



Crl.O.P.(MD) No.489 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRL.O.P (MD) No.489 of 2023

Bowsiya @ Pahusia

... Petitioner

Vs

**1. The Sub Inspector of Police,
Thiruppathur Police Station,
Sivagangai District.
Crime No.41/2022.**

2. Abdul Majith

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records pertaining to the charge sheet filed in S.T.C.No.275 of 2022 on the file of the learned Judicial Magistrate Court, Thiruppathur as against the petitioner and quash the same as illegal.

For Petitioner : Mr.S.A.Ajmal Khan

**For R1 : Mrs.A.Aasha
Government Advocate (Crl. side)**

**For R2 : Mr.V.Karthik Raja
For Ajmal Associates**



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ORDER

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This criminal original petition has been filed seeking to quash the proceedings in S.T.C.No.275 of 2022 on the file of the learned Judicial Magistrate Court, Thiruppathur.

2.The allegation as against the petitioner is that the defacto complainant is having a house adjacent to the land of the accused and there was a dispute between them regarding the construction of a building in a vacant land, which belongs to the accused/petitioner. Subsequently, by filing a suit in O.S.No.12 of 2022, on the file of the District Munsif, Thirupathur, the defacto complainant has obtained interim injunction on 27.04.2022, restricting the accused from constructing the house in her place. However, the accused along with her son came to the place of occurrence and tried to reach her place through the dispute area, which was resisted by the defacto complainant herein. Enraged over the same, the petitioner has abused the defacto complainant in filthy language and the petitioner's son has attacked the defacto complainant using stick. Therefore, the defacto complainant has lodged a complaint as against them. After completion of



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investigation, the respondent police has filed the final report as against the petitioner, for the offence under Sections 294(b) and 323 IPC, before the learned Judicial Magistrate, Thirupathur and separate proceedings were initiated as against the petitioner's son before the Juvenile Justice Board, Sivagangai District.

3.The learned Counsel appearing for the petitioner submits that in the FIR, there is no ingredient to attract the offence under section 294(b) IPC and there was no such occurrence as stated in the final report has been taken place. Hence, he prays to quash the proceedings.

4.*Per contra*, the learned Counsel appearing for the defacto complainant submits that already an interim injunction has been passed by the trial Court injunctioning the accused from entering the premises through the disputed way. But the accused herein has by violating the interim injunction, tried to open the shutter. Hence, the defacto complainant has objected for the same, which resulted in the occurrence. He further submits that since the accused has violated the order of the trial Court, this petition is liable to be dismissed.



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5.The learned Government Advocate (Crl.Side) appearing for the respondent police submits that since the accused has abused the defacto complainant in a public place, the offence under Section 294(b) is made out. Hence, she prays to dismiss this petition.

6.This Court has considered the submissions made on either side and perused the records.

7.It is an admitted fact that there is an injunction, which was passed against the petitioner from entering into her place through the disputed area. It is stated in the final report that based on the injunction order granted in favour of the defacto complainant, he has placed a shutter to prevent the entry into the disputed area. However, this was removed by the accused herein and the defacto complainant has questioned the same, which resulted in the occurrence.

8.It is submitted that the occurrence has taken place in the presence of other persons and in front of the house of the defacto complainant, which is like a street/entrance for the accused to reach the petitioner's place. The



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main ingredient in the Section 294(b) IPC is annoyance of others, is made out in this case.

9.Considering the fact that the petitioner has violated the civil Court order and the occurrence was taken place in a street, I am of the view that the petitioner is not entitled to get relief from this Court and she has to face the trial.

10.Accordingly, this criminal original petition is dismissed.

15.07.2024

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

LR

To

1. The Sub Inspector of Police,
Thiruppathur Police Station,
Sivagangai District.

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

5/6



Madurai.

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K.RAJASEKAR, J.

LR

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