



WEB COPY

Crl.O.P.(MD)No.20509 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI\

Crl.O.P.(MD) No.20509 of 2022
and
Crl.O.P.(MD).No.14230 of 2022

- 1.Periyasamy
- 2.Buvaneswari
- 3.Marudhamuthu
- 4.Jegajothi
- 5.Senthil
- 6.Sangapillai
- 7.Sugumar @ Sugumaran
- 8.Singari @ Singaraponnu
- 9.Mallika

... Petitioners

Vs.

- 1.The state rep. By
The Inspector of Police,
Thuraiyur Police Station,
Trichy District.

- 2.Karthick

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.1339 of 2020 on the file of the first respondent and quash the same.



For Petitioners : Mr.S.Muniyandi
For R-1 : Mr.S.Manikandan
Government Advocate
(Criminal Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the Crime No.1339 of 2020 on the file of the first respondent.

2. The case of the prosecution is that the marriage between the defacto complainant and the second petitioner was solemnized on 29.05.2017, due to some misunderstanding they were separated. On 21.10.2020, the accused persons were trespassed into the house of the defacto complainant and pushed down the defacto complainant's mother and also damaged the household article. The further allegation against the petitioners is that the petitioners were abused the defacto complainant in filthy language and also attacked him by using stick and hands. Therefore, the defacto complainant/second respondent lodged a complaint before the first respondent police and the same was registered in Crime No.1339 of 2020 for the offences under Sections 294(b), 147, 448, 427, 323, 506(i) of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. Challenging the same, the present petition has been filed.



3. The learned counsel for the petitioners submitted that the defacto complainant and the second petitioner are husband and wife and the other petitioners are in-laws of the defacto complainant. He further submitted that the second respondent has not produced any iota of materials to show that he has sustained injuries. He would further submit that in the absence of any materials, implicating the petitioners herein as accused is not sustainable one. Hence, he prays for allowing this petition.

4. The learned Additional Public Prosecutor appearing for the first respondent would submit that the petitioners and the defacto complainant are close relatives. Due to the family dispute between the parties, on 21.10.2020, the accused persons entered into the defacto complainant's house and abused the second respondent by using filthy language and also threatened him with dire consequences. He would further submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. Per contra, the learned counsel for the petitioners submitted that to prove the offence under Section 323 of IPC, no wound certificate was



produced and as per the Section 294(b) of IPC, the uttered words should be in public place but in this case, the place of occurrence was mentioned as inside the house, but no one seen the occurrence and to prove the same, he has also produced the decision of the Hon'ble Supreme Court in ***N.S.Madhanagopal & Anr. Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***. The ingredients of Section 294(b) of IPC are that the offender has done any obscene act in any public place or has sung, recited or uttered any obscene song or word in or near any public place and that he has so caused annoyance to others. In order to attract the offence under Section 294 IPC, the prosecution has to prove that the incident must have occurred in a public place. Admittedly, the second respondent has not stated anything about the abusing or filthy words allegedly uttered by the petitioners. Even assuming for argument sake that the petitioners had abused the second respondent / defacto complainant by using filthy or obscene words, it is not their case that some other persons were there at that time and that the alleged words had caused annoyance to them.

6. As per Section 323 IPC, there must be a wound certificate to prove the offence, but, in the present case, the wound certificate was not produced before this Court or before the Investigating Officer.



WEB COPY

Crl.O.P.(MD)No.20509 of 2022



7. In the absence of any materials by impleading the petitioners to face the criminal proceedings would only amount to an abuse of process of law and as such, the pending FIR against the petitioners are liable to be quashed.

8. Accordingly, this Criminal Original Petition is allowed and FIR in Crime No. 1339 of 2020 pending on the file of the first respondent is quashed. Consequently, connected miscellaneous petition is closed.

21.03.2024

Ncc : Yes /No
Index : Yes/No
Internet : Yes/No
tta

To

1.The Inspector of Police,
Thuraiyur Police Station,
Trichy District.

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



WEB COPY



Crl.O.P.(MD)No.20509 of 2022

M.DHANDAPANI. J.

tta

Crl.O.P.(MD)No.20509 of 2022

21.03.2024