



WEB COPY

Crl.OP(MD).No.19914 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP(MD).No.19914 of 2022
and
Crl.M.P.Nos.13703 & 13704 of 2022

1.Kathirvel
S/o.Ramasamy

2.G.Revathi
W/o.R.Gandhi

..Petitioners/Accused Nos.2 & 3

Vs.

1.The State of Tamil Nadu
rep.by the Inspector of Police
Palanichettipatti Police Station,
Theni District.
(Crime No.238 of 2018)

..1st Respondent/Complainant

2.Malarvizhi
W/o.Kannan

..2nd Respondent/De-factoComplainant

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. to quash the charge sheet in C.C.No.196 of 2018 on the file of the learned Judicial Magistrate, Theni and quash the same.

For Petitioners	:	Mr.Murugan.R Advocate
For R1	:	Mr.Thanga Aravindh.B Government Advocate (Crl.Side)
For R2	:	-No Appearance-



ORDER

This Criminal Original Petition is filed to quash the charge sheet in C.C.No.196 of 2018 on the file of the learned Judicial Magistrate, Theni.

2. The case of the Prosecution is that there was a property dispute between the Parties and on the date of the occurrence, the Accused persons are said to have abused the De-facto Complainant in filthy language and attacked with a wooden stick and also threatened with dire consequences. The case gave rise to a case and counter, case registered in Cr.Nos.238 & 419 of 2018.

3. On completion of the investigation, a Final report was filed in both the cases. Insofar as Cr.No.238 of 2018 is concerned, it culminated in CC.No.196 of 2018 before the Judicial Magistrate, Theni. Insofar as Cr.No.419 of 2018 is concerned, it culminated in CC.No.390 of 2022 before the same Court.

4. When the case was taken up for hearing on 28.01.2025, this Court passed the following order:

“When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that there was a case and counter case registered for the same occurrence and insofar as the complaint given by the petitioners which was registered as Crime No.419 of 2018, the accused persons pleaded guilty and were convicted and sentenced. In view of the same, the other case is now pending before the Court



WEB COPY

Crl.OP(MD).No.19914 of 2022



below.

2. *In the considered view of this Court, a case and counter-case arising out of the same incident cannot be dealt with in this manner and the position of law has been made clear from the judgment of this Court in **T.Balaji and another v. The Sate**, reported in [2024-2-L. W.(Crl.)175].*

3. *The learned Government Advocate shall take instructions and report before this Court since the second respondent has been served with notice and there is no appearance for the second respondent.*

4. *Post this case on 30.01.2025.”*

5. When the case was taken up for hearing today, the learned Government Advocate (Crl.Side) submitted that in the counter case in CC.No.390 of 2022, the Accused persons pleaded guilty and a judgment was passed on 10.07.2023 by convicting the Accused persons and imposing sentence by way of fine. The copy of the judgment was also produced before this Court.

6. In the considered view, the procedure adopted by the learned Judicial Magistrate, Theni is illegal and while dealing with a case and counter case, there is no question of disposing of one case and keeping the other case pending. This is in view of the fact that both the cases have arisen out of the same incident.

7. This Court also takes into account the judgment of the Full Bench in T.Balaji case referred *supra*. In view of the above, the continuation of the proceedings against the Petitioners in CC.No.196 of 2018 on the file of the learned Judicial Magistrate, Theni will result in abuse of process of law and in fact, the



CrI.OP(MD).No.19914 of 2022

proceedings cannot continue since, the other case has been disposed of.

WEB COPY

8. In the result, the proceedings in C.C.No.196 of 2018 on the file of the learned Judicial Magistrate, Theni is hereby quashed and this Criminal Original Petition stands allowed in the above terms. Consequently, connected Criminal Miscellaneous Petitions are closed.

30.01.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

nst

To

1.The Judicial Magistrate,
Theni.

2.The Inspector of Police,
Palanichettipatti Police Station,
Theni District.

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



WEB COPY



CrI.OP(MD).No.19914 of 2022

N.ANAND VENKATESH, J.

nst

CrI.OP(MD).No.19914 of 2022
and
CrI.M.P.Nos.13703 & 13704 of 2022

Dated: 30.01.2025