

CRL OP(MD). No.4650 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 20.08.2026

Delivered On : 28.08.2026

CORAM

THE HONOURABLE DR. JUSTICE P. MURUGAN

Crl.O.P.(MD). No.4650 of 2024

and

Crl.M.P.(MD)Nos.3628 and 3629 of 2024

K.Backiyaraj,

... Petitioner

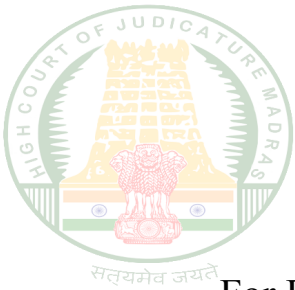
Vs.

1. The Inspector of Police,
Arrival Police Station,
Sivagangai District.
Crime No. 72/2021.

2. Sornalingam

... Respondents

PRAYER :- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to the charge sheet in C.C No. 33 of 2024 on the file of the Judicial Magistrate, Devakottai and quash the same as far as the petitioner is concerned.



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For Petitioner : Mr.S.Anandha Rajagopal

For Respondents : Mr.C.Susikumar,
Government Advocate (Crl.Side) for R1

: Mr.K.Jeyamohan for R2

ORDER

The petitioner is the first accused in C.C. No. 33 of 2024 on the file of the Judicial Magistrate, Devakottai, for the offences punishable under Sections 147, 341, 294(b), 323, 506(ii), 109, and 326 of the IPC. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), seeking to quash the proceedings, as far as the petitioner is concerned.

2. The brief facts against the petitioner/first accused, based on the police report filed in C.C. No. 33 of 2024, are as follows:

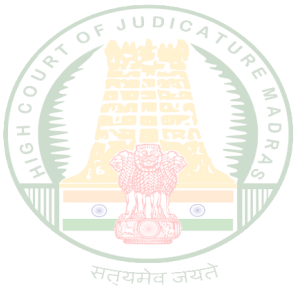
The second respondent, who is the de-facto complainant, lodged a First Information Report before the first respondent, stating that on 24.05.2021, at about 6.30 p.m., while he was walking near Sanangulam Madai Dank Tarn (“Kanmai”), his brother,



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Seenivasan/A2, along with the other accused, viz., A3 to A6, allegedly abused the de facto complainant in a filthy language and attacked him with a stick and a hoe (“Manvetti”), at the instigation of the petitioner/A1. When the neighbours came to rescue of the de-facto complainant, A2 to A6 allegedly threatened him with dire consequences and fled from the scene of occurrence. There was a civil dispute between the de facto complainant and A2/Srinivasan in respect of ancestral property. On account of the said dispute, a scuffle took place between the family of the de facto complainant and his brother’s family, pursuant to which a criminal case was registered and the same is pending investigation. Since then, both families have not been on good terms. Based on the complaint lodged by the second respondent, the police registered the aforesaid case against the petitioner as well, on the allegation, based on the statements of the second respondent and his family members, that the first accused had abetted the commission of the alleged offences.

3. The grounds raised in the petition for quashing the case are as follows:



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The entire complaint against the petitioner is false and has been filed with a sole intention of wreaking vengeance upon the petitioner. There is no proof or evidence against the petitioner to establish even a single allegation levelled against him, and the charge sheet has been filed against the petitioner solely on the basis of the statement of the second respondent. There is no *prima facie* case warranting the continuation of the criminal proceedings in the absence of any evidence or material against the petitioner. The allegations made against the petitioner have not been substantiated. Therefore, the case against the petitioner in C.C. No. 33 of 2024 is liable to be quashed.

4(a). The learned counsel for the petitioner submitted that the petitioner is an Advocate practising before this Court and is in no way connected with the second respondent. As per the information given by the second respondent to the police, there was a civil dispute between the second respondent and his brother, Seenivasan/A2, and the alleged attack on the second respondent was committed by his brother, Seenivasan/A2, and others. The petitioner is in no way responsible for the said alleged incident. The only



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allegation made by the second respondent against the petitioner is that the petitioner had abetted the commission of the crime. Apart from this allegation, there is no material to show any motive or enmity on the part of the petitioner against the second respondent, his wife, or his two daughters, who are arrayed as L.Ws.1 to 4 in the police report. They have merely stated, towards the end of their respective statements, that A1 had abetted A2 in assaulting the second respondent, which is not correct.

