

CrI.OP(MD).No.7727 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 11.03.2026

ORDER PRONOUNCED ON : 18.03.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

CrI.OP(MD).No. 7727 of 2024

and

CrI.MP(MD).Nos.5380 of 2024 & 1773 of 2026

1.Mrs.Kanimozhi

2.P.Mokkamayan

3.Mrs.Kalavathi

4.M.Tamil Udayan

5.K.Mahendran

....Petitioners

Vs

1.The Inspector of Police
Uthamapalayam Police Station
Theni District
Crime No.1791 of 2020

2.Mr.Arun Deepak

....Respondents

Prayer:The Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records pertaining to the proceedings of the case in C.C.No.41 of 2023 pending on the file of the Judicial Magistrate, Uthamapalayam and to quash the same in respect of the petitioners 1 to 5.



WEB COPY



Crl.OP(MD).No.7727 of 2024

For Petitioner : Mr.Babu.Rajendran
For Respondents : Mr.A.Albert James
Government Advocate (Crl.side) for R1
:M/s.S.Meena for R2

ORDER

The present petition has been filed by the accused persons in C.C.No. 41 of 2023 on the file of the Judicial Magistrate, Uthamapalayam seeking to quash the charge sheet wherein they have been charged with the offences under Section 111, 120(b), 294(b), 326, 340, 383 and 506(ii) I.P.C.

2.A perusal of the charge sheet reveals that the defacto complainant is the husband of the 1st accused and accused Nos.2 and 3 are his parents-in-law and accused Nos.4 and 5 are his brothers-in-law.

3.The charge sheet further reveals that all the accused persons have threatened and abused the defacto complainant to transfer the properties in the name of the 1st accused who is the wife of the defacto complainant. On 26.05.2020, when the defacto complainant had entered the house and requested his wife to provide buttermilk, he found that it was sour, half an hour after consumption of the same, he had experienced stomach pain and when he informed his wife that he would like to go hospital, the wife had closed the room. When the defacto complainant enquired about the same, the



Crl.OP(MD).No.7727 of 2024

WEB COPY

1st accused is alleged to have told him that only if you die, I will get the property. Thereafter, the defacto complainant is said to have raised an alarm and neighbours came there and broke open the door and admitted the defacto complainant to Uthamapalayam Government Hospital.

4.As per the charge sheet, when the defacto complainant returned back home, it was found that the 1st accused (wife) had taken back all the jewels and sarees from home along with her son. Therefore, the accused persons have in connivance with each other, with a criminal intention to grab the properties and to commit the murder of the defacto complainant by adding ant killer power and 20 sleeping tablets in the Kabasura Water which was given to him instead of buttermilk.

5.The learned counsel appearing for the petitioners had raised the following grounds for quashing the charge sheet.

a)The 1st accused had filed a criminal case in Crime No.8 of 2018 as against the defacto complainant and it was charged in C.C.No.388 of 2019 on the file of the Additional Mahila Court (Judicial Magistrate Level), Madurai for the alleged offences under Sections 498(A) and 406 I.P.C. The 1st accused has also filed DVOP.No.33 of 2018 before the Additional Mahila Court, Madurai. The defacto complainant tendered apology and agreed to live along with the petitioner and requested to withdraw the cases. Therefore, a compromise petition was filed in Crl.OP(MD).No.4396 of 2020 and the same



Crl.OP(MD).No.7727 of 2024

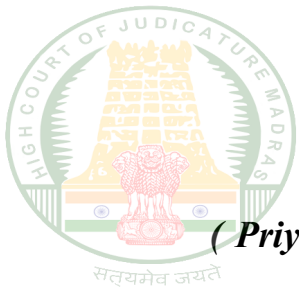
was allowed on 11.03.2020 quashing the charge in C.C.No.388 of 2019.

