



CRL.OP(MD) NO.6707 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. O.P(MD) No.6707 of 2024

and

CRL.M.P.(MD) No.5107 of 2024

1.B.Chandrasekar
2.Pachaiyammal

... Petitioners

Vs

1.The State rep. by
The Inspector of Police,
Chinnalapatti Police Station.
Crime No.138 of 2018.

2. Eshwari

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for the records and quash the Charge Sheet in C.C.No.38 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate Court, Athoor in respect of Crime No.138 of 2018 on the file of the first respondent police with respect to those petitioners.

For petitioners :Mr. A.Balaji



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For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)
For R2 : N.Sathish Babu

ORDER

This petition is filed by the petitioner to quash the proceedings in C.C.No.38 of 2019 on the file of the District Munsif-cum-Judicial Magistrate Court, Athoor.

2. The prosecution case is that there is a dispute in respect of the public pathway between the defacto complainant and the first accused. While so, on 26.03.2018 at about 19 hours, the Executive Officer of Chinnalapatti was inspecting the place for laying road. At that time, both the accused Chandrasekar and Pachaiyammal abused with obscene words towards the defacto complainant and also assaulted her by hands and also pushed her down and caused criminal intimidation. A1 pulled away the defacto complainant and thereby, she sustained injuries. With the abovesaid allegations, the second respondent lodged the complaint before the first respondent as against the accused. Thereby, the first respondent registered a case in Crime No. 138 of 2018, for the offences under



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Sections 294(b), 323, 506(1) of IPC, 1860 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 and thereafter, the first respondent conducted investigation and filed Final Report. The said Final report was take cognizance by the learned District Munsif-cum-Judicial Magistrate in C.C.No.38 of 2019. Now, the petitioners challenged the pending proceedings.

3. The learned counsel for the petitioners would submit that the second respondent lodged a false complaint against the petitioner alleging that there is a dispute in respect of the public pathway between the defacto complainant and the first accused. While so, on 26.03.2018, at about 19 hours, the Executive Officer of Chinnalapatti was inspecting the place for laying road. At that time, both the accused Chandrasekar and Pachaiyammal abused with obscene words towards the defacto complainant and also assaulted her by hands and also pushed her down and caused criminal intimidation. A1 pulled away the defacto complainant and thereby, she sustained injuries. Based on the abovesaid complaint, they registered the case in Crime No. 138 of 2018, for the offences under Sections 294(b), 323, 506(1) of IPC, 1860 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. Thereafter, the first



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respondent, without conducting proper investigation, filed Final Report and the Trial Court has also taken cognizance, without any *prima facie* material and the same is pending.

4. He would further submit that in fact, originally the second respondent attacked the first petitioner. Hence, he sustained injuries and he was admitted in the hospital. There is a pathway dispute pending between the petitioner and the defacto complainant. Therefore, he filed a suit in O.S.No.104 of 2018 on the file of the Principal District Court, Dindigul and the same is pending. On the date of occurrence, the Executive Officer, Chinnalapatti enquired the matter about the encroachment and the petitioners also explained about the pending case. At that time, the second respondent attacked the first petitioner with sickle and thereby, he sustained injuries and he lodged complaint before the first respondent and FIR in Crime No.137 of 2018 was registered for the offences under Sections 147, 294(b), 323, 324 and 506(2) of IPC and thereafter, the first respondent also filed charge sheet for the offences under Section 294(b) and 323 IPC and the same is pending in S.T.C.No.19 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Athoor. This petition is only counter blast for the earlier complaint lodged

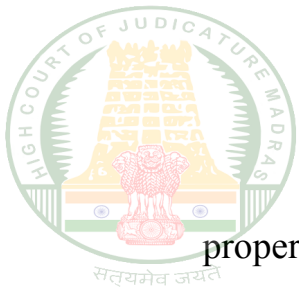


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by the petitioners as against the defacto complainant. Even according to the prosecution case, there are no ingredients to constitute the offence under Section 323, 506(1) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998. Therefore, the pending proceedings are abuse of process of law and the same is liable to be quashed.

5. The learned Government Advocate (Crl.Side) for the first respondent would submit that based on the complaint lodged by the second respondent they registered the case in Crime No. 138 of 2018, for the offences under Sections 294(b), 323, 506(1) of IPC, 1860 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. Similarly, the first petitioner also lodged a complaint against the second respondent and another, for which they registered the case in Crime No. 137 of 2018 and both the cases were charge sheeted after elaborate investigation. Therefore, the petitioners have to face the trial.

6. The learned counsel for the second respondent would submit that there is a pathway dispute between the petitioner and the defacto complainant and thereby, the Executive Officer and others inspected the



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property. At that time, these petitioners abused in obscene words and assaulted the defacto complainant and thereafter, he lodged a complaint before the first respondent. Based on the same, they registered the case in Crime No. 138 of 2018, for the offences under Sections 294(b), 323, 506(1) of IPC, 1860 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. In the meantime, the first petitioner lodged a false complaint against the third respondent and the FIR in Crime No.137 of 2024 was registered. Both the cases were investigated by the first respondent and in both the cases, charge sheets were filed. Therefore, the petitioners have to face the Trial. As per the investigation, there are *prima facie* material available and Trial Court has also taken cognizance. Therefore, at this stage, the petitioners have to face the trial. Hence, this petition is liable to be dismissed.