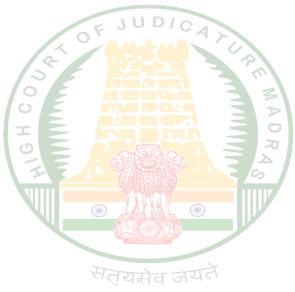
(b). He further submitted that in the absence of any prior motive or enmity between the petitioner and the second respondent, the case against the petitioner cannot be sustained. There is no material whatsoever to establish the charge of abetment against the petitioner. Hence, the charge sheet is liable to be quashed, and the present petition deserves to be allowed.

(c). He further contended that, except for a few words in the F.I.R. and the subsequent statements recorded under Section 161(3) Cr.P.C.. From L.W.1 to L.W.4, there is no specific allegation against the petitioner with regard to the alleged abetment. Even the alleged act of abetment on the part of the petitioner was not stated at the



beginning but the same was stated at the end of the statements in a similar manner. Therefore, the police have falsely implicated the petitioner by including the charge of abetment. Hence, there is no material whatsoever against the petitioner, and the case against him is liable to be quashed.

5(a). The learned State Counsel submitted that, as per the charge sheet and the F.I.R. given by the victim/second respondent, A1/Backiyaraj/petitioner had abetted A2 to do away with the second respondent, therefore, there is a *prima facie* case against the petitioner. Though the petitioner is an Advocate, there is no reason as to why the second respondent would give a false complaint against him. As per the F.I.R., which is the first information furnished by the victim/second respondent, it is stated at the very beginning that, on 24.05.2021, when the second respondent was walking on the road along with his wife, viz., Danalakshmi, and his first daughter, viz., Narayani, and second daughter, viz., Umamaheswari, and others, A2 to A6, at the instigation and abetment of A1, formed an unlawful assembly and assaulted the second respondent.



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(b). He further submitted that there is every possibility that

the petitioner is liable to face the trial, and the question of the previous motive or the motive between the petitioner and the second respondent has to be established only during the course of the trial. Therefore, the contention of the petitioner that there is no allegation against him in the first information is not sustainable, as the F.I.R. clearly contains an allegation regarding the abetment on the part of the petitioner from the very beginning. Though the statements of L.Ws.1 to 4, under Section 161(3) of Cr.P.C were recorded by the police, they have made allegations against the petitioner that the petitioner, being an Advocate, instigated A2 to A6 to assault the second respondent/victim. The veracity of their statements and the truthfulness of their allegations can be elicited only during the course of the trial by subjecting them to cross-examination. At this stage, their statements cannot be discarded. The statements of L.Ws. 1 to 4 cannot be brushed aside, particularly when it contain allegations against the petitioner regarding his alleged role in the commission of the offence. The petitioner has to face the trial, and only after completion of the trial can the Trial Court determine



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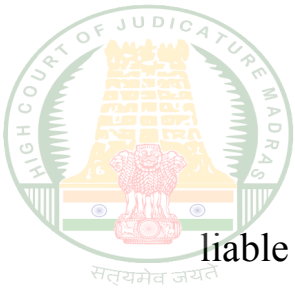
whether the charges against the petitioner have been proved or not.

Therefore, the learned State Counsel prayed for dismissal of the petition.

6. The learned counsel for the second respondent submitted that, though the petitioner is an advocate, there is no law to the effect that an advocate cannot instigate the other accused. The question as to whether the accused/petitioner instigated the other accused or not is a matter to be tested only during the trial. Since the first accused instigated and abetted accused Nos. 2 to 6, the occurrence took place. Even though there was a dispute between the victim/second respondent and A2, A1 instigated A2 to assault the second respondent. Therefore, the statements given by L.Ws.1 to 4 have to be tested during the trial. Hence, at this stage, the petitioner's case cannot be quashed, and the petition is liable to be dismissed.