WEB COPY

b)The learned counsel for the petitioners had further submitted that after quashing of the charge sheet, the defacto complainant had enacted a drama as if he was administered with poison on 26.05.2020. He further submitted that on 26.05.2020, the 1st petitioner has lodged a complaint before the police officials and the same was transferred to the Deputy Superintendent of Police, Uthamapalayam and enquiry was conducted on 09.06.2020. The 1st petitioner had also filed an application before this Court to recall the order passed in Crl.OP(MD).No.4396 of 2020. Suppressing these facts, the defacto complainant has lodged the police complaint.

c)The learned counsel for the petitioners had further stated that the defacto complainant had filed a petition under Section 156(3) Cr.P.C before the Judicial Magistrate Court, Uthamapalayam seeking to register an F.I.R. based upon the alleged incident dated 26.05.2020. Only based upon the orders of the Court, the present F.I.R has been registered on 14.09.2020 in Crime No.1791 of 2020 which has culminated in filing of the charge sheet in C.C.No.41 of 2023.

d)According to the learned counsel for the petitioners, a perusal of the petition filed under Section 156(3) Cr.P.C would clearly reveal that it is filed only as a petition and not accompanied by any affidavit. He relied upon a decision of the Hon'ble Supreme Court reported in *(2015) 6 SCC 287*



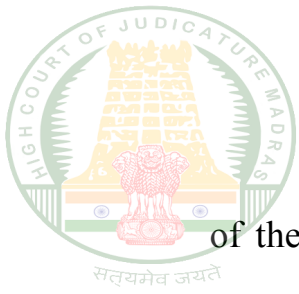
Cri.OP(MD).No.7727 of 2024

(Priyanka Srivastava and another Vs. State of Uttar Pradesh and others)

wherein in Paragraph No.27, it has been held that the learned Magistrate has to verify the veracity of the allegation by way of an affidavit so that the applicant can be more responsible. This would avoid harassment. Therefore, according to him, in the present case, since no affidavit was filed on the side of the defacto complainant in order to seek remedy under Section 156(3) Cr.P.C, the order passed by the Court is clearly illegal and void. Therefore, the F.I.R registered by the concerned police officials is also not valid in the eye of law. He further submitted that the entire investigation pursuant to the invalid F.I.R and the charge sheet laid in the present case are liable to be set aside.

e)The learned counsel for the petitioners had also relied upon a Division Bench judgment of this Court reported in **2018-2-L.W.(Crl) 489 (G.Prabakaran Vs. The Superintendent of Police, Thanjavur District and another)** specifically Paragraph No.20 and contended that without approaching the concerned higher police officials for non-registration of the F.I.R, the application under Section 156(3) Cr.P.C cannot be entertained by the Judicial Magistrate.

f)The learned counsel appearing for the petitioners further contended that no independent witness has been examined on the said of the authorities. The list of witnesses annexed to the charge sheet would clearly reveal that all



Cri.OP(MD).No.7727 of 2024

of them are close relatives of the husband and therefore, it is completely a biased investigation and the chances of the conviction are blink in nature.

g)The learned counsel for the petitioners had further submitted that the offence under Section 294(b) has not been made out in view of the fact that the entire alleged offence is said to have taken place inside the room and not in a public place. He further submitted that the alleged offence under Section 506(ii) I.P.C has not been made out in view of the fact that the threat alleged to have been made only through a phone call and therefore, the threat is not real and it is not resulted in any untoward incident. Phone details or number from which the calls emanates has not been mentioned.

h)The learned counsel for the petitioners had further submitted that the allegation of criminal conspiracy has not been made out in view of the fact that the allegations are completely bald in nature and no particulars has been furnished. The ingredients of Section 111 of I.P.C have not been made out.

i).The learned counsel had further submitted that the charge sheet refers Section 340 I.P.C and indicates that it is a definition section. Only Section 341 I.P.C is the punishment section and the same has not been invoked. He had further submitted that when the defacto complainant does not own any property whatsoever, hence the question of invoking Section 383 of I.P.C would not arise. No details have been furnished by the defacto complainant that he owns the properties and he was pressurized by accused



Crl.OP(MD).No.7727 of 2024

persons for transferring the properties in favour of the accused. Hence, he prayed for allowing the petition and to quash the charge sheet.

6.Per contra, the learned counsel appearing for the second respondent submitted that the defacto complainant owns properties and the accused persons threatened the defacto complainant to transfer those properties in favour of the accused persons especially the 1st accused. She further submitted that the reading of the charge sheet would clearly reveal that the ingredients of all the offences have been made out. The contention raised by the learned counsel for the petitioners are based on the disputed fact and therefore, they could be absolved only by conducting a trial. He further submitted that there was no irregularity or illegality in the order passed by the Judicial Magistrate under Section 156 (3) of Cr.P.C.

