



Crl.O.P.(MD)No.15219 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.15219 of 2022

and

Crl.M.P.(MD)Nos.9974 & 9975 of 2022

1.Chakaravathi

2.Logamani

3.Sumathi

... Petitioners

Vs.

1.The Sub Inspector of Police,
Karimedu Police Station,
Madurai City.
(In Crime No.198 of 2022)

2.Bhuvaneshwari

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the C.C.No.968 of 2022 on the file of the learned Judicial Magistrate No.V, Madurai and quash the same.

For Petitioners : Mr.S.Karthick Ramkumar



CrI.O.P.(MD)No.15219 of 2022

For R1 : Mr.S.Manikandan,
Government Advocate (CrI. Side)

For R2 : Mr.K.Prabhakaran

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.968 of 2022 pending on the file of the learned Judicial Magistrate No.V, Madurai.

2.The case of the prosecution is that the first petitioner is the husband of the second respondent. After marriage, there was some dispute between them. On 02.03.2022, there was a wordy quarrel arose between them, in which, all the in-laws assaulted the second respondent and also made life threat. Therefore, the second respondent filed a complaint, based on which, a case in Cr.No.198 of 2022 was registered for the offence under Sections 294(b), 323, 324 & 506(ii) IPC and Section 4 TNPWH Act, 2002. Upon completion of investigation, the



Crl.O.P.(MD)No.15219 of 2022

first respondent filed final report and the same was taken on file in C.C.No.968 of 2022 by the learned Judicial Magistrate No.V, Madurai.

Challenging the same, this petition has been filed.

3.The learned counsel appearing for the petitioner submitted that the first petitioner is the husband of the second respondent, the second petitioner is the mother of the first petitioner and the third petitioner is the sister of the first petitioner. He further submitted that the second and third petitioners are living separately. The second respondent is working as Grade-I Police Constable at South All Women Police Station, Madurai City and under the influence of the same, she preferred a false complaint and the first respondent Police, without conducting proper investigation, filed final report, which is not sustainable one. He also submitted that the first petitioner is ready to face the trial and in respect of 2nd and 3rd petitioners are concerned, there is no materials to implicate them. Accordingly, he prayed to quash the impugned proceedings as against the 2nd and 3rd petitioners.



Crl.O.P.(MD)No.15219 of 2022

4.The learned counsel appearing for the second respondent submitted that all the grounds, which are raised in the present petition, are triable issue, which cannot be agitated before this Court under Section 482 Cr.P.C. Accordingly, he prayed to dismiss the present petition.

5.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. Accordingly, he prayed to dismiss the present petition.

6.It is seen that the marriage of the first petitioner and the second respondent was solemnized on 05.09.2010 and they blessed with two children. After a lapse of 12 years, ie., in the year 2022, the second respondent preferred a complaint alleging that the petitioners abused and assaulted her. This Court perused the entire charge sheet and list of witnesses. A perusal of the same reveals that there was a matrimonial



dispute between the first petitioner and the second respondent and there was a wound certificate and Doctor evidence also available. However, there is no proximate in between the 2nd petitioner, 3rd petitioner and the second respondent. Even the contentions of the charge sheet is true, there is no incriminating materials to implicate the 2nd and 3rd petitioners.

7.As per decision of the Hon'ble Supreme Court in ***N.S.Madhanagopal & Anr. Vs. K.Lalitha*** reported in **2022 LiveLaw (SC) 844**, in order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person annoyed others. In this case, it is alleged that the 2nd and 3rd petitioners uttered abusive words against the defacto complainant, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC.

8.In view of the above and considering the age of the 2nd and 3rd petitioners and also considering the fact that the 2nd and 3rd petitioners are residing separately, this Court is inclined to quash the impugned proceedings insofar as the 2nd and 3rd petitioners. Accordingly, the



CrI.O.P.(MD)No.15219 of 2022

impugned proceedings in C.C.No.968 of 2022 pending on the file of the learned Judicial Magistrate No.V, Madurai is hereby quashed, insofar as the 2nd and 3rd petitioners alone. Since there are materials available as against the first petitioner, he is directed to face the trial. Accordingly, this petition is dismissed insofar as the first petitioner is concerned.

9.In the result, this criminal original petition is partly-allowed. Consequently, connected miscellaneous petitions are closed.

08.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns



WEB COPY



CrI.O.P.(MD)No.15219 of 2022

To

- 1.The Judicial Magistrate No.V,
Madurai.
- 2.The Sub Inspector of Police,
Karimedu Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.15219 of 2022

M.DHANDAPANI,J.

gns

CrI.O.P.(MD)No.15219 of 2022

08.03.2024