



Crl.O.P.(MD)No.13903 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2024

CORAM:

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

**Crl.O.P.(MD) No.13903 of 2022 and**  
**Crl.M.P.(MD).Nos.8914 and 8916 of 2022**

Mehalan

... Petitioner/accused

Vs.

1.Laya Theboral

2.Elaho Triloten

...Respondents

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to DVC.No.3 of 2022, on the file of the learned District Munsif cum Judicial Magistrate Rameswaram, and quash the same.

For petitioner : Mr.B.Arun

For Respondents : No appearance

**ORDER**

This petition has been filed seeking to quash the charge sheet in DVC.No. 3 of 2022, on the file of the learned District Munsif cum Judicial Magistrate Rameswaram,



2. The case of the prosecution is that the first respondent/de-facto complainant is the wife of the petitioner herein. The marriage between her and the petitioner was solemnized on 15.02.2019 and out of the wedlock, the 2<sup>nd</sup> respondent was born. While so, alleging that the petitioner has harassed the complainant and her son, a complaint has been lodged under the provisions of the Domestic Violence Act, for quashing the same, the petitioners are before this court.

3. The learned counsel for the petitioners would submit that the petitioner is nothing to do with the alleged offence and that the complaint itself seems to be preferred with ulterior motive in order to implicate the petitioner due to matrimonial dispute and that the de-facto complainant neither lived with the petitioner nor has an intention to come to the matrimonial home. Hence, on these grounds, he prays for allowing this petition.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial. He would further submit that to substantiate the case



of the de-facto complainant, wound certificate is also there and hence, he prayed for dismissal of the petition.

5. It is seen that the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

6. For the reasons aforesaid, this Court finds no ground or scope to quash DVC.No.3 of 2022, pending on the file of the learned District Munsif cum Judicial Magistrate Rameswaram. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is dismissed.

7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the



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petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

**07.03.2024**

Index : Yes/No

Internet : Yes/No

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To

1. The District Munsif cum Judicial Magistrate Rameswaram,

2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



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**M.DHANDAPANI. J.**

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**07.03.2024**