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Crl.O.P.No.2150 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.2150 of 2021
and
Crl.MP.No.1185 of 2021

Arunadevi

... Petitioner /Accused -2

Vs.

1.State rep by Inspector of Police,
Sulur Police Station,
Coimbatore District,
Crime No.245 of 2016.

...1st Respondent/ Complainant

2.Myilsamygounder

... 2nd Respondent/ Defacto Complainant

Prayer:- This Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records relating to the charge Sheet filed in C.C.No.351 of
2020 on the file of the Judicial Magistrate, Sulur and quash the same

For Petitioner : Mr.N. Balakrishnan for
M/S.D.R.Arunkumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
: Mr.E.K.Kumaresan for R2



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ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the charge sheet filed in C.C.No.351 of 2020 on the file of the Judicial Magistrate, Sulur and quash the same.

2. The petitioner is the second accused in the above said case registered on the basis of the complaint given by the second respondent herein/defacto complainant on 13.12.2015. The case of the prosecution is that on 13.12.2015, the petitioner along with other accused persons trespassed into the house of the second respondent with deadly weapons, threatened him to divide the properties into two shares instead of three shares and abused him in filthy language. Even though the First Information Report has been registered for the offences under Sections 120(b), 465, 468, 471, 294(b), 448 and 506(2) of the Indian Penal Code, later it was altered to Sections 147, 148, 294(b), 448, 506(2) and 149 of the Indian Penal Code. After investigation, the charge sheet has been filed against the petitioner under Sections 147, 148, 294(b), 448, 506(2) and 149 of the Indian Penal Code.

3. The learned counsel for the petitioner submitted that the second respondent herein/defacto complainant is none other than the father in law of the



petitioner/second accused; in the property dispute between the second respondent and his sons, she had been falsely implicated; there is no overt act attributable as seen from the averments in the complaint and hence, the case against the petitioner/second accused may be quashed.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent submitted that the materials available are sufficient to take cognizance of the offences against the petitioner/second accused; she had trespassed into the house of the second respondent, abused him in filthy language along with other accused persons and threatened him with dire consequences; and hence, the trial may be allowed to be proceeded against the petitioner/second accused also.

5. On perusal of the records especially the statement of the second respondent/defacto complainant, it is seen that the petitioner/second accused is none other than his daughter in law. His statement would reveal about the property dispute between himself and his sons. There is no overt act attributable against the petitioner/second accused though it is alleged that his sons had created certain documents with regard to the properties belonging to him. Just because the sons of the defacto complainant had created some documents in the



name of the petitioner/second accused, she cannot be arrayed as an accused without any overt act on her part. Being the daughter in law of the second respondent, the petitioner/second accused could have gone to his house and the said act cannot be considered as trespass.

6. The further allegation of the second respondent is that the petitioner and others had abused him with filthy language.

7. However, with regard to the said allegation, there is no specific averment as against each and every accused. It is not stated by the second respondent in his statement that the petitioner/second accused had threatened him with the dire consequences. Even as per the statement of the second respondent, after entering into his house, the petitioner and the other accused had abused him in filthy language. But, in order to make out an offence under Section 294(b) of the Indian Penal Code, there should be enough ingredients to show that the petitioner had scolded the defacto complainant in public. From the statement of the defacto complainant, it is not known as to whether the petitioner/second accused had abused him in public view.

8. The materials available as against the petitioner are not sufficient to



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make out any cognizable offence against her. Hence, this is a fit case where the powers should be exercised under Section 482 of the Criminal Procedure Code and the charge sheet should be quashed against the petitioner alone.

In the result, this Criminal Original Petition is allowed and the charge sheet filed in C.C.No.351 of 2020 on the file of the Judicial Magistrate, Sulur is quashed as against the petitioner/second accused alone. So far as the other accused are concerned, the trial shall go on and the learned trial Judge is directed to conclude the trial as early as possible preferably within a period of three months. Consequently, the connected miscellaneous petition is closed.

29.09.2022

Speaking/Non-speaking
Index : Yes/No

RS/jrs



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R.N.MANJULA, J.

RS/jrs

To

1. Inspector of Police,
Sulur Police Station,
Coimbatore District.
- 2.The Judicial Magistrate, Sulur
- 3.The Public Prosecutor,
High Court of Madras.

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and
Crl.MP.No.1185 of 2021

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