



Crl.O.P.(MD) No.5345 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.5345 of 2021

and

Crl.M.P.(MD) No.3087 of 2021

Paramasivam

... Petitioner

Vs.

1.The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
(Crime No.190 of 2018)

2.Shanmugaraj

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.36 of 2020 on the file of the Judicial Magistrate Court, Vilathikulam, Thoothukudi District and quash the same against the petitioner.

For Petitioner : Mr.N.Mohideen Basha

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

R2 : Party-in-person



Crl.O.P.(MD) No.5345 of 2021

present petitioner (A2) and Esakkimuthu (A1) for the aforesaid offences.

Subsequently, the case was transferred to Judicial Magistrate Court, Ottapidaram and re-numbered as C.C.No.163 of 2023.

4. Mr.N.Mohideen Basha, learned counsel for the petitioner drew the attention of this Court to the complaint and contended that the petitioner's name was not mentioned by the *de facto* complainant and on the other hand, it was mentioned that the brother of Esakkimuthu (A1) pushed him down. According to him, Esakkimuthu has three brothers and since the present petitioner is working as a Head Constable of Police in Kadambur Police Station, he has been unnecessarily roped in the instant case.

5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the first respondent Police would contend that the police after conducting proper investigation laid a final report and therefore, there is no valid ground to quash the same. He therefore prayed for dismissal of the present Criminal Original Petition.



Crl.O.P.(MD) No.5345 of 2021

WEB COPY

6. A perusal of the FIR shows that the *de facto* complainant had not specifically mentioned the name of the present petitioner (A2) and he has simply indicated that the brother of Esakkimuthu (A1) pushed him down and that both of them threatened him with dire consequences. Though the Sub-Inspector of Police after conducting investigation laid the final report, it is to be seen that the sister of Esakkimuthu and the present petitioner had lodged a complaint against the *de facto* complainant which was registered as FIR in Crime No.189 of 2018 of Ottapidaram Police Station for the very same incident. After concluding investigation, a final report in C.C.No.35 of 2020 before the Judicial Magistrate Court, Vilathikulam was filed and subsequently, C.C.No.35 of 2020 was transferred to Judicial Magistrate Court, Ottapidaram and renumbered as C.C.No.162 of 2023.

7. The matter in dispute between the parties is that on 30.11.2018 at about 7.30 p.m., when Krishnaperuma (*de facto* complainant in Crime No. 189 of 2018) with her mother Tamilarasi, her two elder sisters and her two sisters-in-law (totally 6 persons) were returning home in an auto which belonged to one of their relatives Vellathurai after attending a family



Crl.O.P.(MD) No.5345 of 2021

function, a bull belonging to Shanmugaraj (*de facto* complainant in C.C.No.36 of 2020) while crossing the road hit the auto. Therefore, Krishnaperuma shouted at Shanmugaraj, as a result of which, there was a wordy quarrel between them and said Shanmugaraj attacked Krishnaperuma. The police without ascertaining as to who are aggressors had filed two separate final reports in C.C.No.35/2020 and C.C.No. 36/2020 before the Judicial Magistrate Court, Vilathikulam [transferred to the Judicial Magistrate Court, Ottapidaram and renumbered as C.C.No. 162/2023 and C.C.No.163/2023], against the petitioner and his brother Esakkimuth (A1) and the *de facto* complainant Shanmugaraj respectively for the offences as detailed below:

<i>Crime No.</i>	<i>C.C. No.</i>	<i>Accused</i>	<i>Offences</i>
Cr.No.189/18	C.C.No.162/23	Shanmugaraj	U/s.294(b), 323, 506(2) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act
Cr.No.190/18	C.C.No.163/23	A1- Esakkimuth A2-Paramasivam	U/s.294(b), 323, 506(2) of IPC

8. Today, all the parties namely, Paramasivam (petitioner herein), Shamugaraj (*de facto* complainant herein), Krishnaperuma (*de facto* complaint in Crime No.189/2018) and Esakkimuthu (A2 in Crime No.190 /2018), are present and entered into a compromise with regard to both the



Crl.O.P.(MD) No.5345 of 2021

cases in C.C.No.162 of 2023 and C.C.No.163 of 2023 on the file of the Judicial Magistrate, Ottapidaram. A joint compromise memo duly signed by all the parties and their respective counsels, is also filed before this Court. They prayed for quashing both the cases, ie. C.C.No.162/2023 and C.C.No.163/2023. The joint compromise memo is recorded by this Court. Therefore, the final reports in C.C.No.162 of 2023 and in C.C.No.163 of 2023 are quashed.

9. As far as the present petitioner (A2) is concerned, he is working as a Head Constable of Police and has been unnecessarily roped in by the *de facto* complainant Shamugaraj, based on which, the Inspector of Police filed the final report in C.C.No.163 of 2023 (C.C.No.36 of 2020). Since the other cases are compromised, I do not see any reason to direct the present petitioner (A2) to appear before the trial court to undergo the ordeal of trial. Moreover, there are no enough materials on record to show that the present petitioner (A2) committed the offence of which he was charged.

10. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed. The case in



Crl.O.P.(MD) No.5345 of 2021

C.C.No.162 of 2023 and in C.C.No.163 of 2023 on the file of the Judicial

Magistrate, Ottapidaram are hereby quashed.

25.03.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

Copy to:

- 1.The Judicial Magistrate,
Vilathikulam,
Thoothukudi District.
- 2.The Judicial Magistrate,
Ottapidaram,
Thoothukudi District.
- 3.The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.5345 of 2021

R.HEMALATHA, J.

JEN

Crl.O.P.(MD) No.5345 of 2021
and
Crl.M.P.(MD) No.3087 of 2021

25.03.2024