



CRL OP(MD). No.13820 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 14.11.2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**CRL OP(MD). No.13820 of 2024
and
Crl.MP(MD)Nos.8549 and 8550 of 2024**

1. Achipandi,
2. Ellupakani @ Kuttiammal, ... Petitioners

Vs.

1. The Inspector of Police,
Medical College,
Tirunelveli City.
Crime No.21 of 2019.

2. Maridurai ... Respondents

PRAYER :- This Petition is filed under Section 528 BNSS / 482 Cr.P.C.,
to call for the entire records pertaining to the proceedings in S.C.No.438
of 2021 on the file of the Additional Sub Judge, Tirunelveli and quash
the same as far as the petitioner is concerned.

For Petitioners : Mr. Dhilipan Pandian.R.L.,

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side) for R1

: No appearance for R2



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ORDER

This petition is filed to quash the impugned final report in S.C.No. 438 of 2021 on the file of the Additional Sub Judge, Tirunelveli, for the offences under Sections 341, 294(b), 307, 506(ii) and 120B I.P.C., as against the petitioners, who are arrayed as Accused Nos.2 and 6.

2. The petitioners are father and daughter. It is alleged in the final report that the first accused on 10.02.2009 at about. 5.00 p.m, had waylaid the defacto complainant and attempted to cut him with an Aruval, which had been hidden in his shirt; that since the defacto complainant had ducked, no injury was caused to him; that thereafter, the first accused had abused defacto complainant in filthy language; and that the petitioners had conspired with the first accused to do away with the deceased.

3. The learned counsel for the petitioners would submit that the only material available against the petitioners is the confession of the co-accused; that the prosecution had concluded even at the time of registration of the F.I.R.; that the petitioners had conspired with the first

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accused to do away with the deceased and included the name of the petitioners in the F.I.R; that the statement of one of the witnesses, who is said to have overheard the conversation between the accused cannot be accepted since the prosecution had introduced them as an afterthought; and that in any case, no injury has been caused to the victim and the impugned prosecution is an abuse of process of law.

4. The learned Public Prosecutor, per contra, submitted that besides the confession of the co-accused, the statements of LW.4 and LW.6 would show that the petitioners had conspired to do away with the deceased and paid a sum of Rs.1,00,000/- to the first accused, to cause the death of the deceased; and that LW.6 - Muppidathi heard the conversation.

5. The following facts are not disputed:

- (a) The petitioners were not present in the scene of occurrence;
- (b) that no injury was caused to the defacto complainant.



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6. The only allegation against the petitioners is that they had conspired to do away the deceased. The prosecution seeks to establish the offence of conspiracy by the statement of L.W.4 and L.W.6. Under normal circumstances, this Court would not sifted and weighed the evidence in a quash petition. However, it is seen that even before the prosecution had examined L.W.4 and L.W.6, the F.I.R contains the name of the petitioners and accuses them of conspiracy. That apart, L.W.6 who is said to have overheard the conversation that allegedly took place 25 days prior to the occurrence had not complained to the police or to his relative, who is the defacto complainant about the alleged conspiracy. It is also not known as to why L.W.6 had not immediately informed the police at least after the occurrence about the alleged conspiratorial talk that he overheard. Therefore, examination of L.W.6 clearly appears to be an afterthought and cannot be the basis to conclude that there was a conspiracy. The other material is the statement of L.W.4, who is a hearsay witness, who heard about the conspiracy talk from LW6. If L.W.6 cannot be believed, the statement of L.W.4 would lose its significance. The other material relied upon is the confession of the co-accused, which cannot be translated to legal evidence. The chances of



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conviction are therefore bleak as the prosecution cannot be sustained on such slender evidence. Hence, this Court is of the view that no useful purpose would be served in keeping the impugned final report pending trial and therefore, this Court is inclined to quash the impugned final report insofar as the petitioners alone are concerned. The learned Magistrate may proceed with the trial insofar as the first accused is concerned without being influenced with any of the observations made in this order.

7. This Criminal Original Petition is allowed and the impugned final report is hereby quashed as against the petitioners alone. Consequently, connected Miscellaneous Petitions are closed.

14.11.2025

Index : Yes / No

Internet : Yes/ No

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TO

1. The Additional Sub Judge,
Tirunelveli.

2. The Inspector of Police,
Medical College,
Tirunelveli City.

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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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