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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.21411 of 2023
and
Crl.MP.Nos.14755 and 14756 of 2023

Sivasankar ... Petitioner

Vs.

1. State Represented by
   The Inspector of Police
   Modakuruchi Police Station
   Erode District
   (Crime No.260 of 2022)

2.Maganaya ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records relating to the Spl.S.C.No.07 of 2023 on the file of the Principal District Court, Erode and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.R.Vinothraja
Govt.Advocate (Crl.Side) - R1
: Mr.P.Kannan Kumar - R2

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ORDER

This petition has been filed to quash the proceedings in Spl.SC.No.7 of 2023 on the file of the learned Principal District Judge, Erode.

2. The case of the prosecution is that the defacto complainant is the councillor of the 5th ward Town Panchayat, Modakurichi. She belongs to Scheduled Caste Community. It is alleged that on the date of occurrence, the defacto complainant along with the President of Modakuruchi Town Panchayat and other ward members were on their way to the Taluk Office. While she was crossing the alleged place, there was some dispute between the petitioner and the sanitation worker namely Mayavan and when, the same was questioned by the President of Modakurichi Town Panchayat, he was scolded and assaulted by the petitioner.

3. Further, when the informant entered into dispute and questioned the petitioner, the petitioner alleged to have assaulted the informant and also her husband Saravanan and scolded them in filthy language abusing their caste name. Hence, the complaint.

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4. Based on the complaint given by the second respondent, the first respondent registered an FIR in Cr.No.260 of 2022 for the offences punishable under Sections 294(b), 323, 506(i) of IPC and under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and under Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST (Prevention of Atrocities) Act. After registering the FIR, the first respondent transferred the investigation to the Deputy Superintendent of Police, Modakuruchi, Erode.

5. After completion of investigation, the Deputy Superintendent of Police filed a final report, in which modified the provisions as Section 294(b), 323, 325 of IPC and under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and under Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST (Prevention of Atrocities) Act, before the learned Principal District Court, Erode and the same has been taken cognizance in Spl.SC.No.07 of 2023 and the same is pending for trial. Hence, to quash the said proceedings, the present petition has been filed.

6. Heard both sides and perused the materials available on record.

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7. A perusal of records available before this Court revealed that for the very same occurrence , the petitioner also lodged complaint in which, the second respondent and others are arrayed as accused in Cr.No.259 of 2023 registered for the offence under Sections 146, 294(b), 506(i)of IPC. However, on the complaint lodged by the petitioner was investigated by the first respondent and complete the investigation. The first respondent also filed final report and the same has been taken cognizance in C.C.No.178 of 2024 and it is pending for trial for the charges under Sections 147, 294(b), 323 and 506(i) of IPC on the file of the learned Judicial Magistrate, Elumathur, Modakurichi Taluk, Erode District.

8. The only ground to quash both the proceedings is that the two different Investigating Officers have investigated the complaint.

9. It is clear contravention of the Judgment of the Full Bench of this Court reported in 2024(2) MWN (Cr.)497(FB):2024 (5) CTC 1 (FB): 2024 (2) LW (Crl.)175 rendered in ***T.Balaji and another Vs. State***. Accordingly, the same Investigating Officer will have to investigate both the cases and counter case to find out the real aggressor.

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10. In the case on hand admittedly one Investigating Officer registered the FIRs- case and counter case. The investigation was done by different officers in both case. Therefore, both the proceedings cannot be sustained as against the petitioner and are liable to be quashed.

11. Accordingly, the proceedings in Spl.SC.No.7 of 2023 on the file of the learned Principal District Judge, Erode and the proceedings in C.C.No.178 of the file of the learned Judicial Magistrate, Elumathur, Modakurichi Taluk, Erode District are hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are also closed.

21.04.2025

Vv

To

1. The Principal District Judge, Erode

2. The Judicial Magistrate, Erumathur, Modakurichi, Erode District

3. The Inspector of Police
Modakuruchi Police Station
Erode District

4. The Public Prosecutor, High Court of Madras, Chennai 600 104

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