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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/04/2023

**CORAM**

The Hon'ble Mr.Justice **G.ILANGO VAN**

**Cr1.OP(MD)No.5380 of 2023**

**and**

**Cr1.MP(MD)Nos.4753 and 4755 of 2023**

1.Sankaranarayanan

2.Senthilkumar

3.Palanichamy

4.Rukmani

: Petitioners/A1 to A4

Vs.

1.The Inspector of Police,  
Kearajakularaman Police Station,  
Virudhunagar district.

2.K.Sivaranjini

: Respondents

**PRAYER:-** This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings in CC No.172 of 2022 pending on the file of the Judicial Magistrate, Rajapalayam, for the alleged offences under sections 427, 341, 294(b), 506(i) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

For Petitioners : Mr.R.Niresh Kumar

For 1<sup>st</sup> Respondent : Mr.B.Nambiselvan  
Additional Public Prosecutor

**ORDER**

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This criminal original petition has been filed seeking quashment of the proceedings in CC No.172 of 2022 pending on the file of the Judicial Magistrate, Rajapalayam.

**2. The case of the prosecution in brief:-**

The complainant put up a compound wall measuring 20 x 20 feet length, 3-3/4 feet height. On the southern side of the above said wall, A1 is having land. He put up construction and have a bore-well near the above said compound wall. Without getting proper permission, the accused persons caused damage to the above said compound wall, on 07/07/2020 and 18/07/2020. The loss is estimated at Rs.9,750/-. Over which, the husband of the complainant gave a complaint against the accused persons. Due to that enmity, on 04/08/2020 at about 10.00 am, she was criminally intimidated by the accused persons. On 06/08/2020 at about 12.00 noon, they criminally intimidated and insulted by calling her caste name. Again on 10/07/2020 at about 08.30 am, the accused persons abused the complainant in filthy language and also made criminal intimidation. Over the above said occurrence, a



complaint has been given and a case in Crime No.350 of 2020 was registered for the offences punishable under sections 294(b), 341, 427, 506(i) IPC r/w 4 of the Tamil Nadu Prohibition of Harassment of Women Act. After completing the formalities of investigation, final report was filed and it has taken cognizance by the trial court in CC No.172 of 2022.

3. Seeking quashment of the same, A1 to A4 filed this petition on the ground that the de-facto complainant's husband has encroached and constructed a compound wall in the pathway, over which, the A2 gave a complaint to the District Collector, Virudhunagar, who in turn directed the Tasildhar to conduct survey, so the ingredients of the offences under sections 294(b), 341, 472 and 506(i) IPC r/w section 4 of the Tamil Nadu Prohibition of Harassment of Women Act are not attracted.

4. Heard both sides.

5. It is a case of damage. We can leave the other penal provisions viz., 294(b), 341, 506(i) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act for the time being.



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6. Let us concentrate the offence under section 427 IPC first. As mentioned in the preamble portion, it is the specific allegation that the accused persons caused damage to the wall put up by the de-facto complainant's husband. The loss was also estimated to be Rs.9,750/- as mentioned above.

7. The defence is that the above said compound wall has been put up by the de-facto complainant's husband in the common pathway, over which, a complaint has been given and survey was also undertaken. But what happened to the survey and boundary is not clear on record. It has been simply stated in the grounds that survey was undertaken by measuring the alleged encroachment. But as mentioned earlier, other details are not available.

8. *Prima facie*, it is seen that a damage is caused. When *prima facie* materials are available to show the damage, simply because there is a delay of 20 days in preferring the complaint and the statements have been given in a vague manner are not the material factors, which can be taken into account at this stage.



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9.The matrimonial dispute between one Sivaranjani and Sankara Narayanan and others are not relevant for the subject matter. Except stating that the ingredients of the offences as mentioned above are not attracted, no other ground substantial in nature and that too worthy considering has been made out.

10.In the rough sketch also, damaged wall portion is mentioned. Damage has also been assessed by one of the witnesses namely Balasubramanian. The reliability of his statement and the assessment of the damage are all matters for consideration by the trial court. So as things stand today, absolutely, I find no reason to quash the proceedings.

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

06/04/2023

Index:Yes/No  
Internet:Yes/No

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1.The Judicial Magistrate,



Rajalapalayam.

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- 2.The Inspector of Police,  
Kearajakularaman Police Station,  
Virudhunagar district.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madras.

G.ILANGOVAN, J



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