7.The learned counsel appearing for the second respondent had further submitted that the offences under Sections 294(b), 506(ii) I.P.C, the criminal conspiracy, Sections 111 and 383 of I.P.C have been made out. The petitioners cannot raise the disputed facts before this Court in order to quash the charge sheet. The Court cannot conduct a mini trial in order to arrive at conclusion. Hence, he prayed for dismissal of the quash petition.

8.The learned Government Advocate (Crl.side) appearing for the first respondent submitted that the ingredients of each one of the offences have been made out and after thorough investigation, the charge sheet has been



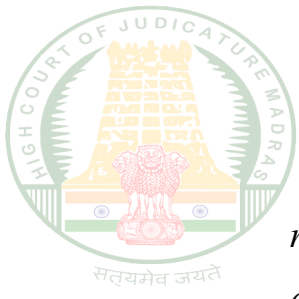
Cri.OP(MD).No.7727 of 2024

laid. He further submitted that there was a direction from the concerned Judicial Magistrate for registration of the F.I.R and thereafter, the F.I.R has been registered and after investigation, the charge sheet has been laid. When prima facie case is made out as against the petitioner, the Court cannot interfere at this stage to quash the charge sheet. Whether the incident has taken place in a public or not is a matter of trial and therefore, at this stage cannot be quashed.

9.I have considered the submissions made on either side and perused the material records.

10.The primary contention of the learned counsel appearing for the petitioners is that the application filed by the defacto complainant under Section 156(3) Cr.P.C before the Judicial Magistrate Court, Uthamapalayam has not been accompanied by an affidavit. He relied upon Paragraph No.30 of the judgement of ***Priyanka Srivastava's case*** (cited supra) which is extracted as follows:

“30.In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more



WEB COPY



Cri.OP(MD).No.7727 of 2024

responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons.....”

11.The order of the Hon'ble Supreme Court in ***Priyanka Srivastava's*** case which is extracted above has been clarified by the Hon'ble Supreme Court in a judgment reported in ***2024 SCC Online SC 4046 (SAS Infratech Pvt.Ltd., Vs. State of Telangana and another)***. Paragraph No.9 of the said judgment is extracted as follows:

“9.The learned counsel for Respondent No.2 has placed reliance of the decision of this Court in “Priyanka Srivastava And Another Versus State of Uttar Pradesh And Others” (2015) 6 SCC 287 to submit that the complaint filed by the appellant – complainant was not supported by an affidavit. In our opinion, the said observation has been made in the said case by way of abundant caution to see that frivolous complaints are avoided.”

12.A careful reading of the judgement of the Hon'ble Supreme Court in ***Priyanka Srivastava's*** case will clearly indicate that the application under Section 156(3) Cr.P.C has to be supported by an affidavit duly signed by the applicant. However, the said finding has been clarified in ***SAS Infratech Pvt.Ltd., case*** to the effect that the observation in ***Priyanka Srivastava's*** case has been made in the said case by way of abundant caution to see that the frivolous complaint are avoided. In ***Priyanka Srivastava's*** case even though



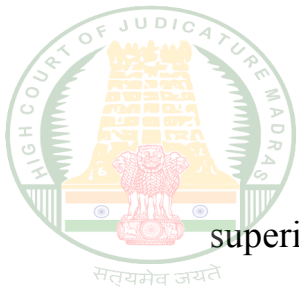
Cri.OP(MD).No.7727 of 2024

an application under Section 156(3) Cr.P.C was not accompanied by an affidavit, the Hon'ble Supreme Court was pleased to confirm the direction issued by the Judicial Magistrate for registration of an F.I.R, especially when the Judicial Magistrate has applied his mind and prima facie satisfied with regard to the commission of cognizable offence.

