



CRL.OP (MD) No.20149 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 17.04.2025**

**CORAM**

**THE HON'BLE MR.JUSTICE R.SAKTHIVEL**

CRL.OP(MD) No.20149 of 2022

and

CRL.MP(MD). Nos.13932 and 13933 of 2022

Kathirvel

... Petitioner / Accused No.3

**Vs.**

1.The State

Rep. by the Inspector of Police,  
Thirumayam Police Station,  
Pudukkottai District.  
(Crime No.452 of 2021)

...1<sup>st</sup> Respondent/Complainant

2.Shanmuganathan

... 2<sup>nd</sup> Respondent /  
Defacto Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to C.C.No.186 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Thirumayam, Pudukkottai District and quash the same.

For Petitioner : Mr.D.Rameshkumar,  
Advocate

For R1 : Mr.R.Meenakshi Sundaram,  
Additional Public Prosecutor



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For R2

: Mr.R.Suriya Narayanan,  
Advocate

### **ORDER**

This petition has been filed on 11.11.2022 under Section 482 of the Code of Criminal Procedure, 1973 praying to quash C.C.No.186 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Thirumayam, Pudukkottai District.

2. The case of the prosecution is that on 11.09.2021, at about 11:00 hours, the first and second accused persons, along with the petitioner, damaged the wall of the defacto complainant to lay a pathway. When the defacto complainant questioned this act, the petitioner and the other accused assaulted the defacto complainant, abused him in filthy language and commanded their dog to bite the defacto complainant, thereby causing bite injury. Based on this, FIR was registered by the first respondent-police against the accused persons for the offences punishable under Sections 294(b), 448, 326, and 506(1) of IPC on 13.09.2021 at about 20:30 hours. After completion of investigation, the first respondent-police filed the final report against the accused persons



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for the offences punishable under Sections 294(b), 448, 506(1), 324 and 323 of IPC. The same was taken on file by the learned District Munsif cum Judicial Magistrate, Thirumayam in C.C.No.186 of 2022. Hence, the case.

3. Mr.D.Rameshkumar, learned counsel for the petitioner, submits that the summon issued by the learned Judicial Magistrate is contrary to law and the factual aspects of the case. He contends that no *prima facie* material is available against the petitioner, and the learned Magistrate failed to follow the mandatory procedure under Section 319 of Cr.P.C. prior to issuing the summons. He further submits that there is no evidence against the petitioner in C.C.No.186 of 2022, and hence, issuance of summons is wholly unjustified. The respondent-police had already filed a deletion report excluding the petitioner and proceeded with the final report only against Accused Nos.1 and 2. Issuing summons without taking note of the said deletion report is improper and legally unsustainable. Therefore, the learned Magistrate ought not to have taken cognizance against the petitioner in the absence of any material. Accordingly, he prays to allow the Criminal Original Petition.



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4. *Per contra*, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the first respondent-police, submits that after a full-fledged enquiry, the first respondent-police filed a deletion report before the learned District Munsif-cum-Judicial Magistrate, Thirumayam, removing the petitioner's name on the ground that he was not present at the scene of occurrence. Subsequently, a final report was filed against the first and second accused alone, and the same was taken on file in C.C.No. 186 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate, Thirumayam, wherein the petitioner is not arrayed as an accused.

5. This Court has heard on both sides and perused the materials available on record.

6. As rightly pointed out by the learned counsel for the petitioner, there are no materials available on record to connect the petitioner with the alleged offence, except for the statements of the defacto complainant and his wife. No independent witnesses have been examined. Even



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assuming the allegations to be true, the offence as alleged is not made out against the petitioner. Therefore, the continuation of proceedings against the petitioner is without justification and is liable to be quashed. In the interest of justice, this Court is inclined to quash the proceedings in C.C. No.186 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate, Thirumayam, insofar as the petitioner is concerned.

7. In the result, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

**17.04.2025**

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

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To

- 1.The District Munsif cum Judicial Magistrate,  
Thirumayam, Pudukkottai District.
- 2.The Inspector of Police,  
Thirumayam Police Station,  
Pudukkottai District.



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**R.SAKTHIVEL,J.**

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Order made in  
**CRL.OP(MD). No.20149 of 2022**

**17.04.2025**