



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD) No.13395 Of 2016

and

Crl.M.P. (MD) Nos.6226 and 6267 of 2016

WEB COPY

1. Balasubramanian

2. Atheeswari

... Petitioners/Accused Nos.1 & 2

Vs.

1. State rep. By,

The Inspector of Police,
Oomachikulam Police station,
Madurai District.

(Crime No.559 of 2009) ... 1st Respondent/Complainant

2. Glory,

w/o.Gnanaolivu,
Gokul Nagar 1st Cross Street,
Oomachikulam,
Madurai-14.

... Respondents No.2/
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in C.C No.32 of 2015 on the file of the Additional Mahila Court, Madurai and quash the same as illegal and unjust.

(Prayer is amended vide order dated 07.10.2016 in Crl.M.P. (MD) No.9851 of 2016)

For Petitioner

: Mr.S.A.Ajmal khan

For R-1

: Mr.A.Robinson,

Government Advocate(Crl. Side).

For R-2

: No appearance.

O R D E R

The petitioners are facing trial in C.C.No.32 of 2015 on the file of the Additional Mahila Court, Madurai, for the offences under Sections 341, 294(b), 289 and 506(i) of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

2. The defacto complainant is the second respondent herein. Though the defacto complainant has been served and her name is printed in the cause list, she has not chosen to enter appearance either in person or through counsel.

3. The case of the defacto complainant is that on 02.08.2009, the petitioners herein had unleashed their dog at about 9.15 p.m. on her. She would also allege that the petitioners abused her in filthy language.



4. It is the case of the information lodged by the second respondent was registered in Crime No.559 of 2009 before the Umachikulam police station. Investigation was conducted and final report was filed. The case was taken on file by the learned Judge, Additional Mahila Court, Madurai. Cognizance of the aforesaid offences was taken by the trial Judge and summons were also issued to the petitioners. Challenging the impugned proceedings, the criminal original petition has been filed.

5. The learned counsel appearing for the petitioners pointed out that the defacto complainant's family has encroached a water body and that the same was objected by the entire village. The petitioners are the adjacent land owners. The defacto complainant's husband has filed W.P.(MD)No.14326 of 2010 before this Court in this regard. The defacto complainant has also filed quite a few cases. The proceedings pertaining to as many as five cases filed by the defacto complainant and her husband have been enclosed in the typed set of papers.

6. I am satisfied that the impugned prosecution has been launched only as a counter blast and to wreck vengeance on the petitioners. It is the case of the second respondent that she was bitten by the dog of the petitioners. The occurrence itself appears to have been imaginary. The very institution of the impugned prosecution is an abuse of legal process. The impugned proceedings stand quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judge, Additional Mahila Court, Madurai
2. The Inspector of Police,
Oomachikulam Police station, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-6508[F] dated 14/02/2020)

Crl.O.P. (MD) No.13395 of 2016

13.02.2020