



Crl.OP(MD)No.21493 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.21493 of 2025

and

Crl.M.P.(MD)Nos.18497 and 18499 of 2025

1. Aandisami @ Andichamy

2. Pandi @ Pandiyan

3. Irulammal

4. Dinesh

5. Rani

6. Karthikaisami @ Karthik

7. Selvi

8. Nagammal

.. Petitioners

Vs.

1. State of Tamil Nadu Rep by,
Inspector of Police,
Usilampatti Taluk,
Usilampatti Police Station,
Madurai District.
(FIR No. 81/2023)

.... Respondent / Complainant

2. N.Divya

.... Respondent /
De-facto Complainant



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Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned charge sheet made in S.T.C.No.250 of 2022 on the file of the learned District Munsif Cum Judicial Magistrate Court-1, Usilampatti, and quash the same.

For Petitioner : Mr.P.R.Prithiviraj

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

ORDER

Preface:

The inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure is intended to prevent abuse of the process of law and to secure the ends of justice. Though the power is extraordinary in nature, it is equally well settled that when the uncontroverted allegations in the charge sheet do not disclose the commission of any offence, or where the criminal proceedings are manifestly attended with mala fides, this Court would be failing in its constitutional duty if it does not interdict such proceedings at the threshold.

2. The present Criminal Original Petition raises a recurring yet significant issue relating to the indiscriminate invocation of Section



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160 of the Indian Penal Code, without satisfying the essential statutory ingredients of affray, as defined under Section 159 IPC. The petitioners herein are the accused Nos.10-17.

Facts and case of the prosecution:

3. The prosecution case, as borne out from the charge sheet, is that on 09.04.2021, while the police officials of the first respondent station were on routine patrol duty, they allegedly noticed a group clash between two rival groups, namely, A-party (Accused Nos.1 to 9) and B-party (the petitioners-A10-17 herein).

4. It is alleged that both the groups indulged in a quarrel over a dispute relating to drainage and pathway and caused nuisance, thereby disturbing public peace. Based on the complaint lodged by the second respondent, who is none other than a Sub-Inspector of Police attached to the very same police station, a case in Crime No.81 of 2021 came to be registered for the offence under Section 160 IPC.

5. Upon completion of investigation, a final report was filed and the same was taken cognizance as S.T.C. No.250 of 2022 by the



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learned District Munsif-cum-Judicial Magistrate, Usilampatti,
arraying a total of 19 accused, divided into two rival groups.

Grounds for quash:

The petitioners assail the impugned proceedings on the following, among other, grounds:

6. The charge sheet does not disclose the essential ingredients of an offence under Section 160 IPC. There is no material whatsoever to show that the alleged altercation resulted in disturbance of public peace. No independent complaint has been lodged by any member of the public, and the entire prosecution is founded solely on a complaint by a police officer. Several of the petitioners were not even present at the place of occurrence and were admittedly out of station at the relevant point of time.

7. The issue is no longer *res integra* and is squarely covered by the judgments of this Court in Crl.O.P.(MD) No.17260 of 2018 dated 27.09.2018 and Crl.O.P.(MD) No.11296 of 2021 dated 04.10.2021, wherein the scope of Sections 159 and 160 IPC has been exhaustively analysed. The present case falls within the parameters



laid down by the Honourable Supreme Court in **State of Haryana v. Bhajan Lal** ¹, warranting interference under Section 482 Cr.P.C., 1973.

Submissions:

8. The learned counsel for the petitioners would submit that in order to attract Section 160 IPC, there must be a clear allegation and material to show that public peace was disturbed. Mere existence of a dispute or a quarrel between two groups, even if assumed to be true, would not *ipso facto* constitute an offence of affray.

