



*Crl.O.P.(MD) No.15355 of 2023*

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

**Crl.O.P.(MD) No.15355 of 2023**

**and**

**Crl.M.P.(MD) Nos.12184 and 12185 of 2023**

1.Baskaran

2.Kaliappan

3.Alagammal

4.Mala @ Maladevi

5.Sneha

6.Manoranjitham

... Petitioners

Vs.

1.The Inspector of Police,  
Devipattinam Police Station,  
Ramanathapuram District.  
(Cr.No.277 of 2022)



*Crl.O.P.(MD) No.15355 of 2023*

2.Kasthuri  
3.Selvi

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to CC.No.22 of 2023 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Ramanathapuram and quash the same.

For Petitioners :Mr.T.Sathiyathan  
For R1 :Mr.E.Antony Sahaya Prabahar  
Additional Public Prosecutor

### **ORDER**

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure seeking quashment of CC.No.22 of 2023 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Ramanathapuram.

2.The petitioners are the accused Nos.1 to 6 in CC.No.22 of 2023 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Ramanathapuram, which was registered on a complaint given by the respondent No.3 for the offences punishable under Sections 147, 294(b), 323 and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. The respondent No.3 is stated to be the victim at the hands of the petitioners.



*Crl.O.P.(MD) No.15355 of 2023*

WEB COPY

3.According to the prosecution, the accused No.1 has picked up quarrel with the defacto complainant, abused her in filthy language and threatened her with dire consequences and pushed the defacto complainant's mother, by name Selvi.

4.It is submitted by the learned counsel for the petitioners that on 15.12.2022 at about 06.00 pm., the respondent No.3/victim came to the house of the petitioner No.1 and picked up quarrel, abused her in filthy language. In the meanwhile, Selvi's daughter-in-law, by name Sharmila and Selvi's husband, by name Kalimuthu came there and attacked the petitioner No.1. On a complaint given by the petitioner No.1, a case in Crime No.278 of 2022 was registered for the offences punishable under Sections 147, 294(b), 323, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

5.It is submitted further that the case against the petitioners is a counter blast to the case filed against the defacto complainant and that there is no material against the petitioners to proceed with the case and therefore, sought for



*Crl.O.P.(MD) No.15355 of 2023*

quashment of the charge sheet. It is further submitted that the petitioners 3 and 6 are not at all involved and that there is no medical evidence to show that the petitioners have attacked the defacto complainant and that no explanation is offered by the defacto complainant for filing a complaint with delay and that the charge sheet has been filed mechanically by implicating the petitioners falsely in this case etc.

6.The learned Additional Public Prosecutor has submitted that as per the investigation done by the police, there are clear overt acts against all the accused and thereby the trial requires to be conducted.

7.On going through the charge sheet including the statements under Section 161 Cr.P.C., it is clear that there are overt acts against the petitioners. The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of the Cr.P.C. for quashing the criminal proceeding in the case of *State of Haryana v. Bhajanlal* reported in *1992 SCC (Cri) 426*, which reads as follows:-

"102. In the backdrop of the interpretation of the various relevant



*Crl.O.P.(MD) No.15355 of 2023*

WEB COPY

provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no



*Crl.O.P.(MD) No.15355 of 2023*

WEB COPY

investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8.It is to be examined as to whether the facts of the case will fall in any one of the circumstances as held by the Hon'ble Apex Court to consider whether the case against the petitioners can be quashed.

9.It is not a case, where the petitioners are seeking quashment of the charge sheet on the ground that there is a statutory embargo in continuation of the



*Crl.O.P.(MD) No.15355 of 2023*

proceedings. On going through the charge sheet, it is clear that the allegations levelled against the petitioners are not vague and that the statements of the witnesses are clearly against the petitioners. It is submitted further that the witnesses examined by the prosecution have given the false statements under 161(3) Cr.P.C.

10. On going through the contention of the petitioners and on considering the defense put forth by the petitioners, it cannot be decided at this stage as to which one of the versions is correct. Unless, the trial is conducted, the truth or otherwise of the statement of the witnesses cannot be appreciated. Therefore, it is a fit case, where the case has to be referred to the trial Court as there is *prima facie* material against the petitioners.

11. Accordingly, this Criminal Original Petition is disposed of directing the trial Court to dispose of CC.No.22 of 2023 as quickly as possible. Further, considering the age of the petitioner Nos.2 to 6/accused Nos.2 to 6 and other factors, their personal appearance before the trial Court is dispensed with. However, the trial Court is at liberty to direct all the accused to be present for



*Crl.O.P.(MD) No.15355 of 2023*

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answering the charges, 313 examination and for any such purposes at any stage of the case for smooth progression of the trial. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No  
NCC : Yes / No  
Internet : Yes / No  
Index : Yes / No

**08.09.2023**

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To

- 1.The Inspector of Police,  
Devipattinam Police Station,  
Ramanathapuram District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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*Crl.O.P.(MD) No.15355 of 2023*

**DR.D.NAGARJUN. J.**

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**Crl.O.P.(MD)No.15355 of 2023**

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