



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/03/2023

CORAM

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

Cr1.OP(MD)No.5143 of 2023

Saravanan : Petitioner/Sole Accused

Vs.

1.State rep. by
The Inspector of Police,
Parthibanoor Police Station,
Ramnanad District.
(Crime No.138 of 2022) : R1/Complainant

2.Gopal : R2/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in STC No.901 of 2022 on the file of the Judicial Magistrate, Paramakudi and quash the same and pass such other orders.



WEB COPY



2

For Petitioner : Mr.C.Jeganathan

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.901 of 2022 on the file of the Judicial Magistrate, Paramakudi.

2.The facts in brief:-

The de-facto complainant and the accused belongs to the very same village and community. They have previous enmity over a land property. On 19/08/2022 at about 09.30 in the night, when the de-facto complainant was worshiping in the Krishnan Kovil, at that time, the accused came there, enquired and objected over bringing of a poojari for performing pooja to the temple without consent of the villagers. In-spite of the above said objection and enquiry, the petitioner alleged to have abused the de-facto complainant in filthy language and also caused assault by pushing him down, making injury. Over the above said occurrence, a case was registered in



Crime No.138 of 2022 for the offences under sections 294(b) and 323 IPC and after completing the investigating process, charge sheet was filed in STC No.901 of 2022 before the Judicial Magistrate, Paramakudi.

3. Seeking quashment of the same, this petition has been filed by the petitioner on the ground that a counter complaint was made by this petitioner against the 2nd respondent, which was also registered in Crime No.137 of 2022 for the offences punishable under sections 294(b), 323, 506(i) IPC r/w 4 section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, over which final report was also filed and taken cognizance in CC No.427 of 2022 by the Judicial Magistrate, Paramakudi. In order to escape from the above said prosecution, a false complaint has been given by the second respondent.

4. Heard both sides.

5. Both the CD files in Crime Nos.137 of 2022 and 138 of 2022 have been called for and perused, which shows that the date of occurrence and the time of occurrence in both the matters are one and the same. Of course, there



is some time difference with regard to the occurrence. But the date of registration of both FIRs are one and the same date. When it is a case and counter case, the first respondent police ought to have adopted appropriate procedure contemplated in PSO 588-A. But the above said procedure has not been properly adopted by the Investigating Officer in both the matters. Even without referring the counter complaint, final report has been filed independently in both the matters, which is not proper and legal also.

6. So far as CC No.427 of 2022 is concerned, no quash petition has been filed. Even in this matter, no notice was sent to the second respondent. Who are the aggressors ought to have been found out by the Investigating Officer. Even without recording any finding as to the fact, the above said final report has been filed independently. On the sole ground, this petition is liable to be allowed.

7. In the result, this criminal original petition is **allowed** and the entire proceedings in STC No.901 of 2022 on the file of the Judicial Magistrate, Paramakudi is



quashed. Even though, no quash petition has been filed by the accused in CC No.427 of 2022, because of the violation of the above said procedure by the Investigating Officer, the counter case in CC No.427 of 2022 pending on the file of the Judicial Magistrate, Paramakudi is also **quashed**.

29/03/2023

Index:Yes/No
Internet:Yes/No

er

To,

- 1.The Judicial Magistrate,
Paramakudi.
- 2.The Inspector of Police,
Parthibanoor Police Station,
Ramnanad District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



6

G.ILANGOVAN, J

er

Cr1.OP(MD) No.5143 of 2023

29/03/2023