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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl. O.P(MD) No. 22129 of 2025
and
CrI.MP(MD)No.19045 of 2025

1.Rukkumani

2.Janagiraman

3.Vellaisamy

4.Deelip @ Dhilipkumar

5.Pathmanathan

... Petitioners/Accused No.1 to 5

Vs

1.State of Tamil Nadu rep by its,
The Inspector of Police,
Panayapatti Police Station,
Pudukkottai District.
(Crime No.28 of 2024)

... Respondent/Complainant

2. Shanmugam

... 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 case in S.T.C.No.338 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Thirumayam, and quash the same in respect of these petitioners/Accused No.1 to 5.

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For petitioners :Mr.P.Aju Yagore

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed to quash the impugned charge sheet in S.T.C.No.338 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Thirumayam.

2. The case of the prosecution as alleged in the final report is that on 08.04.2024 at about 08.00 a.m., in front of the house of petitioner's house, who is arrayed as accused No.5, the petitioners/accused No.1 to 5 belonging to 'A' party and the accused No.6 & 7 namely, Mangaiyarkarasi and Shivani, who are the wife and daughter of accused No.5 belonging to 'B' party had indulged in affray due to their own family disputes and had committed an offence under Section 160 of IPC and hence, case was registered against the accused and the same was taken on file. Hence, the petition.

3. The learned counsel for the petitioners relying upon the judgment of this Court in ***Sibu Vs.*** reported in ***2025 Supreme (Online)***



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(MAD) 5976 submitted that to establish an affray under Section 160 of IPC, two ingredients should be satisfied. Firstly, there must be evidence of fighting in a public place that disturbs the public peace. Secondly, there must be two or more persons fighting in a public place. Only in such a case could the offence of affray be said to have been committed. However, in the instant case, there is no iota of disturbance to public peace. Though the prosecution cases has alleged that the fight between the 'A' party and 'B' party had happened in a public place, none of the public have come forward to complain about the same and the police had *Suo motu* registered the case against the petitioners herein. A careful perusal of the final report would reveal that there is no complaint has been received from the public in this regard. Hence, he sought to allow this petition.

4. The learned Government Advocate (Crl.Side) appearing for the prosecution submitted that there is no doubt, the fight has happened in a public place and two doctors, namely, *Shanthini* and *Jodi Rajan* have given their statement under Section 161 of Cr.P.C., as expert witnesses, which throws light on the fact that the parties who indulged in an affray had sustained blood injuries, and the wound certificate has also been recorded in the CD file, and hence, they pressed for dismissal of this petition.



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5. However, the learned counsel for the petitioners insisted that the question of blood injuries could not be considered in the case of affray. Mere fighting between two groups or more than two persons would not suffice to establish the offence of affray. In this case, there is no iota of evidence to substantiate that there had been a disturbance of public peace.

6. Accordingly, the prosecution case fails and hence, this court is inclined to quash the charge sheet filed against the petitioners.

7. Accordingly, the impugned charge sheet in S.T.C.No.338 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Thirumayam, is hereby set aside and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

03.12.2025

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

1. The District Munsif cum Judicial Magistrate,
Thirumayam.
2. The Inspector of Police,
Panayapatti Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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dss

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