



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl. O.P(MD) No. 12949 of 2024
and
Crl.MP(MD)No.7975 of 2024

1.Ramesh
2.Geetha

... Petitioners/'B' Party

Vs

1.State of Tamil Nadu rep by its,
The Sub Inspector of Police,
Lalapet Police Station,
Karur District.
(In Crime No.251 of 2024)

... 1st Respondent/Complainant

2. C.Thangasamy

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records relating to the impugned FIR in Crime No.251 of 2024 dated 11.05.2024 on the file of the 1st respondent police and quash the same as illegal.

For petitioners :Mr.AN.Ramanathan

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)



ORDER

WEB COPY

This criminal original petition has been filed to quash the impugned FIR in Crime No.251 of 2024 dated 11.05.2024 on the file of the 1st respondent police.

2.The learned counsel for the petitioners submitted that to take cognizance of an offence under Section 160 of IPC, the ingredients of Section 159 IPC ought to have been satisfied. However, in the instant case, the same is not satisfied, and hence, he sought for the quashing of FIR.

3. The learned Government Advocate (Crl.Side) submitted that two persons, one Sumathi and Geetha/2nd petitioner were involved in fight with each other and the same was happened in a public place and hence, in the instant case, the offence under Section 159 IPC will be clearly made out and hence, he sought for the dismissal of petition.

4. Section 159 of IPC is as follows:-

“ "Affray" as when two or more people fight in a public place, disturbing the public peace, making it a



public nuisance/offense against public tranquility, leading to punishment under Section 160, involving potential imprisonment or fine.”

5. Section 160 of IPC is as follows:-

*“ Section 160 of the Indian Penal Code (IPC) deals with the **Punishment for committing an affray**, which means disturbing public peace by fighting in a public place; the punishment involves imprisonment up to one month, a fine up to one hundred rupees, or both, and it's a bailable, cognizable, non-compoundable offense triable by any Magistrate.”*

6. The relevant paragraphs of the order passed by this Court dated 27.09.2018, in CrI.OP(MD)No.17260 of 2018, are as follows:-

“3.The learned counsel for the petitioners relied upon the following judgments in order to substantiate the points raised by him. The first judgment relied upon by the learned counsel for the petitioners is reported in A.I.R 1938 MADRAS 924 in P.Rami Reddy and others vs. Chintha Chinna Narasi Reddy. The relevant portions of the judgment is extracted here under:

“....I am of opinion that fighting connotes necessarily a contest or struggle for mastery between two or more persons against one another. A struggle or a contest necessarily implies that there are two sides each of which is



trying to obtain the mastery, so that unless there is some violence offered or threatened against one another, there could be no fight but only a mere assault or beating. In these circumstances, I am prepared to follow the view adopted by Horwill J. in the connected case and find that there was no fighting in the present case. It was merely a case of beating by members of one party of certain members of another party for which no doubt they could have been charged and punished, but as the prosecution deliberately chose to amend the charge, and rest their case entirely on the charge of affray, the case must stand or fall by what the prosecution has done. The offence of affray not having been established, the petitioners were entitled to be acquitted of that charge. Their convictions and sentences under S.160, I.P.C, are therefore set aside and they are acquitted”...

4.The second judgment that is relied upon by the learned counsel for the petitioners is reported in 2007 CRI. L.J. 4747 in Pushpa & Ors. V. Ravi & Ors. The relevant portions of the judgment is extracted here under:

“4.To constitute an offence under Section 160 IPC, three ingredients must be satisfied:

“A reading of Section 159 IPC would clearly indicate that in order to bring home the guilt of the accused for an offence of affray, the prosecution should satisfy the three essentials. Firstly, fighting must be between two or more persons. Secondly, fighting must take place in a public place, and thirdly, such fighting must also result in disturbance of public peace. In the



WEB COPY



absence of even one of these ingredients, it cannot be stated that there was either an affray or the accused facing the trial, should be held responsible.”

5.The third judgment that is relied upon by the learned counsel for the petitioners is reported in 1989 CRI. L. J. 2080 in Gadadhar Guru and another v. State of Orissa, Opposite Party. The relevant portions of the judgment is extracted here under:

“3.An offence of affray in essence consists of three ingredients, the first being fighting by two or more persons, secondly, the fighting must take place in a public place and thirdly such fighting must also result in disturbance of the public peace. Only if such ingredients are satisfied an offence of affray can be said to have occasioned for which the persons causing the same would be responsible. The learned S.D.J.M on an analysis of the evidence came to the conclusion that the two groups of petitioners had fought with each other on the village Danda which was a public place and thereafter observed that since the fight was at such a place, it was natural that due to the fight annoyance would have been caused in the locality and being of such view, he convicted the petitioners.

4.Even if the conclusions reached by the learned S.D.J.M as regards mutual fight between the two groups and that the place of the fight was the village Danda are upheld, yet the conclusion reached



that the fight must have necessarily caused annoyance to the public and hence satisfied the third ingredient of S.159, I.P.C would not be justified.

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 S.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 tranquility of the locality. No such evidence has admittedly been led. It was observed 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 S.160, I.P.C has not been established against the petitioners and therefore the conviction is liable to be set aside.”

7. This Court carefully considered the submissions made on either side and perused the provisions under Sections 159 & 160 of IPC



WEB COURT

and also the order of this Court dated 27.09.2018, in CrI.OP(MD)No.

17260 of 2018.

8. From the careful reading of the provision under Section 159 of IPC, it is made clear that to take cognizance of an offence under Section 160 of IPC, two persons should have involved to commit affray. In this case, two persons were alleged to have fought in a public place by disturbing the public peace. However, FIR does not explain the way in which the public peace was disturbed in the public place. Therefore, the offence under Section 160 IPC is not made out as against the petitioners herein and hence, the impugned FIR against the petitioners is liable to be quashed.

9. Accordingly, the impugned FIR in Crime No.251 of 2024 dated 11.05.2024 on the file of the first respondent police, is hereby set aside and the Criminal Original Petition stands allowed and Consequently, the connected miscellaneous petition is closed.

05.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
dss



WEB COPY



L.VICTORIA GOWRI,J

dss

To

1. The Sub Inspector of Police,
Lalapet Police Station, Karur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

**Crl. O.P(MD) No. 12949 of 2024
and
Crl.MP(MD)No.7975 of 2024**

05.12.2025