



Crl.O.P.No.2338 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.2338 of 2022
and Crl.M.P.No.1027 & 1028 of 2022

Udhaiyakumar

... Petitioner

Vs.

1. State rep by the
Inspector of Police,
Vishnukanchi Police Station,
Kancheepuram District.
([Cr.No.671](#) of 2019)

2. Nanthini

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in [S.C.No.86](#) of 2020 on the file of the Principal District and Sessions Court, Chengalpattu and quash the same.

For Petitioner	: Mr.A.E.Ravichandran
For R1	: Mr.S.Vinoth kumar Government Advocate (Crl.Side)
For R2	: Mr.V.Babu

ORDER

This Criminal Original Petition has been filed to call for the



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records in [S.C.No.86](#) of 2020 on the file of the Principal District and Sessions Court, Chengalpattu and quash the same.

2. The petitioner is the practicing Advocate in Kancheepuram and the defacto complainant is also practicing Advocate. Further, this petitioner as an advocate conducted the case of one Vasanth who was an accused in S.C.No.15 of 2017 on the file of Mahila Court, Tiruvallur under the POCSO Act. Further, the case was ended in acquittal on 11.01.2018. Thereafter, the said Vasanth filed a divorce case against his wife in HMOP.No.282 of 2018 on the file of Sub Court, Ponneri and in that case, the said Vasanth represented the defacto complainant who is an advocate. Further, the defacto complainant met the petitioner in the campus of Principal District Munsif Court, Kancheepuram on 03.07.2019 and asked the particulars of the said Vansanth with regard to POCSO case. Further, on the same day, the said Vasanth contacted the petitioner through mobile phone, at that time, the petitioner has with filthy words scolded the complainant to the said Vasanth and the same was forwarded to the defacto complainant. Hence, based on the complaint given by the defacto complainant, the case was registered against the petitioner for the



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offence punishable under Sections 3(1)(r), 3(1)(s), 3(1)(u) of SC/ST (Prevention of Atrocities) Act, 1989 Section 67 of Information Technology Act 2000 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002. After the investigation, the 1st respondent has filed a final report before the Principal District and Session Court, Chengalpattu in S.C.No.86 of 2020. Challenging the said final report, the petitioner has approached this Court to quash the proceedings.

3. The learned counsel for the petitioner submitted that the petitioner has not indulge in any such activities and he was falsely implicated in this case. He further submitted that the petitioner has scolded his client Vasanth for the reason that he has not paid the fees. He further submitted that the petitioner does not know about the defacto complainant personal details and due to professional jealousy, a false case has been given. He also further submitted that the petitioner has abused the said Vasanth through phone, thereby, the provisions under Sections 3(1)(r), 3(1)(s), 3(1)(u) of SC/ST (Prevention of Atrocities)



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Act, 1989 Section 67 of Information Technology Act 2000 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002 would not attracted against this petitioner. Hence, he prayed to quash the proceedings.

4. Heard the learned Government Advocate (Crl.Side) appearing for the 1st respondent police.

5. The learned counsel for the 2nd respondent submitted that the petitioner has scolded the defacto complainant through phone abusing her caste name thereby, the said above offence is made out against the petitioner. Hence, he prayed for dismissal of this petition.

6. Considering the facts and circumstances of the case and also the fact that the petitioner has abused the said Vasanth through phone, therefore, and not in a public place. Further, on the date of occurrence, the petitioner has abused only his client Vasanth. The following authority relied by the learned counsel for the petitioner Judgement in ***Pramod Suryabhan Pawar Vs.State of Maharashtra and another (2019) 9 SCC***



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608, para 23 is extracted hereunder:-

"23. Without entering into a detailed analysis of the content of the Whats App messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with respect to the Whats App messages and words uttered are accepted on their face, no offence is made out under the SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged."

The above Judgment is applicable to the facts of the present case as the alleged occurrence not took place in public view. Hence, this Court is inclined to quash the proceedings in S.C.No.86 of 2020 on the file of the Principal District and Sessions Court, Chengalpattu.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

31.01.2024

Speaking / Non Speaking order
Neutral Citation : Yes/No



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Index :Yes/No
msrm

T.V.THAMILSELVI, J.,

msrm

To.

1. The Principal District and Sessions Court, Chengalpattu.
2. The Inspector of Police,
Vishnukanchi Police Station,
Kancheepuram District.
3. The Public Prosecutor,
High Court,
Madras.

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