



Crl.O.P.(MD) No.3342 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.04.2025

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THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD). No.3342 of 2024

and

Crl.M.P(MD) Nos.2650 and 2652 of 2024

Stanley Moses

... Petitioner

Vs.

1. The Inspector of Police
Palayamkottai Police Station
Tirunelveli

2. Joseph Abraham Sundar

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records in C.C. No.2960 of 2022 on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same.

For Petitioner	: Mr.R.C.Paul Kanagaraj
For Respondents	: Mr.M.Vaikkam Karunanithi
No.1	Government Advocate (Crl. Side)
No.2	: Mr.T.Lajapathi Roy, Senior Counsel for Mr.S.Rajasekar

ORDER

This petition has filed to quash the proceedings in C.C. No.2960 of 2022 on the file of the learned Judicial Magistrate No.I, Tirunelveli.



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2. The case of the prosecution is that on 22.03.2021 at about 9.00 hrs the respondent received intimation from the High Ground Hospital that one Joseph Abraham was admitted as inpatient and based on the complaint given by him the respondent police registered a case in Crime No.196 of 2021 for the offences under Sections 147,148,341,294(b),324,323 and 506(2) of IPC. The defacto complainant and his wife were living separately. While so there was mediation arrangement between the family members at the house of Jeyakumar @ Palayamkottai and the defacto complainant sought 15 days time and went along with his father. While so about 07.15 hrs the petitioner along with unknown persons came there and abused the defacto complainant and assaulted with iron rod, thereby lodged a complaint.

3. The learned counsel appearing for the petitioner would submit that there is a family dispute and based on the same the first respondent registered a case in Crime No.196 of 2021 for the offences under Sections 147,148,341,294(b),324,323 and 506(2) of IPC. In fact no such offence was happened . The petitioner also sustained injuries on the assault made by the second respondent and he also lodged a complaint and based on the same the first respondent registered a case in Crime No. 197 of 2021 for the offences



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under Sections 294(b), 342,324 and 506(i) of IPC. It is a case and case in counter. The first respondent without conducting proper investigation filed final report and the trial Court also without any prima facie materials has taken cognizance and thereby the pending proceedings are liable to be quashed.

4. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent the first respondent registered a case in Crime No.196 of 2021 for the offences under Sections 147,148,341,294(b),324,323 and 506(2) of IPC and the petitioner also lodged a complaint against the second respondent and a case has been registered in Crime No. 197 of 2021 for the offences under Sections 294(b), 342,324 and 506(i) of IPC. They conducted investigation in both cases and also filed final report and both the cases are pending for adjudication. Now the petitioner filed this petition to quash the proceedings in C.C. No.2960 of 2022. As per the final report there are prima facie materials available and the trial Court has also taken cognizance after satisfying that there are prima facie materials and it is a matter for trial and thereby the petition is liable to be dismissed.

5. The learned counsel appearing for the second respondent would



submit that the petitioner assaulted the second respondent and thereby he lodged a complaint before the first respondent and thereafter the first respondent registered a case in Crime No. 197 of 2021 for the offences under Sections 294(b), 342, 324 and 506(i) of IPC and the police also filed final report in both the cases. As per the final report there are prima facie materials available as against the petitioner to constitute the offence and the petitioner has to face the trial. It is a case and case in counter and therefore the disputed facts cannot be adjudicated through the petition filed under Section 528 of BNSS, therefore the petition is liable to be dismissed.

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

7. In this case it is admitted fact that based on the complaint lodged by the second respondent the first respondent registered a case in Crime No.196 of 2021 for the offences under Sections 147, 148, 341, 294(b), 324, 323 and 506(2) of IPC. Similarly the petitioner also lodged complaint against the defacto complainant and the First Information Report was also registered in Crime No. 197 of 2021 for the offences under Sections 294(b), 342, 324 and 506(i) of IPC. Thereafter the first respondent conducted investigation and filed final report in both the cases. Now the petitioner is challenging the proceedings



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pending in C.C.No.2960 of 2022 and the case is pending. Even as per the First Information Report and charge sheet there are specific allegations as against the petitioner. The veracity of the statements records and materials collected during investigation cannot be tested at this stage and it needs elaborate trial. Since *prima facie* materials are available to proceed with the case against the petitioner he has to face the trial and there is no merits in the petition and it is liable to be dismissed. Since two complaints are lodged by parties against each other the trial Court is directed to conduct trial as per the dictum laid down by the Hon'ble Supreme Court in the case of ***Nathilal and others .vs State of U.P and another*** reported in 1990 (Supp) SCC 145.

8. Accordingly the Criminal Original Petition stands dismissed. The trial Court is directed to conduct trial by following the procedures as laid down in the in the case of ***Nathilal and others .vs State of U.P and another*** reported in 1990 (Supp) SCC 145. Consequently connected miscellaneous petitions stand closed.

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Internet :Yes
Index :Yes/No
NCC :Yes/No
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1. The Judicial Magistrate No.I, Tirunelveli
2. The Inspector of Police
Palayamkottai Police Station
Tirunelveli
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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