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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP (MD) No.10445 of 2023

and

Cr1.MP (MD) No.8291 of 2023

Baby : Petitioner/A2
Vs.

1.State rep. by
Inspector of Police,
Eraniel Police Station,
Kanyakumari District. : R1/Complainant

2.Mariya Lawrence : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned FIR in Crime No.245 of 2023, dated 27/05/2023 on the file of the 1st respondent police and quash the same as illegal in so far as the petitioner/A2 is concerned and pass such further or other orders.

For Petitioner : Mr.T.Wins

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

**O R D E R**

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This criminal original petition is filed seeking quashment of FIR in Crime No.245 of 2023 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

Due to land dispute between the de-facto complainant and the accused, a suit in O.S No.3 of 2022 is pending on the file of the Principal District Munsif Court, Eraniel. Over the above said enmity, on 26/05/2023 at about 02.30 pm, when the de-facto complainant was standing near Vadivilai, the accused persons came there, abused in filthy language and criminally intimidated. Over the above said occurrence, a case in Crime No.245 of 2023 was registered for the offences under sections 294(b) and 506(i) IPC.

3. Seeking quashment of the same, this petition has been filed on the ground that it is a case and counter, without following proper procedure as set out in PSO-588A and final report has been filed.



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4. Heard both sides.

5. Final reports, in both the matters and CD files have been called for.

6. Perusal of the CD file shows that on the basis of the complaint given by the 2nd respondent, a case in Crime No.245 of 2023, which is the subject matter, has been registered for the offences under sections 294(b) and 506(i) IPC. On the basis of the complaint given by the petitioner, a case in Crime No.244 of 2023 was registered for the offences under sections 294(b), 427, 506(i) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2022.

7. The date of the occurrence is stated to be on 26/05/2023. On the basis of the complaint given by the petitioner Crime No.244 of 2023 was registered against the de-facto complainant's party for the offences under sections 294(b), 427 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2022. The date of occurrence is stated to be 26/05/2023 and the place is also stated to be Vadivilai Village in front of the de-facto complainant's house.



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8. Reading of the complaint, in both the matters, shows that on the particular date of occurrence, over the previous enmity of land dispute, both side engaged in exchanging blows, criminal intimidation and abuse. So over the above said occurrence, both the matters have been investigated and and charge sheet has been filed independently without referring the counter case, which is *per se* illegal.

9. On the sole ground, the entire prosecution is bad in law and accordingly, the same is liable to be quashed.

10. In the result, this criminal original petition is **allowed**. The FIR in Crime No.245 of 2023 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

22/06/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Eraniel Post Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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