13.The Hon'ble Supreme Court in a judgment reported in **2025 SCC Online SC 1514 (Anurag Bhatnagar and another Vs. State (NCT of Delhi) and another)** in Paragraph No.32 has held as follows:

“32.In the facts and circumstances of the case, as the informant had directly moved the Magistrate under Section 156(3) of the Cr.P.C without exhausting his statutory remedies, the Magistrate could have avoided taking action on the said application and could have refused to direct for the registration of the FIR. However, as entertaining an application directly by the Magistrate is a mere procedural irregularity and since the Magistrate in a given circumstance is otherwise empowered to pass such an order, the action of the Magistrate may not be illegal or without jurisdiction. “

14.In view of the judgment of the Hon'ble Supreme Court, it is clear that even if an application under Section 156(3) Cr.P.C is not accompanied by an affidavit that would only result in procedural irregularity and it cannot be termed to be illegal or without jurisdiction. That apart, merely because a complainant is not exhausting the other statutory remedy like approaching the



Cri.OP(MD).No.7727 of 2024

superior officer, that would not take away the jurisdiction of the Judicial Magistrate to pass orders under Section 156(3) Cr.P.C. and any order passed by him would only be irregular and not illegal or without jurisdiction. In such view of the matter, the contention of the learned counsel appearing for the petitioners that the application filed by the defacto complainant under Section 156(3) of Cr.P.C without a sworn affidavit or without exhausting the other statutory remedy is illegal, cannot be countenanced, especially in the light of the judgments of the Hon'ble Supreme Court cited supra.

15. In the present case, a perusal of the application filed under Section 156(3) Cr.P.C before the Judicial Magistrate clearly reveals that it is filed in the form of an sworn affidavit and therefore, the contention of the petitioners have to be rejected even assuming that filing of an affidavit is mandatory.

16. The learned Judicial Magistrate after applying his mind and exercising his jurisdiction has passed an order under Section 156(3) Cr.P.C directing the police authorities to consider the complaint and register an F.I.R and in such circumstances, the police authorities does not have any discretion whatsoever except to register an F.I.R. Whether a cognizable offence is made out or not has already been taken into consideration by the Judicial Magistrate and only thereafter, an order under Section 156(3) has been passed. In such circumstances, the registration of the F.I.R by the concerned police official cannot be found fault with or it does not get vitiated by some



Cri.OP(MD).No.7727 of 2024

alleged irregularities in passing an order under Section 156(3) Cr.P.C. In such circumstances, merely on the ground that there was some irregularities as contended by the learned counsel for the petitioners in passing an order under Section 156(3) Cr.P.C, an F.I.R or charge sheet do not get vitiated and they are not liable to be quashed on the said ground.

17.The learned counsel appearing for the petitioners has contended that the petitioners have been charged over several offences and the ingredients have not been satisfied. This Court has gone through the charge sheet. The first petitioner is said to have threatened the husband for transferring the property and she is said to have offered an Ayurvedic Decoction which has caused stomach pain to the defacto complainant. The defacto complainant has been locked in the room. He had been rescued by the neighbours. According to the charge sheet, the Ayurvedi Decoction contains ant killer power and 20 sleeping tablets. Whether the defacto complainant had properties or not is a matter of trial. Whether the defacto complainant was really locked in a room and whether he was administered with the poison or not cannot be decided on the basis of medical records without cross examination of the concerned doctor.

18.In such circumstances, this Court is of the considered opinion, when the charge sheet reveals a prima facie case, cognizable offence as against the petitioners herein, this Court cannot interfere at this stage and quash the



Cri.OP(MD).No.7727 of 2024

criminal proceedings.

WEB COPY

19. In view of the above said facts, there are no merits in the petition and the same stands dismissed. The trial Court is directed to dispose of the criminal proceedings without being influenced by any one of the observations made by this Court. Consequently, connected miscellaneous petitions are closed.

18.03.2026

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

To

1. The Judicial Magistrate
Uthamapalayam

2. The Inspector of Police
Uthamapalayam Police Station
Theni District
Crime No.1791 of 2020

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

13/14



WEB COPY



Crl.OP(MD).No.7727 of 2024

R.VIJAYAKUMAR, J.

msa

Crl.OP(MD).No. 7727 of 2024
and
Crl.MP(MD).Nos.5380 of 2024 & 1773 of 2026

18.03.2026