



WEB COPY



Crl.O.P.(MD)No.23062 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21/12/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.23062 of 2023

and

Crl.MP(MD)Nos.17967 and 17968 of 2023

1.Rajadurai @ Pon.Rajadurai

2.Arunadevi : Petitioners/A1 and A2

Vs.

1.The State represented by

The Inspector of Police,

Pettai Police Station,

Tirunelveli City,

(Crime No.409 of 2023)

: R1/Complainant

2.Kombaiah

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in CC No.2409 of 2023 on the file of the Judicial Magistrate Court No.IV, Tirunelveli and quash the same as against the petitioners and pass such further or other orders.

For Petitioners : Mr.Pon Karthikeyan

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.T.Lenin Kumar



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O R D E R

WEB COPY This criminal original petition is filed seeking quashment of the case in CC No.2409 of 2023 on the file of the Judicial Magistrate No.IV, Tirunelveli.

2.The case of the prosecution in brief:-

There exists civil dispute over a common lane between the de-facto complainant and the accused. In pursuance of which, on 18/07/2023 at about 10.00 am, A1 laid cement flooring near his house. When that was questioned by the de-facto complainant, the accused persons abused the de-facto complainant, assaulted with hands by pushing down and caused simple injury and also caused life threat to the de-facto complainant. Over the above said occurrence, a case in Crime No.409 of 2023 was registered for the offences under sections 294(b), 342, 323 and 506(i) of 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.

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.409 of 2023, which is the subject matter, has been registered for the offences under sections 294(b), 342, 323 and 506(i) of IPC. On the basis of the complaint given by the 1st petitioner herein, a case in Crime No.408 of 2023 was registered for the offences under sections 147, 294(b), 342, 323 and 506(i) of IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2022.

7.As mentioned in the preamble portion, it is a case and counter. Reading of the final reports, in both matters, both the occurrences taken place on the very same day and time. Since both are case and counter case, without verifying, who are the aggressors, final report has been filed in both matters. The Investigating Officer has not followed the procedures enunciated in PS0588-A.

8.On that sole ground, this criminal original petition is liable to be allowed, without going into other aspects.



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9.In the result, this criminal original petition is **allowed**. The case in CC No.2409 of 2023 on the file of the Judicial Magistrate No.IV, Tirunelveli is hereby quashed against the petitioners. Consequently, connected Miscellaneous Petition is closed.

21/12/2023

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

- 1.The Judicial Magistrate No.IV,
Tirunelveli.
- 2.The Inspector of Police,
Eraniel Post Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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