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CRL.O.P.No.1683 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HON'BLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.1683 of 2023

AND

Crl.M.P.Nos.920 & 921 of 2023

Sathyaraj

.. Petitioner

Vs.

1.State rep. by
The Inspector of Police
Sulur Police Station
Coimbatore 641 402

2.Bharani Vidhyasarathi

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to C.C.No.37 of 2022 pending on the file of the Judicial Magistrate Court, Sulur and quash the same.

For Petitioner : Mr.K.Prasanthan

For 1st Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)

For 2nd Respondent : No appearance

ORDER



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WEB C.C.No.37 of 2022 pending on the file of the Judicial Magistrate Court, Sular.

2. The case of the prosecution is that on 17.08.2021, when the 2nd respondent and the resident of the opposite house were talking outside the house, their neighbour along with four persons came and shouted to remove the construction debris dumped in the 2nd respondent's partially completed building and further demanded to remove it immediately. While so, the petitioner, who accompanied the said neighbour abused the 2nd respondent filthily. When this was questioned by the 2nd respondent's husband, the petitioner slapped and threatened the 2nd respondent's husband. In this regard, the 2nd respondent lodged a complaint, on which, the 1st respondent conducted investigation and registered FIR in crime No.838 of 2021, enquired L.W.1 to L.W.8 and filed a final report under Sections 294(b), 323 & 506(I) IPC and the learned Judicial Magistrate Court, Sular, took cognizance in C.C.No.37 of 2022 and trial is pending. Hence, the petitioner is before this Court seeking quashment of the proceedings in C.C.No.37 of 2022.

3. Though notice was served on the 2nd respondent and her name appeared in



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the cause list, none appeared on behalf of her, when the matter was called.

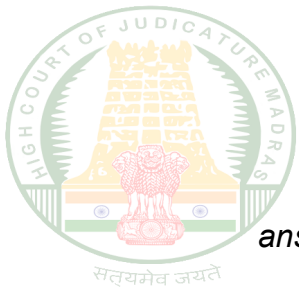
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4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the 1st respondent and perused the materials placed on record.

5. For the said very same occurrence, a complaint was lodged as against the 2nd respondent's husband and the same was registered in crime No.837 of 2021 for the offences under Sections 294(b), 323 & 506(I) IPC. However, without proceeding any investigation on the said crime, the 1st respondent completed investigation on the complaint lodged by the 2nd respondent and filed a final report in C.C.No.37 of 2022 on the file of the Judicial Magistrate Court, Sulur. Therefore, it is a clear violation of the Police Standing Orders 566.

6. In this regard, the learned counsel for the petitioner also relied upon the decision of the Full Bench of this Court in a batch of Criminal Original Petitions in the case of ***T.Balaji and Another Vs. State and Another (Crl.O.P.No.4587 of 2023 etc. batch decided on 08.08.2024)***, wherein, it is held as follows :

“59. In the light of the above discussion, the following are our



answers to the questions referred to us vide order dated 21.03.2024:

a. *The police are required to mandatorily follow the procedure prescribed in PSO 566 while investigating a case and case in counter i.e., rival versions of the same incident.*

b. *The consequences of non-compliance with PSO 566 would depend upon the stage at which such an objection is raised. It is the duty of the Magistrate to screen out final reports which are filed in inconsistent rival versions of the same incident i.e., where one rival version is true the other must be necessarily false, by returning with a direction to follow PSO 566. Where the Magistrate inadvertently takes cognizance, the error may be set right by the High Court under Section 528 BNSS, 2023 if the same is raised at an early stage. If, however, the trial in such cases is allowed to go on and has reached an advanced stage, a plea of non-compliance with the PSO will not ipso facto vitiate trial unless and until a demonstrable case of prejudice or miscarriage is made out.*

c. *The police will take note of and scrupulously follow the guidelines set out in paragraph 58-A, supra.*

d. *Trial of a case and counter case shall be held simultaneously before the same Court and the guidelines set out in paragraph 58-B, supra, shall be followed.”*

7. Admittedly, in this case, the FIR in crime No.837 of 2021 is pending for investigation and no charge sheet has been laid so far. Therefore, the 1st respondent has failed to follow the procedure as contemplated under PSO 566. The above judgment is squarely applicable to the case on hand and as such, the entire proceedings in C.C.No.37 of 2022 pending on the file of the Judicial



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Magistrate Court, Sulur is liable to be quashed and accordingly, it is quashed.

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In the result, this petition is allowed. Connected Crl.M.P.s are closed.

19.02.2025

gya

Index : Yes/No

NC : Yes/No



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G.K.ILANTHIRAIYAN, J.

gya

To

1.Judicial Magistrate Court
Sulur

2.The Inspector of Police
Sulur Police Station
Coimbatore 641 402

3.The Public Prosecutor
High Court, Madras

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