



Crl.O.P.(MD)Nos.15839 and 20156 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) Nos.15839 and 20156 of 2022

and

Crl.M.P.(MD) Nos.10473, 10474, 13938 and 13940 of 2022

Rajesh Pandian @ Rajesh

... Petitioner / Accused No. 2
(in Crl.OP(MD).No.15839 of 2022)

1.Ramesh @ Ramesh Pandian

2.Anandh

3.Premalatha

... Petitioners /Accused 3 to 5
(in Crl.OP(MD).No.20156 of 2022)

Vs.

Pechiammal

... Respondent / Complainant
(in both cases)

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the charge sheet in C.C.No.221 of 2015 on the file of the learned Judicial Magistrate No.V, Tirunelveli, Tirunelveli District.

For Petitioners : Mr.R.Ilayaraja
(in both cases)



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For Respondent : Mr.D.Venkatesh
(in both cases)

COMMON ORDER

These petitions have been filed to quash the proceedings in C.C. No.221 of 2015 pending on the file of the learned Judicial Magistrate No.V, Tirunelveli. The petitioners have been added as A2 to A5 in the private complaint. It is also brought to the notice of this Court that A1 has died.

2. The respondent gave a complaint to the Munneerpallam Police Station on 15.07.2013 stating that she was harassed by the accused persons and she was not properly paid the salary for the work done by her. That apart, she was also abused in filthy language and she was assaulted and threatened with dire consequences. Based on the same, an FIR came to be registered in Crime No.336 of 2013 for alleged offence under Section 147, 294(b), 323, 324, 506(ii) of IPC and Section 4 of the TNPHW Act.

3. The investigation was taken out and a closure report was filed as mistake of fact. RCS notice was served on the respondent and a



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protest petition came to be filed before the learned Judicial Magistrate No.V, Tirunelveli. This protest petition was dealt with as a private complaint. The sworn statement of the respondent was recorded and the sworn statement of 3 other witnesses present was also recorded. On 31.08.2015, an order was passed as follows:-

“ Complaint, Sworn Statements of Defacto Complainant and witnesses and documents perused. Primaefasci case made out by the complainant against the accused for the offence u/s 294(b), 323, 324, 506(ii) IPC and Sec 4 of TNPHW Act. Hence case is ordered to be taken on file u/s 294(b), 323, 324, 506(ii) IPC and Sec 4 of TNPHW Act. Issue summons to accused 1 to 5 on process call on 05.10.15.”

4. Heard the learned counsel on either side and perused the materials placed on record.

5. In the instant case, based on the complaint given by the respondent, the police conducted an investigation and a referred charge



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sheet was filed as mistake of fact. Thereafter, when the respondent filed a protest petition, it is always left open to the Court below to treat it as a private complaint and proceed further. However, while doing so, the Court below has to necessarily apply its mind on the closure report filed by the police and also the materials that were collected by the police which forms part of the closure report. If the same is not done, the very cognizance order passed by the Court below becomes unsustainable. The law on this issue is now too well settled and useful reference can be made to the judgment of this Court in *Narayanamma and Others Vs. Chikka Venkateshaiah* reported in *2019 (2) LW (Crl) 522* .

6. In the light of the above discussion, the cognizance order passed by the Court below dated 31.08.2015 is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.V, Tirunelveli. The learned Magistrate, apart from considering the allegations made in the protest petition and the sworn statements that were recorded from the respondent and 3 other witnesses, must also apply his mind on the closure report filed by the police and the materials which forms part of the closure report. Appropriate orders shall be



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passed in accordance with law within a period of 4 weeks from the date of receipt of a copy of this order.

7. In the result, these criminal original petitions are allowed with the above directions. Consequently, the connected miscellaneous petitions are closed.

04.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

The Judicial Magistrate No.V,
Tirunelveli,
Tirunelveli District.



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N.ANAND VENKATESH,J.

pal

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Dated: 04.12.2024