7. Heard both sides, perused the records and considered the submissions made by both parties.

8. The point for consideration is as to whether the allegation of abetment against the petitioner is not made out at this stage and, consequently, whether the case against the petitioner is



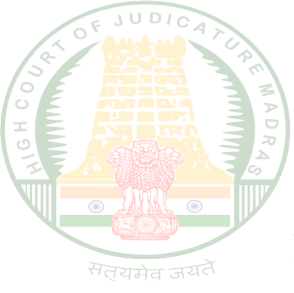
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liable to be quashed?

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9. The fact that the petitioner is an advocate practising before the Court is not disputed by either the prosecuting agency or the second respondent. Though the petitioner is an advocate, the mere fact that he is an advocate cannot be a ground to hold that he cannot commit any offence. An advocate, like any other person, may commit an offence depending upon his conduct and the circumstances of the case.

10. Though the second respondent had a civil dispute with his brother/A2, but on the fateful day, i.e., on 24.05.2021, when the second respondent was proceeding towards the Mangalam to Mottaivayal Road, near Sanagulam Madai, along with his wife and two daughters, A1 to A6 formed an unlawful assembly, wrongfully restrained the second respondent, his wife and daughters, abused the second respondent in a filthy language, and assaulted him with sticks and a hoe. The said occurrence is alleged to have taken place only on account of the abetment by the first accused, who is the petitioner before this Court.



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11. On reading the F.I.R., though it is somewhat brief, the

case against the petitioner/A1 is clearly made out as follows:

“வாதியும் மற்றவர்களும் நடந்து வந்தபோது 1-வது எதிரி தேவகோட்டை தாலுகா மங்களம் கிராமத்தைச் சேர்ந்த கருத்தசாமி மகன் பாக்கியராஜ் என்பவரின் தூண்டுதலில் 2 முதல் 6 வரையுள்ள எதிரிகளும் சட்டவிரோதமாக ஒன்று கூடி வாதியையும் அவரது மனைவி மகள்களையும் வழிமறித்து எதிரிகள் அனைவரும் வாதியை பார்த்து தேவடியா மகனே எங்களிடமா பிரச்சனை செய்கிறாய் என்று அசிங்கமாக திட்டி.....”

12. As per the version contained in the F.I.R., it is *prima facie* evident that all the accused, viz., A1 to A6, restrained the victim (second respondent), his wife, and daughters while they were proceeding on the road. Thereafter, A2 and A3 assaulted the victim with sticks, A4 and A5 assaulted him with a hoe (Manvetti), and A6 assaulted him on his left forehead. A1 was present at the scene of occurrence and abetted A2 to A6. Though the learned counsel for the petitioner submitted that there was no motive between the



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petitioner and the victim to commit the alleged offence, the question of abetment under Section 109 IPC cannot be considered at this stage, as the same has to be established by the prosecution during the course of trial.

13. On perusal of the statements of L.W.1/Sornalingam, L.W.2/Dhanalakshmi (wife of L.W.1), L.W.3/Narayani (daughter of L.W.1), and L.W.4/Umamaheswari (daughter of L.W.1), it is revealed that the assault committed by A2 to A6 upon L.W.1 was allegedly made at the instigation and abetment of A1. The version of L.W.1 in his statement recorded under Section 161 Cr.P.C. reads as follows:

“என்னை மேற்கண்ட நபர்கள் தாக்கியதற்கு மதுரையில் வக்கீலாக தொழில் புரியும் கருத்தசாமி மகன் பாக்யராஜ் தூண்டுதல் தான் காரணம். அவரது தூண்டுதலின் பேரில் தான் என்னை வழிமறித்து தாக்கி கொலை மிரட்டல் செய்துள்ளார்கள்.”

