



CrI.O.P.(MD)No.1550 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.1550 of 2022

and

CrI.M.P.(MD).Nos.6507 ad 1120 of 2022

P.Vincilin

... Petitioner/Accused No.6

Vs.

1.State represented by
the Inspector of Police,
Karungal Police Station,
Kanyakumari District.

2.Shyla

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.30 of 2020 on the file of the learned Judicial Magistrate, Eraniel and quash the same insofar as the petitioner is concerned.

For petitioner : Mr.F.Deepak

For R-1 : Mr.S.Manikandan,
Government Advocate
(Criminal Side)

For R-2 : Mr.B.Jameel Arasu



ORDER

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This petition has been filed seeking to quash the proceedings in C.C.No.30 of 2020 on the file of the learned Judicial Magistrate, Eraniel for the offence punishable under Sections 147, 294(b), 342, 323 and 506(ii) IPC r/w Section 4 of Prohibition of Harassment of Women Act, 2002.

2. The case of the petitioner is that there was a pathway dispute between the petitioner and the second respondent / *defacto* complainant. On 09.09.2018 at about 08.30 A.M., when the *defacto* complainant was taking water from a well through the pathway at a place near Zion Parai Church in south side of Chellasamy's house, at that time, all the accused persons obstructed the pathway and on seeing the obstruction, the *defacto* complainant asked not to close down the pathway as it is the pathway to her house. At that point of time, Accused Nos.1 and 2 had slapped in the left chin of the *defacto* complainant and threatened her with dire consequences and further, Accused Nos.3, 4, 5 and 6 had attacked the *defacto* complainant with stick and Accused Nos.7 and 8 caught hold of the *defacto* complainant. Thereby, the *defacto* complainant lodged a complaint against the accused persons and the respondent Police registered a case against them and conducted the



investigation and after conducting investigation, the respondent Police filed a charge sheet before the concerned Court. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a B.E., graduate and in view of the pendency of this criminal case, he is not able to secure any job either from the Government or from the private sector and he would further submit that in random, the *defacto* complainant made allegations against the petitioner. He would further submit that, initially, the respondent Police filed a charge sheet before the Trial Court against the petitioner stating that the petitioner being the son of Accused No.4, however, there is no specific overtact against him. He would further submit that originally FIR has been registered against the ten persons. But, the respondent Police had filed the charge sheet before the concerned Court only against eight persons. Hence, he prays for allowing this petition.

4. The learned counsel appearing for the second respondent would vehemently contend that the petitioner being the son of Accused No.4 had colluded with other accused persons and forcibly attacked the *defacto* complainant with wooden sticks and thereby, the respondent



Police conducted the investigation and filed a charge sheet before the concerned Court, which cannot be interfered with. He would further submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. The learned Additional Public Prosecutor appearing for the State has adopted the arguments of the learned counsel appearing for the second respondent.

6. Heard the learned counsel on either side.

7. The facts in the present case are not in dispute. It is seen that the pathway is meant for entire public, in which, the *defacto* complainant claims exclusive rights to use the pathway. However, they prevented the *defacto* complainant and claimed the property of the Church. Thereby, the dispute arose. However, the *defacto* complainant made a complaint as if the accused persons attacked the *defacto* complainant with wooden stick and slapped in her chin, thereby, the respondent Police registered a case against the petitioner.



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8. This Court perused the entire materials on record.

9. On perusal of the entire records, it is seen that only vague allegations are made against the petitioner and there is no specific overtact against the petitioner. In view of the pendency of the criminal case, the petitioner being a B.E., graduate, is not able to secure any job in the Government or private sector and in the absence of any overtact and any specific allegations through list witnesses, forcing the petitioner to face the trial before the trial court is not admissible one. Hence, this Court is inclined to quash the charge sheet in respect of the petitioner alone.

10. Accordingly, the proceedings in C.C.No.30 of 2020 on the file of the learned Judicial Magistrate, Eraniel is quashed, insofar of the petitioner is concerned and the same is not applicable to the other accused persons.

11. In the result, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

31.01.2024

Index : Yes/No
Internet : Yes/No
TSG



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M.DHANDAPANI. J.

TSG

To

- 1.The Judicial Magistrate, Eraniel.
- 2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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