

Crl.O.P.(MD)No.4467 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.4467 of 2024

and

Crl.M.P(MD)Nos.3510 and 3512 of 2024

M.Vijayabharathi

.. Petitioner

Vs.

1. The Inspector of Police
Kamuthi Police Station
Ramanathapuram District

2.M.Karthick Raja

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the impugned charge sheet in STC No. 36 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Kamuthi in Crime No.259 of 2023 under Sections 147,294(b), and 323 of IPC on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate(Crl.Side)
No.2 : No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings STC No. 36 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Kamuthi.

2. The case of the prosecution is that all the accused persons due to previous enmity between the defacto complainant and the petitioner on 19.09.2023 at about 10.30 pm., backside of Kannarpatti Raja lodge all the accused unlawfully assembled and assaulted the victim with hands and thereby they lodged complaint before the first respondent and a case in Crime No. 259 of 2023 was registered for the offences under Sections 147,294(b) and 323 of IPC. Thereafter the first respondent conducted investigation and filed final report. Now the petitioner challenging the said final report.

3. The learned counsel appearing for the petitioner would submit that the second respondent lodged a false complaint against the petitioner and thereby the first respondent registered a case in Crime No. 259 of 2023 was registered for the offences under Sections 147,294(b) and 323 of IPC. Thereafter the first respondent without conducting proper



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investigation filed final report and the same was taken cognizance by the trial Court without any prima facie materials. Infact there are no averments to constitute the offence under Section 147 of IPC and there are no materials to show that all the petitioners formed unlawful assembly and there are no specific allegation as against this petitioner that he uttered obscene words in or around public place which caused annoyance to the defacto complainant and there is no any injuries to the defacto complainant and even as per the First Information Report the defacto complainant did not go to the hospital since there are no any serious injuries and there are no materials to proceed with the case against the petitioner but the trial Court without any prima facie materials has taken cognizance, therefore the pending proceedings is 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. 259 of 2023 was registered for the offences under Sections 147,294(b) and 323 of IPC and based on the final report the trial Court has taken cognizance as there are prima facie materials available as against the petitioner and therefore it is matter for trial and hence the petition has to be dismissed.

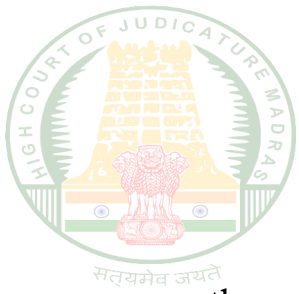


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5. Heard both sides and perused the materials available on record.

6. In this case based on the complaint given by the second respondent the first respondent registered a case in Crime No. 259 of 2023 was registered for the offences under Sections 147,294(b) and 323 of IPC and they filed final report before the trial Court and the trial Court has also taken cognizance. According to the petitioner there are no prima materials to constitute the offence under Section 147 of IPC. This Court also perused the records. As per the First Information Report due to previous enmity the petitioner along with others formed unlawful assembly and assaulted the victim and used obscene words. According to the petitioner no any ingredients to constitute the offence.

7. This Court also perused the entire materials. As per the First Information Report and the final report all the accused assaulted the defacto complainant but there is no materials to show that they formed into unlawful assembly and there is no materials to attract the formation of unlawful assembly. If there is no any unlawful assembly question of rioting would not attract and there are no materials to attract the offence under Section 147 of IPC.



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8. As far as 294(b) of IPC is concerned even as per the prosecution the occurrence took place in the private place and there is no materials to show that the obscene words uttered in and around public place and the same caused annoyance to the defacto complainant. More over there is no specific allegations as against the petitioner and only bald and general allegations that all the accused used obscene words and therefore without any specific allegation against the petitioner he cannot be roped in this case and no materials to attract the offence under Section 294(b) of IPC.

9. As far as Section 323 of IPC is concerned there is no any specific allegation as against the petitioner and there is only bald allegations that the all the accused assaulted the victim. Even as per the First Information Report and final report nobody sustained injuries in this case and they have not even went to the hospital for taking treatment. Inorder to constitute the offence under Section 323 of IPC no materials that this petitioner caused simple injuries to the defacto complainant. Therefore without any prima facie materials the first respondent filed final report and the trial Court has also taken cognizance.



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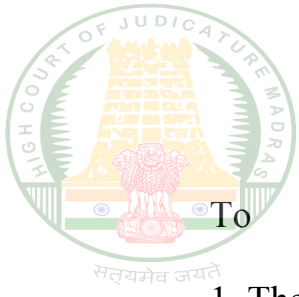
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10. It is well settled law that based on bald and general allegations and without any specific allegations against the petitioner the petitioner cannot be roped in this case as accused and there by he need not face ordeal of trial.

11. In view of the same, the Criminal Original Petition stands allowed and the proceedings in STC No. 36 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Kamuthi is hereby quashed in respect of the petitioner alone. Consequently connected miscellaneous petitions stand closed.

27.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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1. The District Munsif cum Judicial Magistrate Court, Kamuthi
2. The Inspector of Police
Kamuthi Police Station
Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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