



Crl.O.P.No.23371 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 18.03.2024

CORAM:

**THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

Crl.O.P.No.23371 of 2021

and

Crl.M.P.No. 12801 of 2021

Mahadevan

... Petitioner

Vs.

1. The State rep. by its  
Inspector of Police,  
Sozhatharam,  
Cuddalore Dt.  
(Crime No.43 of 2020)

2. Rethinavel

.. Respondents

**PRAYER :** Criminal Original Petition filed under Sec.482 of Criminal Procedure Code, to call for the records pertaining to the proceeding in C.C.No. 51 of 2021, pending on the file of Judicial Magistrate, Kattumannarkoil and quash the same.



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For Petitioner : Mr.V.Ilancheziyan

For Respondents : Mr. S.Vinoth Kumar  
Govt. Advocate (Crl. Side) for R1

### **ORDER**

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No.51 of 2021 on the file of Judicial Magistrate, Kattumannarkoil.

2. Heard both sides.

3. The petitioner is ranked as A1 in the F.I.R. in Crime No.43 of 2020 registered for the offence under Sec.294(b), 324 and 506(2) of I.P.C. against three accused based on a complaint given by the 2<sup>nd</sup> respondent/defacto complainant. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.51 of 2021 on the file of Judicial Magistrate, Kattumannarkoil and the same is pending. Now, the petitioner had filed this petition praying to quash the said charge sheet.



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4. Today, when the matter taken up for hearing, the petitioner and the 2<sup>nd</sup> respondent/defacto complainant appeared in person along with their counsels.

5. The learned counsel for petitioner would submit that the petitioner and the 2<sup>nd</sup> respondent/defacto complainant are close relatives and in respect of worshipping their family deity, on 22.02.2020 there was a wordy quarrel happened between the parties, thereby the petitioner, who is in drunken mode came there and scolded him in filthy language and also attacked him in iron rod and subsequently, the 2<sup>nd</sup> respondent gave a complaint as if the petitioner along with other accused attacked him. Furthermore, without any material ingredient to attract the said provisions, the final report was filed by the prosecution. The learned counsel would also submit that without any eye-witness, the prosecution lodged the final report, as such is erroneous one. Hence, the proceedings initiated by the 1<sup>st</sup> respondent police is liable to be quashed as there is no incriminating materials against this petitioner.



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6. By way of reply, learned Government Advocate (Criminal side) appearing for 1<sup>st</sup> respondent would submit that based upon Doctor evidence, the final report was filed against the accused. Hence, he prayed to dismiss this petition.

7. Records perused. On seeing the AR copy, it reveals that the petitioner was under the consumption of alcohol on the date of alleged occurrence. When the 2<sup>nd</sup> respondent/defacto complainant was questioned by this court, he submitted that in view of his attack, he sustained injury and nearly about 7 stitches made on the left side of his shoulder. However, the entire facts reveals that the petitioner and the 2<sup>nd</sup> respondent/defacto complainant are close relatives and in view of worshiping family deity, there was a quarrel between the parties. Furthermore, according to the prosecution, under Sec. 294(b), 506(2) and 326 of I.P.C., the F.I.R. was lodged against all the accused. But, as per the contention of 2<sup>nd</sup> respondent/defacto complainant, on the date of occurrence, when he was inside the house, he was attacked by the accused persons. In such circumstances, to attract the offence under Sec.294(b) I.P.C., there must be a public view and there must be an evidence that the 2<sup>nd</sup> respondent/defacto



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complainant said to have been abused by the accused in front of public.

But, the fact reveals that the alleged occurrence was happened inside the house. Therefore, the material ingredient to attract Sec.294(b) I.P.C. as such is not acceptable against this petitioner. In so far as the Sec.506(2) is concerned, there is no independent evidence on the side of prosecution and the alleged witnesses are relative of R2. However, as per the contention of 2<sup>nd</sup> respondent/defacto complainant that as many times, he was scolded by the petitioner's family. So, he had some previous motive and based on which, the present complaint was lodged against the petitioner. According to the petitioner, he is a B.E. graduate and though he has completed the said degree, he is not able to get any job due to the pendency of this case.

8. On considering the facts and circumstances and also on considering both side submissions, this Court is inclined to quash the proceedings, due to the reason that there is no prima facie material to initiate the proceedings against this petitioner. However, the 2<sup>nd</sup> respondent/defacto complainant sustained injury in his shoulder. So, considering the same, the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) in Crime No. 43 of 2020 within a period of three weeks from the date



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of receipt of copy of this order and also directed not to cause any interference to the 2<sup>nd</sup> respondent/defacto complainant in worshipping family deity. The 2<sup>nd</sup> respondent/defacto complainant is permitted to withdraw the said amount. With the said direction, the charge sheet initiated in C.C.No.51 of 2021 is ordered to be quashed against this petitioner. Accordingly, this Criminal Original Petition is allowed. Since the proceedings is quashed, there is no impediment for the petitioner to get employment according to his qualification in future. Consequently, connected Criminal Miscellaneous Petition is closed.

**18.03.2024**

Index : Yes / No  
Internet : Yes / No  
Speaking/Non-speaking order  
rpp

To

1. Inspector of Police,  
Sozhatharam,  
Cuddalore Dt.
2. The Public Prosecutor,  
High Court, Madras.

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**T.V.THAMILSELVI, J.**

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