



Crl.O.P.(MD)No.22123 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.22123 of 2024

and

Crl.M.P.(MD).Nos.13707 and 13708 of 2024

1.Ayyappan

2.Meenakshi

... Petitioners

Vs.

1.The Inspector of Police,
Perungudi Police Station,
Madurai District.
(Crime No.35 of 2022)

2.Palaneeswari

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge in C.C.No.75 of 2023, on the file of the learned Judicial Magistrate, Tirumangalam, Madurai District, in connection with case in Crime No.35 of 2022, under Sections 294(b) and 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, dated 09.03.2022, to quash the same as illegal as against the petitioners.

For Petitioners : Mr.D.Balamurugapandi
For Respondent : Mr.K.Sanjai Gnadhi (for R1)
Additional Public Prosecutor



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ORDER

The petitioners filed this petition to quash the proceedings initiated against them in C.C.No.75 of 2023, on the file of the learned Judicial Magistrate, Tirumangalam, Madurai District, in connection with case in Crime No.35 of 2022, under Sections 294(b) and 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, dated 09.03.2022.

2.The case of the prosecution is that on 09.03.2022, the defacto complainant namely Palaneeswari, wife of Balamurugan given a statement that on 05.03.2024, at about 08.00 a.m the first petitioner/accused No.1 took the masonry tools, which was belong to the defacto complainant. Hence, the defacto complainant taken away the tools from the petitioner. For that, the petitioners said to have scolded the defacto complainant and assaulted her. Due to which, on 06.03.2024, the defacto complainant said to have eaten ant killer poison and took her to the Tirumangalam Government Hospital and gave treatment to her. Now, the defacto complainant is inpatient. Thereafter, the respondent Police registered a case in Crime No.35 of 2022 for the offence under Sections



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294(b) and 323 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the respondent police filed the final report and the same was taken on file in C.C.No.75 of 2023, by the learned Judicial Magistrate, Tirumangalam, Madurai District. To quash the same, the present petition has been filed.

3.The learned counsel appearing for the petitioners would submit that the petitioners are none other than the brother-in-law and mother-in-law of the defacto complainant. He would further submit that the second petitioner installed water pipe in her house by spending her hard earned money. In these circumstances, there is a wordy quarrel between the second petitioner and the defacto complainant regarding taking water from the tab. Due to which, the first petitioner intercepted in the quarrel and pacified the same and no such occurrence happened as alleged in the FIR. The petitioners are innocent and they have been falsely implicated in this case. The second petitioner is a senior citizen. Hence, he seeks to quash this petition.



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4.The learned Government Advocate (Crl. Side) appearing for the first respondent Police submitted that the specific allegation made against the petitioners is that they said to have assaulted the defacto complainant and caused injuries. Due to which, the defacto complainant said to have eaten ant killer poison. Hence, there is serious allegation made against them. Hence, he seeks to dismiss this petition.

5.Considering the submissions made by the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent Police and perused the materials available on record and the impugned charge sheet.

6.In the final report, there is specific allegation made against the petitioners that they said to have assaulted the defacto complainant and caused injuries. The number of witnesses examined by the investigating agency to prove the said allegations. All the statements are filed along with the documents. On perusal of the documents, there is a prima facie case to frame the charges against the petitioners. Hence, this Court is not inclined to entertain this petition at this stage.



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7. Accordingly, this criminal original petition is dismissed with the following directions:-

7.1. The petitioners are at liberty to raise all the points before the learned trial Judge.

7.2. The learned trial Judge is directed to consider the points raised by the petitioners without influencing the observation made in the said petition.

7.3. Considering the age of the second petitioner, the appearance of the second petitioner alone is dispensed with before the trial Court on all hearing dates except the following hearings:

(i) during the course of the examination of the remaining witnesses

(ii) The date of questioning under Section 313 Cr.P.C;

(iii) On the date of Judgement.

7.3.1. The second petitioner is directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates.



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7.3.2. The second petitioner shall not dispute the identity of the witnesses.

7.3.3. The second petitioner shall appear before the Court in the event her presence is insisted by the trial judge for the purpose of identification.

7.3.4. If the second petitioner adopt any dilatorial tactics, it is open to the Trial Court to insist for her appearance and deal with the second petitioner in accordance with the judgment of Supreme Court of India in *State of Uttar Pradesh Vs. Shambunath Singh*, reported in 2001 (4) SCC 667.

Consequently, the connected Crl.M.P.(MD).No.13703 of 2024 is allowed in respect of the second petitioner alone and Crl.M.P.(MD).No.13707 of 2024 is closed.

16.12.2024

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

- 1.The learned Judicial Magistrate,
Tirumangalam,
Madurai District.
- 2.The Inspector of Police,
Perungudi Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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