14. In one way or the other, the statements of L.W.2 to L.W. 4 recorded under Section 161(3) Cr.P.C. are similar to the aforesaid statement, wherein A1/petitioner is stated to have instigated the



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other accused to criminally intimidate and assault the victim/second respondent. These are vital statements, as L.W.1 to L.W.4 are eyewitnesses to the occurrence, and L.W.1 is the victim. Therefore, their statements have considerable evidentiary value at the *prima facie* level. The statement of L.W.1 and the eyewitness statements of L.W.2 to L.W.4 reveal that A1/petitioner abetted the other accused. Further, as per the F.I.R., A1/petitioner was present at the scene of occurrence along with A2 to A6. Therefore, there is every possibility that A1 instigated the other accused and abetted them in causing harm to the life of the second respondent, pursuant to which A2 to A6 criminally intimidated and assaulted the victim/second respondent. Thus, the statements of L.W.1 to L.W.4, coupled with the F.I.R., *prima facie* disclose a case against the petitioner. Therefore, the contention of the learned counsel for the petitioner that no case is made out against the petitioner cannot be accepted. The materials on record *prima facie* discloses the involvement of the petitioner, and he is liable to face trial.

15. As per the definition of “abetment” under Section 107 of the I.P.C., a person abets the doing of a thing if he, firstly, instigates



any person to do that thing; or, secondly, engages with one or more other persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy; or, thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.

16. In the present case, the F.I.R. and the statements of L.W. 1 to L.W.4 reveal that A1 was present at the scene of occurrence while A2 to A6 criminally intimidated and assaulted the second respondent. As per their statements, A1/petitioner instigated the other accused to commit the acts of criminal intimidation and assault against the victim. The penal provision relating to abetment is Section 109 of the I.P.C., which provides for punishment for abetment. Though Section 109 cannot be dealt with independently, it may be invoked along with the main offence when the ingredients of abetment are made out.

17. As per the decision of the Hon'ble Supreme Court reported in *Omprakash & Ors. v. State of Haryana* (2014) 4 SCC 309, it was held that abetment under Section 109 I.P.C. may be established by proving intentional aid as contemplated under the

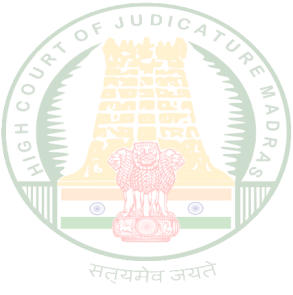


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third limb of Section 107 I.P.C. Section 107 I.P.C. also provides that instigation of any person to do a particular thing amounts to abetment. In the present case, as per the F.I.R., all the accused, viz., A1 to A6, were present at the scene of occurrence, and pursuant to the instigation made by A1/petitioner, the other accused, viz., A2 to A6, criminally intimidated and assaulted the victim/second respondent.

18. Therefore, the aforesaid decision supports the case of the prosecution, as A1/petitioner was present at the scene of occurrence and allegedly instigated A2 to A6, who thereafter assaulted and criminally intimidated the second respondent. In view of the above, the petitioner has not made out a case for quashing the proceedings. Hence, the quash petition is liable to be dismissed.

19. The petitioner is to face the trial, and all contentions raised by him can be considered and adjudicated only during the course of the trial. Accordingly, the point is answered against the petitioner. In the result, this Criminal Original Petition is dismissed. Both parties shall bear their own costs. Consequently, the connected Miscellaneous Petitions are closed.



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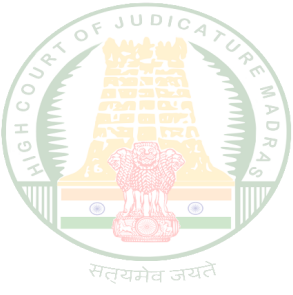
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TO

1. The Judicial Magistrate,
Devakottai.

2. The Inspector of Police,
Aravayal Police Station,
Sivagangai District.

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



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DR. P.MURUGAN,J.

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**Pre- delivery order made in
CRL OP(MD) No.4650 of 2024**

28.08.2026