



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18070 of 2019

and

Crl.MP(MD)Nos.10645 a nd 10646 of 2019

B.Ajikumar : Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
(Crime No.150/2019) : R1/Complainant

2.Jeya : R2/De-facto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in CC No.409 of 2019 on the file of the Judicial Magistrate No.II, Kuzhithurai.

For Petitioner : Mr.C.Herold Singh

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl. side)

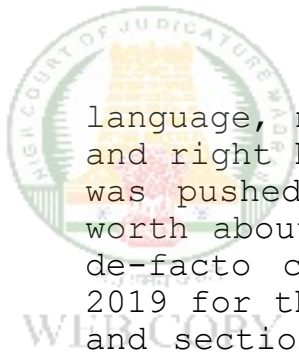
For 2nd Respondent : No appearance

O R D E R

This criminal original petition has been filed by the petitioner seeking quashment of the case in CC No.409 of 2019 on the file of the Judicial Magistrate No.II, Kuzhithurai.

2.The case of the prosecution in brief:-

The de-facto complainant was not owning any house site. So she made a request to her relative by name Regu for putting up a house. In pursuance of the above said request, a house site was given and she was also put up a house. On 13/07/2019 at about 9.30 am, when the de-facto complainant along with the other person namely her mother were standing in front of the house, the accused Ajikumar came to that place and due to previous enmity, abused her in filthy



language, mishandled and caused simple injury on the right shoulder and right head region. When that was intercepted by the mother, she was pushed down and caused simple injury, also damaged the house worth about Rs.60,750/-. On the basis of the complaint given by the de-facto complainant, the case was registered in Crime No.150 of 2019 for the offences under sections 294(b), 323, 427 and 506(i) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completing the formalities of the investigation, final report was filed making allegation against the petitioner that he has committed the offence punishable under sections 294(b), 323, 427 and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. Seeking quashment of the same, this petition came to be filed by the petitioner on the ground that the de-facto complainant is the neighbour and she tried to encroach upon the property. When that was prevented Ragu, who is mentioned in the complaint, instigated the 2nd respondent who is the de-facto complainant to trespass into the property. The hut was in a damaged condition and only for that purpose of he proposed to repair the same. Because of the heavy rain that also got damaged. There is no mention with regard to the survey number in respect of which the dispute has arisen between the parties.

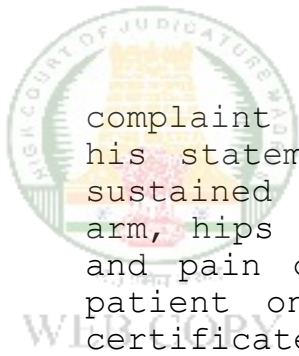
4. Heard both sides.

5. It appears that it is a dispute over the disputed land between the de-facto complainant and the petitioner herein. It is the case of the de-facto complainant, as mentioned above, she was given the above said house site by her relative namely Ragu. In that only, she put up a small hut.

6. According to the petitioner, the hut belongs to him and they got damaged due to heavy rain and he was making an attempt to repair the same. During the above said repair, it is seen that dispute over the house site and the hut arose between the parties. Whether the above said Ragu instigated the de-facto complainant to trespass to the above said property which belongs to the petitioner is a matter for trial.

7. The learned counsel appearing for the petitioner would submit that absolutely, no material has been filed or collected during the course of investigation to show that the disputed site and hut belongs to the de-facto complainant. Since this is the disputed fact, this court cannot go into the aspect, by exercising the jurisdiction of 482 Cr.P.C. when the damage to the property, caused injury to the de-facto complainant and her mother as alleged, I find absolutely no ground to quash the criminal proceedings.

8. With regard to the injury, the statement of the Doctor, who is de-facto complainant and the mother of the de-fcto



complaint was also examined by the Investigating Officer and from his statement, it is seen that the de-facto complainant has not sustained any external injuries. But complained pain in the right arm, hips and legs. Jeya is concerned, there is no external injury and pain on the right side of the head. She was admitted as in patient on 13/07/2019 and discharged on 15/07/2019. The wound certificate has also been obtained. It is mentioned that all the injuries are simple in nature. When such being the position, I find no ground to quash the proceedings. The petitioner must undergo the trial and the trial must be undertaken to its logical conclusion.

9.In the result, this criminal original petition stands **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

- 1.The Judicial Magistrate No.II,
Kuzhithurai.
- 2.The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-11008[F] dated
10/03/2022)

Crl.O.P. (MD)No.18070 of 2019
08/03/2022

RD(24.03.2022) 3P 5C