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Crl.O.P.No.29410 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.29410 of 2022

and

Crl.M.P.Nos.18030 & 18034 of 2022

Kulanthaivelu

... Petitioner

Vs.

1.The State Rep. by
The Inspector of Police
Kunnathur Police Station
Tiruppur District.
Crime No.83 of 2022

2.Rajeshwari

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records relating to proceedings in C.C.No.52 of 2022 on the file of the District Munsif cum Judicial Magistrate Court, Uthukuli, Tiruppur District and quash the same.

For Petitioner : Mr.B.Abinayan

For Respondents : Mr.S.Vinoth Kumar

Government Advocate (Crl. Side) - R1

Mr.G.Pavendhan - R2

ORDER

The petitioner has filed this Criminal Original petition to quash the proceedings in C.C.No.52 of 2022 on the file of the District Munsif cum



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Judicial Magistrate Court, Uthukuli, Tiruppur District, in which cognizance was taken for the offences punishable under Sections 294(b), 323, 427, 498(A), 506(i) of IPC.

2. The prosecution's case is that the petitioner and the defacto complainant are husband and wife. Due to differences of opinion, they are living separately. The defacto complainant resides at Perundurai in a rental house. On 20.04.2022, the defacto complainant went to the petitioner's house to retrieve her belongings. However, the petitioner did not permit her to enter the house, prompting her to call 100 and report to the 1st respondent police. Consequently, the 1st respondent police came to the petitioner's house and asked both the petitioner and the defacto complainant to come to the police station for an enquiry. The petitioner and his son locked the house door and went to the police station for the enquiry. During this time, the defacto complainant broke open the door lock and entered the house to take her belongings. However, she did not appear at the police station for the enquiry. When the petitioner and his son returned home, they found the defacto complainant in the house. The petitioner allegedly abused the defacto complainant in filthy language, damaged her mobile phone



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worth about Rs. 20,000/-, and attacked her with his leg and hand. The 1st respondent police registered a case against the petitioner in Crime No.83 of 2022, which was taken up in C.C.No.52 of 2022 on the file of the District Munsif cum Judicial Magistrate Court, Uthukuli, Tiruppur District.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in this case. He also noted that a counter case was filed against the defacto complainant in Crime No.82 of 2022 on the file of the 1st respondent police.

4. Based on the complaint lodged by the defacto complainant, an FIR was registered in Crime No.83 of 2022, and the case was taken up by the District Munsif cum Judicial Magistrate Court, Uthukuli, Tiruppur District.

5. Considering the facts and circumstances, and upon a perusal of the records, it is revealed that after their marriage, they had one male child, who is now aged about 25 years. Admittedly, the husband retired from service and is aged about 62 years, while the petitioner is aged about 44 years and is employed as a PG assistant at a Government School. Due to



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misunderstandings, they separated, with the wife living in one apartment and the son and father living in another. On the date of the alleged occurrence, there was a verbal quarrel which led to mutual attacks. A counter case was also lodged by the petitioner against the defacto complainant in Crime No.82 of 2022 for the same alleged occurrence. There are no basic ingredients to attract Section 294(b), that he abused her in public vicinity. Furthermore, both parties are husband and wife, and the quarrel arose due to a family dispute. There are no basic ingredients to attract other IPC offences. Therefore, this Court is inclined to quash the proceedings in C.C.No.52 of 2022 on the file of the District Munsif cum Judicial Magistrate Court, Uthukuli, Tiruppur District.

6. Accordingly, this Criminal Original Petition is allowed and Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Neutral Citation: Yes/No
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- 1.The Inspector of Police
Kunnathur Police Station
Tiruppur District
Crime No.83 of 2022
- 2.The District Munsif cum Judicial Magistrate Court,
Uthukuli, Tiruppur District.
- 3.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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