



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date of Reservation : 22/12/2023

Date of Pronouncement : 28/02/2024

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

CrI.OP(MD)No.21474 of 2023

and

CrI.MP(MD)No.16805 of 2023

- 1.Anushya
- 2.Chinnavellai @ Chinnavan
- 3.Subha
- 4.Nallammal
- 5.Gurumoorthy (Jeyasurya) : Petitioners/A1 to A5

Vs.

- 1.The State represented by  
The Inspector of Police,  
M.Kallupatti Police Station,  
Madurai District.  
(In Crime No.438 of 2020) : R1/Complainant
- 2.Malliga : R2/De-facto Complainant

**Prayer:** Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned Charge Sheet filed in CC No.130 of 2022 on the file of the Judicial Magistrate Court-II, Usilampatti and quash the same as against the Petitioners are concerned and pass such further or other orders.



WEB COPY



2

For Petitioner : Mr.R.Karunanidhi  
For 1<sup>st</sup> Respondent : Mr.M.Sakthi Kumar  
Government Advocate  
(Criminal side)  
For 2<sup>nd</sup> Respondent : Mr.M.Karunanithi

**O R D E R**

This criminal original petition has been filed seeking quashment of the case in CC No.130 of 2022 on the file of the Judicial Magistrate No.II, Madurai.

**2.The case of the prosecution in brief:-**

The de-facto complainant lodged a complaint stating that there was a land dispute between their family and the accused family. Some 13 days prior to the occurrence, the accused Gurumuroothy and others trespassed into the house, criminally intimidated her. In pursuance of which, On 20/07/2020 at about 09.45 pm, when the de-facto complainant was in the house along with her children, the accused persons trespassed into the house with deadly weapons, abused her in filthy language and try to assault and outrage her modesty. They also assaulted with bricks and chappal. When the husband intervened, even he could not stop the assault. He also sustained injuries. Based



on the occurrence, a case in Crime No.438 of 2020 was registered for the offences under sections 147, 148, 452, 294(b), 323, 355, 109, 506(2) of IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completing the investigation, final report was filed, taken cognizance in CC No.130 of 2022 by the Judicial Magistrate No.II, Usilampatti.

3. Seeking quashment of the same, this petition has been filed on the ground that actually, they were assaulted by the de-facto complainant's party; A case was registered in Crime No.439 of 2020 for the offences under sections 452, 294(b), 323, 506(2) of IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002; On the date of the alleged occurrence and time, the 5<sup>th</sup> petitioner namely the 5<sup>th</sup> accused was working as 'Typist' in Arulmigh Jaya Veera Anjaneyar Kovil, Simmakal, Madurai and never participated in the alleged occurrence; he was also staying with his uncle. Over the septic tank issue, there was a dispute between the parties. So, she lodged a complaint; The complaint given was posted for enquiry; PSO-588A is not properly followed.



WEB COPY

4. Heard both sides.

5. Final reports, in both the matters and CD files have been called for.

6. Reading of the complaint, in both the matters, shows that on the particular date of occurrence, over the previous enmity of land dispute, both side engaged in exchanging blows, criminal intimidation and abuse. So over the above said occurrence, both the matters have been investigated and charge sheet has been filed independently without referring the counter case, which is *per se* illegal.

7. On the sole ground, the entire prosecution is bad in eye of law and accordingly, the same is liable to be quashed.

8. In the result, this criminal original petition is **allowed**. The case in CC No.130 of 2022 on the file of the Judicial Magistrate No.II, Usilampatti is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

**28/02/2024**

Index: Yes/No  
Internet: Yes/No  
er



WEB COPY To,

- 1.The Inspector of Police,  
M.Kallupatti Police Station,  
Madurai District.
- 2.The Judicial Magistrate No.II,  
Usilampatti.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



6

**G. ILANGO VAN, J**

**er**

Crl.OP (MD) No.21474 of 2023

**28/02/2024**