically presumed to have caused a disturbance to public peace. Furthermore, in similar



Crl.O.P.(MD)No.818 of 2025

circumstances, this Court in the case of ***Nagarajan and Others***
Vs. The Sub-Inspector of Police, Pudukkottai District, in
Crl.O.P(MD)No.17260 of 2018, dated 27.09.2018 quashed the
First Information Report. In view of the settled legal position and by
following the decision of this Court in ***Nagarajan's case*** , this Court
is inclined to quash the proceedings

9. In the result, this Criminal Original Petition stands allowed
and the proceedings in Crime No.318 of 2023, is hereby quashed not
only against the petitioner/A7, but also the other persons, who are
arrayed as accused in this case. Consequently, the final report filed
before the Judicial Magistrate Court, Ambasamudaram, through e-
filing No.20220001566202400261, is also quashed.

20.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
SMN2 / mpk



Crl.O.P.(MD)No.818 of 2025

To

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- 1.The Judicial Magistrate,
Ambasamudaram,
- 2.The Sub-Inspector of Police
VK Puram Police Station,
Tirunelveli District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.818 of 2025

M.NIRMAL KUMAR,J.

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Crl.O.P.(MD)No.818 of 2025

20.01.2025