9. The learned counsel placed strong reliance on the judgments of this Court in Crl.O.P.(MD) No.17260 of 2018 and Crl.O.P.(MD) No.11296 of 2021, as well as the decisions in **P. Rami Reddy v. Chintha Chinna Narasi Reddy**², **Pushpa v. Ravi**³ and **Gadadhar Guru v. State of Orissa**⁴, to contend that disturbance of public peace cannot be presumed and must be established by cogent

¹ 1992 Supp (1) SCC 335

² AIR 1938 Madras 924

³ 2007 Cri.L.J. 4747

⁴ 1989 Cri.L.J. 2080



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material. It was therefore contended that continuation of the proceedings would amount to an abuse of process of law.

10. The learned Government Advocate (Crl. side) would submit that there are as many as 19 accused, divided into two groups, and the dispute arose over drainage and pathway, which necessitated police intervention. According to the learned Government Advocate (Crl. side), the allegations disclose a group clash in a public place and the same would attract Section 160 IPC, and therefore the petitioners must face trial.

11. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

12. The point that arises for consideration is whether the allegations in the charge sheet, even if taken at face value, disclose the commission of an offence under Section 160 IPC, so as to warrant continuation of the proceedings against the petitioners?



Analysis:

13. Section 159 IPC defines affray as follows:

“When two or more persons, by fighting in a public place, disturb the public peace, they are said to ‘commit an affray’.”

14. Section 160 IPC is only the penal provision for the offence defined under Section 159 IPC. Therefore, unless all the ingredients of Section 159 IPC are satisfied, Section 160 IPC cannot be invoked. The essential ingredients of an offence of affray are now too well settled to require reiteration:

- (i) There must be fighting between two or more persons;
- (ii) Such fighting must take place in a public place; and
- (iii) Such fighting must result in disturbance of public peace.

15. In ***P. Rami Reddy v. Chintha Chinna Narasi Reddy***⁵, it was held that fighting necessarily connotes a contest or struggle for mastery between two or more persons, and in the absence of such mutual contest, the offence of affray is not made out.

⁵ AIR 1938 Madras 924



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16. In ***Pushpa v. Ravi***⁶, it was categorically held that in the absence of disturbance of public peace, prosecution under Section 160 IPC cannot be sustained.

17. The Orissa High Court in ***Gadadhar Guru v. State of Orissa***⁷ lucidly explained that annoyance to public is not synonymous with disturbance of public peace, and that there must be positive evidence to show that the even tempo of life of the public was disturbed.

18. This very Court, in Crl.O.P.(MD) No.17260 of 2018, after analysing the above judgments, quashed similar proceedings, holding that there can be no automatic presumption of breach of peace merely because two groups were involved in a quarrel.

19. Again, in Crl.O.P.(MD) No.11296 of 2021, this Court reiterated that in the absence of any specific allegation or material showing disturbance of public peace, Section 160 IPC is not attracted.

⁶ 2007 Cri.L.J. 4747

⁷ 1989 Cri.L.J. 2080



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20. Applying the above principles to the facts of the present case, this Court finds that there is no averment in the complaint or charge sheet that any member of the public was affected or that public tranquility was disturbed. No independent witness from the public has been cited. The complaint emanates solely from a police officer attached to the same station. The dispute appears to be a localised civil dispute between two groups relating to drainage and pathway.

21. In such circumstances, permitting the criminal prosecution to proceed would be nothing but an abuse of process of law. This Court is of the considered view that the continuation of the proceedings in S.T.C. No.250 of 2022, in so far as the petitioners are concerned, would serve no useful purpose and would only result in unnecessary harassment.

22. Criminal law, which is a potent instrument of social control, cannot be permitted to be invoked mechanically or as a tool for settling private disputes. Courts must remain vigilant to ensure



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that penal provisions meant to preserve public order are not misused in the absence of the very mischief sought to be prevented.

23. Accordingly, this Criminal Original Petition is allowed.

24. The proceedings in S.T.C. No.250 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate, Usilampatti, are quashed in so far as the petitioners are concerned. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

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

To

- 1.The District Munsif Cum
Judicial Magistrate Court-1,
Usilampatti.
- 2.The Inspector of Police,
Usilampatti Taluk,
Usilampatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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