



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2019

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P. (MD) No.4922 of 2019

and

CRL.M.P. (MD) Nos.3080 and 3081 of 2019

T.Bharathy

... Petitioner / Sole Accused

Vs.

1. State represented by
The Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli City.
(Crime No.53 of 2018)

... 1st Respondent / Complainant

2.Selvarajan

... 2nd Respondent / Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.31 of 2019 on the file of the Judicial Magistrate No.IV, Tirunelveli and quash the proceedings as against the petitioner herein.

For Petitioner	:	Mr.J.Ashok
For R1	:	Mr.K.K.Ramakrishnan, Additional Public Prosecutor.

ORDER

This petition has been filed to quash the proceedings in C.C.No.31 of 2019 on the file of the Judicial Magistrate No.IV, Tirunelveli as against the petitioner herein.

2.The second respondent is the owner of the property and the petitioner is the tenant, in which there was a tenancy dispute in between the defacto complainant and the petitioner. On 08.02.2018, the petitioner and other accused persons threatened the defacto complainant and break open the shop, which was locked by the defacto complainant and tried to enter into the premises. Therefore, the second respondent has filed the complaint before the respondent police station. After investigation, the Law Enforcing Agency has filed charge sheet before the trial Court and the trial Court after taking cognizance assigned C.C.No.31 of 2019. As against which, the



present petition is filed.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a practicing Advocate and his brother is a tenant with the defacto complainant. In this regard, a civil suit is pending in between them. Pending civil suit, the defacto complainant has filed this false complaint against the petitioner before the respondent police, as if the petitioner had abused the defacto complainant and break open the lock, in which the necessary ingredients required under Sections 447, 294(b), 352 and 506(ii) IPC are not established. Accordingly, he prayed for quashing the proceedings in C.C.No.31 of 2019 on the file of the Judicial Magistrate No.IV, Tirunelveli.

4.The learned Additional Public Prosecutor appearing for the first respondent would submit that there was a tenancy dispute in between the defacto complainant and the petitioner. However, the petitioner taking advantage of her position entered into wordy quarrel and abused the defacto complainant, who is aged about 65 years, for which, the Law Enforcing Agency registered the case, conducted investigation and filed charge sheet before the trial Court.

5.Considering the facts and circumstances of the case and in view of the submissions of both the counsel, this Court is not inclined to quash the proceedings in C.C.No.31 of 2019, on the file of the Judicial Magistrate No.IV, Tirunelveli.

6.At this juncture, the learned counsel for the petitioner submits that since the petitioner is a practicing Advocate, her appearance before the trial Court may be dispensed with.

7.Therefore, the personal appearance of the petitioner before the trial Court is dispensed with on condition that she shall be present for receiving charge sheet, for answering the charges, at the time of questioning under Section 313 Cr.P.C., and at the time of passing judgment. However, the petitioner is directed to give an undertaking in the form of affidavit that the counsel representing her will cross examine the prosecution witnesses on the day they are examined in chief. The petitioner shall not dispute the identity of the witnesses.

8.Accordingly, this criminal original petition is dismissed with the above direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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To

1. The Judicial Magistrate No.IV,
Tirunelveli.
2. The Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.O.P. (MD) No.4922 of 2019
16.04.2019

Myr

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