



Crl.O.P.(MD)No.6585 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.6585 of 2024

and

CRL.MP(MD). Nos.4989 and 4991 of 2024

Sudhakar

... Petitioner / Accused No.1

-Vs-

1.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.42 of 2023.

...1st Respondent / Complainant

2.Pitchaiyammal

...2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., To call for the entire records connection of case in C.C.No.263 of 2023 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram and quash the same.

For Petitioner : Mr.Niranjana S.Kumar
Advocate

For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R2 : No Appearance



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ORDER

The petitioner seeks to quash the final report in C.C No.263 of 2023 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram, filed for the offences punishable under Sections 323, 427, 506(i) of IPC and Section 4 of TNPHW Act, 2002.

2. The gist of the allegation in the impugned final report is that the defacto complainant was running an idly shop near the petitioner's house; that on 01.02.2023, at about 7.30 p.m., the petitioner had entered into a wordy altercation with the defacto complainant, caused damage to the utensils in the shop and also attacked the defacto complainant with hands and legs and thus committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that the impugned prosecution is an abuse of process of law; that the defacto complainant was a tenant under the petitioner and had vacated the premises in the year 2021; that thereafter, she was running an idly shop in front of the petitioner's property, causing nuisance; that when the petitioner requested the defacto complainant to remove the shop, the present FIR, which culminated in the impugned final



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report, was lodged; that the allegations are attended with mala fides; that there is no evidence to suggest that the defacto complainant had sustained any injury and therefore, the offence under Section 323 of IPC is not made out; that the offence under Section 427 of IPC is also not attracted, as admittedly the defacto complainant was running the idly stall on the street; and consequently, the other offences alleged are also not made out. In support of his submissions, he relied upon the judgments of the *Hon'ble Supreme Court in Mohammad Wajid and another v. State of U.P. and others reported in 2023 LiveLaw (SC) 624 : 2023 INSC 683 and Ramesh Chandra Vaishya v. State of U.P. and another reported in 2023 LiveLaw (SC) 469.*

4. The learned Additional Public Prosecutor, per contra, would submit that the points raised by the learned counsel for the petitioner cannot be adjudicated in a quash petition; that apart from the defacto complainant, there are two eyewitnesses, who have been examined by the prosecution; that merely because the victim had not subjected herself to medical examination, it cannot be said that the accusation is false; and that therefore, this petition may be dismissed.

5. Though the learned counsel for the second respondent has entered



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appearance, there was no representation on 31.10.2025. Even today, there is no representation for the second respondent. Therefore, this Court is inclined to decide the case on merits, on the basis of the available records.

6. It is seen from the records that the defacto complainant was originally a tenant under the petitioner's father and that she vacated the premises in the year 2021. Thereafter, she was running an idly shop near the house of the petitioner. Though it is alleged in the FIR as well as in the final report that the defacto complainant sustained injuries, there is absolutely no medical record to substantiate the same. It is further seen that the eyewitnesses cited by the prosecution are closely related to the defacto complainant. There appears to be prior enmity between the petitioner and the defacto complainant since, she was running a idly shop in front of the petitioner's house.

7. As stated earlier, the defacto complainant had not chosen to take any treatment. Though in all cases a medical certificate may not be required to establish the offence under Section 323 of the IPC, but in this case, considering the prior enmity and the fact that there are other circumstances to doubt the prosecution case and the nature of the allegations levelled against the petitioners, the prosecution ought to have proved the alleged injury caused to



the defacto complainant by producing the medical examination report.

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8. While appreciating the offence under Section 323 of the IPC., in ***Madhushree Datta vs. State of Karnataka and another***, reported in (2025) 3 SCC 612, the Hon'ble Supreme Court had held as follows:

“17. To determine what are the ingredients of the offence under Section 323 of the IPC, it is important to read Sections 319, 321 and 323 together.

18. What emerges on a conjoint reading of the aforementioned provisions is that, for a conviction under Section 323 of the IPC, there must be a voluntary act of causing hurt, i.e., bodily pain, disease, or infirmity, to another person. Therefore, it is essential that actual hurt is caused.”

9. (i) That apart, it is well settled that this Court in a case of this nature has to examine the allegations along with the other attendant circumstances and should not look at the allegations in isolation. In the case of ***Salib alias Shalu Alias Salim vs. State of Uttar Pradesh and others*** reported in (2023) 20 SCC 194, the Hon'ble Supreme Court has held as follows:

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted



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with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance



out of private or personal grudge as alleged.”

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(ii) Further this Court in Crl.O.P.(MD) No.4847 of 2024 dated 27.11.2025 had held as follows:

32. The Hon-ble Supreme Court has repeatedly held that an FIR is liable to be quashed if it is found that it is manifestly frivolous, vexatious or instituted with ulterior motive for wreaking vengeance. The Hon-ble Supreme Court had also held that to determine whether the FIR is vexatious or instituted with ulterior motive, a duty is cast upon the Court to look into other attendant circumstances emerging from the record of the case.

...

*34. The recent trend of converting civil disputes and misusing the machinery of criminal justice has also been repeatedly deprecated by the Hon-ble Supreme Court. In **Nitin Ahluwalia-s** case [cited supra] the Hon-ble Supreme Court has held as follows:*

7. The law on the exercise of the High Court's inherent powers under Section 482 of the Code of Criminal Procedure, have been repeatedly expounded and reiterated ~ to the point that they ought not to require restatement, and hence, we will not go down that route. The scope of the exercise to be carried out by the Court while adjudicating such an application for quashing is also well established. The Court is only to look to the prima facie possibility of the offence having



been committed. In this regard reference can be made to *CBI v. Aryan Singh* ((2023) 18 SCC 399) and *Rajeev Kourav v. Baisahab* ((2020) 3 SCC 317).

8. If the complaint is seen in isolation, then the approach of the learned Single Judge appears, entirely to be in consonance with the established position of law ~ allegations have been made, and so they have to be investigated. In certain cases, though, it is not as straight~ cut as that. While it is true that elaborate defences and evidence brought on record is not to be considered at this stage, it is equally true that a mechanical approach cannot be countenanced. What renders a judicial mind distinct is its application to the given facts in accordance with law. Therefore, the Court ought to have (2023) 18 SCC 399 (2020) 3 SCC 317 appreciated, at least to some extent, the background in which the respondent filed the subject FIR.”
(emphasis supplied)

10. In this case, admittedly, there was a prior dispute between the defacto complainant and the petitioner, which is not in dispute by the prosecution. In the light of such an allegation, the allegations in the impugned final report have to be examined. As stated above, there is no evidence produced to establish the offence under Section 323 of the IPC.

11. The prosecution has also not collected any evidence to establish the



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nature of damage allegedly caused to the defacto complainant's property, hence, the offence under Section 427 of IPC is also not made out. It is well settled that, unless there is a real threat, the petitioner cannot be prosecuted for the offence under Section 506(i) of IPC. In any case, this Court is of the view that the impugned prosecution itself is mala fide. That apart, none of the offences alleged can be said to be made out.

12. Therefore, this Court is inclined to quash the impugned final report in C.C.No.263 of 2023 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

07.11.2025

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

Indu/Ars

To

1.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,

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Ramanathapuram District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Indu/Ars

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