



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.5357 of 2021

and

Crl.M.P.Nos.3475 & 3476 of 2021

1.Kaliyamurthy  
2.Vanitha

... Petitioners

Vs.

1. The Inspector of Police,  
All Women Police Station,  
Chidambaram,  
Cuddalore District,  
(CR.No.4/2020)

2..Sharmila

... Respondents

**PRAYER:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the case in C.C.No.6/2020 pending Trial on the file of the Judicial Magistrate No.I, Chidambaram and quash the same.

For Petitioners : M/s.K.G.Senthikumar

For Respondents : Mr.A.Damodaran (Additional  
Public Prosecutor) [R.1]

: R.2 notice served, no appearance.



## **ORDER**

The petition is to quash the final report in CC.No.6/2020 on the file of the Judicial Magistrate No.I, Chidambaram filed for the offences under Section 494, 294(b) IPC read with Section 109 IPC.

2. It is alleged in the final report that the 1<sup>st</sup> accused who is the husband of the 2<sup>nd</sup> respondent had not parted his salary with the 2<sup>nd</sup> respondent and had spent the said amount for his drinking habits; that A.1 had married another lady during the subsistence of the first marriage and the second marriage was arranged by the petitioners herein (A.2 and A.3). When the same was questioned by the 2nd respondent/de facto complainant, A.2. and A.3 had abused her in filthy language. Thus, in the final report it is alleged that the petitioners who are the father-in-law and mother-in-law of the de facto complainant are guilty of the offences under Section 494, 294(b) IPC read with Section 109 IPC.

3. The learned counsel for the petitioner would submit that the respondent police has no jurisdiction to investigate and file a final report for the offence under Section 494 IPC, in view of the bar under Section 198 of Cr.PC.



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4. The learned counsel for the petitioner would further submit that even according to the final report, the petitioners have been charged for abetment of offences under Section 494, 294(b) IPC read with Section 109 IPC, but there is no material available in the impugned final report to show that the petitioners had abetted the said offences.

5. The learned Additional Public Prosecutor submitted that there are materials in the final report to suggest that the petitioners are guilty of the offences alleged. The learned Additional Public Prosecutor also submitted that the points raised by the petitioner have to be adjudicated only before the Trial Court and cannot be adjudicated in the quash petition. Hence, prayed for the dismissal of the quash petition.

6. This Court on a reading of the impugned final report finds that the petitioners have been charged for the offences under Section 494, 294(b) IPC read with Section 109 IPC. The respondent police have no jurisdiction to investigate and file a report in respect of 494 IPC, in view of the bar under Section 198 Cr.P.C. Section 198 Cr.PC is extracted hereunder for better understanding:-



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***" 198. Prosecution for offences against marriage -***

*(1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence"*

7. As regards the offence under Section 294 (b) IPC, there is general vague allegation that the petitioners had joined with other accused and abused the de facto complainant in chorus. There is no allegation that obscene words were uttered. Thus the allegation does not attract the offence under Section 294(b) IPC. There is nothing in the impugned final report to show that the petitioners have abetted the alleged offences said to have been committed by A.1.

8. For all the above reasons, the above final report as against the petitioners is liable to be quashed and hence the complaint is quashed.



9. Accordingly, the Criminal Original Petition stands allowed.

Consequently, the connected Miscellaneous Petitions are closed.

**28.03.2023**

Index : Yes/No  
Internet : Yes/No  
Neutral Citation : Yes/No  
shr

To

1. The Inspector of Police,  
All Women Police Station,  
Chidambaram,  
Cuddalore District.

2. The Judicial Magistrate No.1, Chidambaram.



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**SUNDER MOHAN. J.**

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