

**(2011) 07 MAD CK 0269**

**Madras High Court (Madurai Bench)**

**Case No:** Writ Petition (MD) No. 2818 of 2006

A. Rasappan

APPELLANT

Vs

The Special Deputy Collector and  
P. Sivanandi

RESPONDENT

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**Date of Decision:** July 26, 2011

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 147, 323

**Hon'ble Judges:** Vinod K. Sharma, J

**Bench:** Single Bench

**Advocate:** F. Deepak, for the Appellant; D. Muruganandam, A.G.P. for 1st respondent and R. Aravindan, for 2nd respondent, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

Vinod K. Sharma, J.

The Petitioner seeks a writ, in the nature of mandamus, directing the 1st Respondent to initiate departmental proceedings against the 2nd Respondent on account of a criminal complaint filed by the Petitioner, against the 2nd Respondent.

2. In support of the petition, it is pleaded that on 16.03.1998, due to previous enmity, the 2nd Respondent along-with his associates, attacked the Petitioner and his brother with wooden locks and in the attack, the Petitioner and his associates sustained injuries.

3. The Petitioner had approached the police for registration of the case, but the FIR was not registered. This forced the Petitioner to file a criminal complaint, in the criminal court.

4. On the basis of preliminary evidence led before the criminal court, a case u/s 147 and 323 Indian Penal Code, stands registered against Respondent No. 2, which is

pending adjudication.

5. The learned Counsel for the Petitioner contends that, as criminal case stands registered against the Respondent No. 2, the 1st Respondent is under legal obligation to initiate departmental proceedings, against him.

6. This contention is totally misconceived. It is open to the competent authority, to initiate departmental proceedings against a person facing criminal case or not to initiate criminal proceedings on the facts and circumstances of the case, depending on the facts of each case and its office on performance of official duties, by person charged.

7. In this case, the pleaded facts itself show, that the act complained of has nothing to do with the performance of the duties by the 2nd Respondent, which could form the basis of, departmental proceedings.

8. Even in case of conviction of an employee, the competent authority has to take a decision, whether the facts leading to conviction as such, which may call for some departmental action.

9. For the reasons stated, there being No. merit in this writ, it is ordered to be dismissed, but with No. order as to costs.