



Crl.O.P.(MD)Nos.1766 of 2024 & 16734 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).Nos.1766 of 2024 & 16734 of 2025

and

Crl.M.P(MD)Nos.1305 of 2024, 13665 & 13667 of 2025

Crl.O.P(MD)No.1766 of 2024:

Rajeshkannan

... Petitioner/Sole Accused

Vs.

1. The Sub-Inspector of Police,
Thenkarai Police Station,
Theni District.
(In Crime No.5 of 2024).

... 1st Respondent/Complainant

2. Sujapriya

... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the First Information Report in Crime No.5 of 2024 dated 04.01.2024 on the file of the Sub-Inspector of Polcie, Thenkarai Police Station, Theni District registered for offences under Sections 294(b), 509 and 506(i) of the Indian Penal Code.

For Petitioner : Mr.M.Sivakumar

For R-1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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Crl.O.P.(MD)No.16734 of 2025:

1.Manoj

2.Sujapriya

... Petitioners/Accused Nos.1 & 2

Vs.

1. The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Theni Police Station,
Theni District.
(In Crime No.366 of 2023)

... 1st Respondent/Complainant

2. Idhaya

... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in C.C.No.112 of 2024 on the file of the learned Judicial Magistrate, Theni, Theni District and quash the same in respect of the petitioners concerned.

For Petitioners : Mr.R.Anand

for Mr.S.Micheal Heldon Kumar

For R-1 : Mr.K.Sanjai Gandhi

Government Advocate (Crl. Side)

COMMON ORDER

The captioned quash petitions have been filed by the accused facing investigation in an FIR in Crime No.5 of 2024 and by the accused facing trial in C.C.No.112 of 2024. Though the two cases are not the case and case in counter,



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both the cases are taken up together since the defacto complainant in Crl.O.P.(MD).No.1766 of 2024 is the accused in Crl.O.P.(MD).No.16734 of 2025 and the facts are interconnected.

2. Crl.O.P.(MD).No.1766 of 2024 seeks to quash the impugned FIR in Crime No.5 of 2024 registered for the offences under Section 294(b), 509 and 506(i) of IPC. The allegation in the FIR is that the defacto complainant's husband had business transaction with the petitioner; that they were known to each other; that a dispute arose between them with regard to certain money transaction; that on 12.08.2022 at about 7.00 PM, the petitioner had called the defacto complainant over phone and had abused her in filthy language; that he had also threatened her of dire consequences and thus committed the aforesaid offences.

3. The learned counsel for the petitioner in Crl.O.P.(MD).No.1766 of 2024 would submit that though the alleged occurrence took place on 12.08.2022, the FIR was registered only on 04.01.2024; that the allegations would not attract the offences under Section 294(b), 509 or 506(i) of IPC, for which, the impugned FIR was registered and therefore sought for quashing of the FIR.



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4. Crl.O.P.(MD).No.16734 of 2025 has been filed seeking to quash the final report in C.C.No.112 of 2024 filed for the offences under Section 406 and 420 of IPC. The allegation in the final report is that the petitioners had received a sum of Rs.6,00,000/- as loan from the defacto complainant and her husband; that out of the said sum, a sum of Rs.3,00,000/- was sent by bank transfer and the remaining money was given in cash; that when the defacto complainant demanded return of the said amount, the petitioners refused to make payment and also committed the offence of cheating.

5. The learned counsel for the petitioners in Crl.O.P.(MD).No.16734 of 2025 would submit that the allegations would only suggest a loan transaction between the petitioners and the defacto complainant's husband; that even if the allegations are accepted to be true, the offence under Section 406 or Section 420 of IPC would not be made out as the petitioners and the defacto complainant's husband enjoyed a good relationship; and that the defacto complainant and her husband had voluntarily given a loan of Rs.6,00,000/-; and that the same would not amount to the offence of cheating or criminal breach of trust.



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6. Heard the learned Additional Public Prosecutor appearing for the respondent Police, who would reiterate the averments made in the FIR and the final report. He would submit that the petition challenging the FIR cannot be allowed and the investigation must be allowed to continue; and that the petition challenging the final report also cannot be allowed since the points raised by the petitioners are required to be considered by the Trial Court.

7. The learned counsels for the defacto complainants in both the cases would reiterate the averments made and sought for dismissal of the quash petition.

8. The averments in the final report, which is under challenge in Crl.O.P. (MD).No.16734 of 2025, as stated above, discloses that there is a loan transaction between the petitioners and the defacto complainant's husband admittedly. The report also admits that the petitioners were known to the defacto complainant and were friends. The alleged occurrence of receipt of loan took place in the year 2019. The FIR was lodged on 01.08.2023. The defacto complainant had not filed any suit for recovery of money. The complaint filed after four years of the transaction only discloses a monetary dispute. There is nothing to suggest that the petitioners had made any false representation and



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induced the defacto complainant to part with the money. The allegations only suggest that the petitioners had committed breach of promise. Further, there is nothing to suggest that the petitioners were entrusted with money. In any case, it is well settled that the offences under Section 406 or 420 of IPC on the same set of allegations would not go together. Therefore, this Court is of the view that the impugned prosecution is liable to be quashed and hence quashed.

9. As regards the FIR, which is challenged in Crl.O.P.(MD).No.1766 of 2024, it is seen that the alleged abuse and the offence of criminal intimidation are said to have been made over phone on 12.08.2022. In the FIR, it is stated that the complaint was lodged on 15.08.2022 and it was not known as to why no FIR was registered till 04.01.2024.

10. Be that as it may. It is well settled that to attract the offence under Section 294(b) IPC, the person must have done any obscene act in a public space or must have uttered obscene words etc., to the annoyance of others. The Hon'ble Supreme Court in the case of ***N.S.Madhanagopal and Another Vs. K.Lalitha*** reported in ***(2022) 17 SCC 818*** has held as follows:

"8. It has to be noted that in the instant case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words



cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC.

9.To prove the offence under Section 294 IPC mere utterance of obscene words are not sufficient but there must be a further proof of establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants-accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out."

11. Similarly, to attract the offence under Section 506(2) IPC, there must be a real threat. This Court, in the case of **Noble Mohandass vs. State** reported in **1989 Cri.Lj 669**, had held as follows:

"7. Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when



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the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually.”

12. The offence under Section 509 of IPC would not be made out since there is nothing to suggest that the petitioner intended to insult the modesty of the defacto complainant and had only accused the defacto complainant's husband of cheating the petitioner. Therefore, this Court is of the view that none of the offences alleged in the FIR are made out. The FIR registered two years after the occurrence suffers from extraordinary delay. Therefore, the impugned FIR is liable to be quashed and accordingly quashed.

13. In the result, the Criminal Original Petitions are allowed. It is made clear that the above observations would however not stand in the way of the defacto complainant in Crl.O.P.(MD).No.16734 of 2025 in initiating proceedings for recovery of money, if she is entitled to so under law. Consequently, connected miscellaneous petitions are closed.

14.10.2025

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

- 1.The Judicial Magistrate Court,
Theni District.
- 2.The Sub-Inspector of Police,
Thenkarai Police Station,
Theni District.
- 3.The Inspector of Police,
Theni Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Lm

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