

Crl.O.P.(MD) No.1899 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2025

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THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD). No.1899 of 2024
and
Crl.M.P(MD) No.1402 and 1403 of 2024

1. Lalitha
2. Arasu

... Petitioners

Vs.

1. The Sub Inspector of Police
Gudalur North Police Station
Theni District

2. Keerthana

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records in the case in C.C.No.245 of 2023 on the file of the Fast Track Court, Magisterial Level, Uthamapalayam, Theni District and quash the same as illegal

For Petitioners : Mr.S.Senthil

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate (Crl. Side)
No.2 :Mr.A.Arun Ramnath
Legal Aid Counsel



Crl.O.P.(MD) No.1899 of 2024

ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.245 of 2023 on the file of the Fast Track Court, Magisterial Level, Uthamapalayam, Theni District.

2. The case of the prosecution is that the defacto complainant lodged complaint as against her husband and in-laws alleging that the defacto complainant husband's sister is an advocate and thereby they lodged a false complaint before the Gudalur North Police Station for that complaint the defacto complainant and their family members appeared and thereafter they advised both the parties and instructed the husband of the defacto complainant to return back her jewels and due to that reason the husband of the defacto complainant neglected her and her child. While so, the father of the defacto complainant died last month. The defacto complainant and her child are residing in her parent's house. In the mean time, the husband of the defacto complainant and her in-laws sold the family property for more than Rs.25 lakhs without the knowledge of the defacto complainant. When the same was questioned by the defacto complainant the petitioners along with others have used obscene words and pushed her down and also caused criminal



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intimidation. Therefore complaint was lodged by the defacto complainant and based on which the first respondent registered a case in Crime No.279 of 2019 for the offences under Sections 294(b),323, 506(ii)of IPC and Section 4 of TNPHW Act. Thereafter the first respondent conducted detailed investigation and filed final report and the same was taken on file by the trial Court. The petitioners herein who are the in-laws of the defacto complainant have filed this petition.

3. The learned counsel appearing for the petitioners would submit that there is a family dispute between the second respondent and her husband. The first petitioner is the sister-in-law and the second petitioner is the mother-in-law of the second respondent. While so, false complaint has been lodged against the petitioners and others, based on which a case has been registered. Thereafter the first respondent without conducting proper investigation filed final report and the trial court also without any prima facie materials had taken cognizance. Even as per the First Information Report and final report there are no materials as against the petitioners and all the allegations are against the husband of the defacto complainant. Already matrimonial proceedings in HMOP No.218 of 2018 before the Sub Court, Uthamapalayam and G.W.O.P No.05 of 2023



Crl.O.P.(MD) No.1899 of 2024

before the Principal District Court, Theni are pending between the parties.

There are no ingredients to constitute the offences under Sections 294(b), 323, 506(ii) of IPC and Section 4 of TNPHW Act. The allegations against the petitioners are that they used obscene words and threatened with dire consequences, thereby the pending proceedings are liable to be quashed.

4. The learned counsel appearing for the second respondent/ defacto complainant would submit that the petitioners along with the husband of the defacto complainant sold the family property of the defacto complainant and when the same was questioned by the second respondent, the petitioners along with other accused caused harassment and they used obscene words and also pushed down the defacto complainant and also caused criminal intimidation, thereby the second respondent lodged complaint and based on the complaint First Information Report has been registered. The first respondent also conducted detailed investigation and filed final report. As per the final report there are prima facie materials available to proceed with the case, therefore this petition is liable to be dismissed.



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5. The learned Government Advocate(Crl.side) would submit that there is a family dispute between the parties. Whiles, the petitioners and the husband of the defaco complainant sold the family property of the defacto complainant and when the same was questioned by the defacto complainant the petitioners and others used obscene words, assaulted the victim and also caused life threat, thereby she lodged complaint. Based on which First Information Report has been registered in Crime No.279 of 2019. Thereafter the first respondent conducted detailed investigation and filed final report. Since there are prima facie materials available the trial Court has taken cognizance and it is pending for trial. Now without any grounds the petitioners have filed this petition, thereby the petition is liable to be dismissed.

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

7. Based on the complaint given by the second respondent, the first respondent registered a case has been registered in Crime No.279 of 2019 for the offences under Sections 294(b),323, 506(ii)of IPC and Section 4 of TNPHW Act and thereafter the first respondent completed



Crl.O.P.(MD) No.1899 of 2024

investigation and filed final report and the same was taken cognizance by the trial Court in C.C.No.245 of 2023. According to the petitioners there are no any specific allegations against these petitioners and these petitioners are only in-laws of the defacto complainant. The main allegations are only as against the first accused and these petitioners are A2 and A3, therefore these petitioners need not face the trial and no any prima facie materials as against these petitioners

8. This Court also perused the First Information Report as well as final report. As per the final report general allegations are levelled as against these petitioner. There is no specific overt act has been attributed as against these petitioners. As per the First Information Report the husband of the defacto complainant along with their family used obscene words and pushed down her and her child. When the same was questioned by her they threatened with dire consequences, these are all the allegations. There is no specific overt act as against these petitioners . Even as per the First Information Report the husband of the defacto complainant only pushed her down. As per the final report there are no specific allegations as against these petitioner to constitute the offences. It is well settled law that for the vague, bald, general and omnibus



Crl.O.P.(MD) No.1899 of 2024

allegations the Court cannot take cognizance without any specific materials.

9. So far as offence under Section 294(b) of IPC is concerned there is no any specific allegation as against these petitioners that these petitioners uttered obscene words in or near public place and cause annoyance to the defacto complainant.

10. So far as offence under Section 323 of IPC there is no any specific overt act as against the petitioners that they assaulted the defacto complainant and pushed her down and the defacto complainant sustained injuries Only the husband of the defacto complainant pushed the defacto complainant and her children.

11. So far as offence under Section 506(ii) of IPC there is no ingredients to constitute the offence and mere utterance of the words would not attract the offence under Section 506(ii) of IPC. Even as per records no specific overt act attributed as against these petitioner and there are only general, bald and vague allegations.



Crl.O.P.(MD) No.1899 of 2024

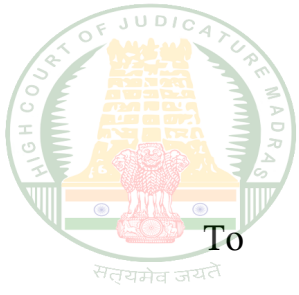
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12. The main allegations are only as against the husband of the defacto complainant. Therefore there are no materials to proceed the case further as against the petitioners, and thereby the pending charge sheet is liable to be quashed. The trial Court also failed to consider that no prima facie materials available as against these accused at the time of taking cognizance in this case. Therefore without any materials to constitute the offence, the petitioners cannot face the ordeal of trial.

13. Accordingly the Criminal Original Petition stands allowed and the proceedings in C.C.No.245 of 2023 on the file of the Fast Track Court, Magisterial Level, Uthamapalayam, Theni District is hereby quashed. Consequently connected miscellaneous petitions stand closed.

20.03.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
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Crl.O.P.(MD) No.1899 of 2024

To

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1. The Fast Track Court, Magisterial Level,
Uthamapalayam, Theni District
2. The Sub Inspector of Police
Gudalur North Police Station
Theni District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P.(MD) No.1899 of 2024

P.DHANABAL, J.

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Crl.O.P(MD)No.1899 of 2024

20.03.2025