



Crl.O.P.(MD) No.15675 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.15675 of 2021

and

Crl.M.P.(MD) No.8445 of 2021

Sathiskumar

... Petitioner

Vs.

1.State rep. by its
The Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni District.
(Crime No.946 of 2019)

2.Ganesan

3.Prasanna Divya

... Respondents

[R3 *suo motu* impleaded *vide* order dated
20.10.2021]

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.18 of 2021 on the file of the Judicial Magistrate Court, Bodinayakkanur and quash the same as against the petitioner.

For Petitioner : Mr.T.Vadivelan



Crl.O.P.(MD) No.15675 of 2021

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 & R3 : Mr.M.Kaliraj

ORDER

Seeking to quash the final report in C.C.No.18 of 2021 on the file of the Judicial Magistrate Court, Bodinayakkanur, the present Criminal Original Petition is filed.

2. The case of the prosecution is that the petitioner is the son-in-law of the second respondent/*de facto* complainant and the husband of the third respondent. The petitioner and his wife (third respondent) are living separately due to difference of opinion. According to the *de facto* complainant, on 07.10.2019, at about 6 p.m., when he was in his house along with his wife and his daughter (third respondent), the accused came down to their house, abused the *de facto* complainant in filthy language and also pushed him down, as a result of which, the *de facto* complainant sustained injuries. The further contention of the *de facto* complainant is that the accused threatened him with dire consequences if he pursues with the divorce petition filed by his daughter, third respondent. Based on the



Crl.O.P.(MD) No.15675 of 2021

complaint given by the *de facto* complainant, the Sub-Inspector of Police, Bodinayakkanur Town Police Station registered F.I.R. in Crime No. 946/2019 on 05.11.2019 for the offences punishable under Sections 448, 294(b), 323 & 506(1) of IPC.

3. The grounds on which Mr.T.Vadivelan, learned counsel for the accused seeks to quash the final report in C.C.No.18 of 2021 on the file of the Judicial Magistrate Court, Bodinayakkanur are as under:

- i. Though the occurrence took place on 07.10.2019, the complaint was lodged with the police on 04.11.2019 and F.I.R. was registered on 05.11.2019. Therefore, there is an abnormal delay in lodging the complaint.
- ii. Since the incident took place inside the house of the *de facto* complainant, the offence under Section 294(b) of IPC is not made out.
- iii. The *de facto* complainant did not sustain injuries to attract the offence under Section 323 of IPC.
- iv. The accused also did not threaten the *de facto* complainant with dire consequence as alleged by the prosecution.
- v. Since the *de facto* complainant is residing only in a rented house, the offence under Section 448 of IPC would not be attracted .



Crl.O.P.(MD) No.15675 of 2021

WEB COPY 4. Per contra, Mr.R.M.Anbunithi, learned Additional Public Prosecutor appearing for the first respondent police would contend that charges have been framed against the accused and the case now stands posted for examination of prosecution side witnesses.

5. Mr.M.Kaliraj, learned counsel for the second and third respondents would contend that the police after conducting proper investigation laid a final report and therefore, there are no valid reasons to quash the final report. He therefore prayed for dismissal of the present Criminal Original Petition.

6. The specific contention of the *de facto* complainant is that the accused came down to his house, abused him in filthy language and also pushed him down and that when the neighbours prevented the accused from beating the *de facto* complainant, the accused threatened him with dire consequences.

7. The specific contention of the accused that since the entire incident took place in the rented house of the *de facto* complainant, the



Crl.O.P.(MD) No.15675 of 2021

provisions of Sections 294(b) & 448 of IPC are not attracted as far as the present case is concerned cannot be accepted for the simple reason that when the accused came down to the house of the *de facto* complainant, he started abusing the *de facto* complainant in filthy language, as a result of which, neighbours came over to the house of the *de facto* complainant and tried to prevent the accused from abusing and beating the *de facto* complainant. Merely because the house in which the *de facto* complainant resides is not his own house, it cannot be said that Section 448 of IPC would not be attracted.

8. The statements of witnesses recorded under Section 161(3) of Cr.P.C. *prima facie* show the commission of offence by the accused. It is settled law that this Court cannot quash the final report on the ground that there is a delay in lodging complaint against the accused. Moreover, in the instant case, the accused is the son-in-law of the *de facto* complainant and a divorce petition between the accused and the daughter of the *de facto* complainant, third respondent is also pending for adjudication. Therefore, the *de facto* complainant would have waited for some time to get the problem solved amicably between his daughter (third respondent) and his son-in-law. In the circumstances, I do not find any reason to



Crl.O.P.(MD) No.15675 of 2021

quash the final report in C.C.No.18 of 2021 on the file of the Judicial
Magistrate Court, Bodinayakkanur.

9. Accordingly, the present Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

15.02.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To

- 1.The Judicial Magistrate,
Bodinayakkanur,
Theni District.
- 2.The Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.15675 of 2021

R.HEMALATHA, J.

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Crl.O.P.(MD) No.15675 of 2021 and
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