7. This Court heard both sides and perused the records.

8. Based on the complaint lodged by the second respondent a case in Crime No. 138 of 2018, for the offences under Sections 294(b), 323, 506(1) of IPC, 1860 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 was registered and thereafter, the first



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respondent filed Final Report. It is an admitted fact that the first petitioner lodged a complaint against the second respondent and the case in Crime No.137 of 2018 was registered for the offences under Sections 147, 294(b), 323, 324 and 506(2) of IPC and the same was also investigated by the first respondent and charge sheet was also filed. Now, the petitioners challenged the charge sheet filed in Crime No.138 of 2018.

9. This Court has also perused the records. On a careful perusal of the records, it is seen that there is a pathway dispute between the petitioner and the second respondent and on the date of occurrence, while the Executive Officer of the Chinnalapatti panchayat inspected the property, there were a wordy altercation between the parties and thereby, both the parties lodged complaints against each other and based on the first petitioner's complaint, a case in Crime No.137 of 2018 was registered. In the complaint lodged by the first petitioner as against the second respondent, it is seen that the first petitioner also sustained injuries and the same was revealed from Wound Certificate. As far as the complaint lodged by the second respondent is concerned, there is no injury and they only assaulted with hands. Even as per the Medical Report, there is no any external injuries to the defacto complainant,



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whereas the first petitioner sustained injuries in the abovesaid occurrence.

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After lodging of complaint by the first petitioner, the second respondent lodged the complaint against the petitioners. Therefore, based on the civil case, at the time of inspection by the Executive Officer of Chinnalapatti panchayat, the occurrence was happened. The first petitioner sustained severe injuries. The first respondent, without conducting proper investigation, filed Final Report against the petitioners. As per the records, it is clear that only for the complaint lodged by the 1st petitioner, the 2nd respondent registered the alleged present complaint before the first respondent.

10. As far as the offence under Section 294(b) of IPC is concerned, there is no specific overt-act against the each accused and there are vogue and bald allegations and there are no any materials that the petitioners caused annoyance to the defacto complainant by uttering obscene words. As far as the offence under Section 323 IPC is concerned, even as per the FIR and Charge Sheet, both petitioners assaulted with hands and pushed down and no any external injuries. As far as the offence under Section 506(1) IPC is concerned, only vogue allegations and there is no specific allegation against the each of the accused. It is a well settled law the mere



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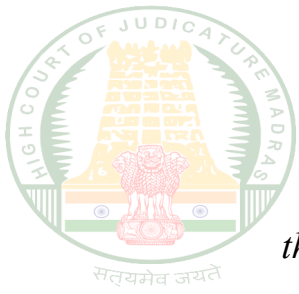
uttering of words would not attract the offence under Section 506(1) IPC.

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11. As far as the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is concerned, there are no materials and only because of the complaint lodged by the petitioners, the second respondent lodged a complaint by exaggerating the occurrence. Therefore, pending proceedings against the petitioners are abuse of process of law. Moreover, the counter case in S.T.C.No.19 of 2019 was also disposed of.

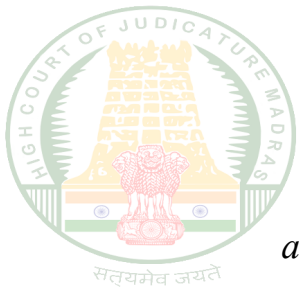
12. At this juncture, it is relevant to refer the judgement of Hon'ble Apex Court in Salib Ali @ Shalu @ Salim vs. State of U.P and others in Crl.A.No.2344 of 2023 (Arising out of S.L.P.(Criminal) No.3152 of 2023) wherein, the Hon'ble Supreme Court in para 26 held as follows:

“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 with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into



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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 482 of the CrPC 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



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alleged.”

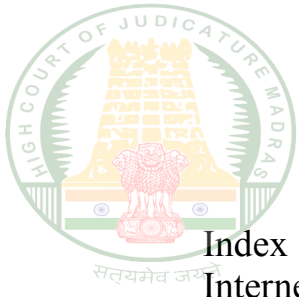
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13. On a careful perusal of the judgement, it is clear that whenever the accused approached the Court under Section 482 of Cr.P.C. or under Article 226 of Constitution of India to quash the proceedings, such proceedings are manifestly frivolous or vexatious or instituted 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. In the case on hand also, due to the earlier complaint lodged by the first petitioner as against the second respondent, the second respondent lodged the complaint against the petitioners and there is no any material to constitute the offence as against the petitioners. Therefore, pending proceedings are liable to be quashed.

14. In the result, this Criminal Original Petition is allowed and pending proceed in C.C.No.38 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate Court, Athoor, is quashed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No



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Index : Yes / No

Internet : Yes / No

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To

1.The District Munsif-cum-Judicial Magistrate,
Athoor.

2.The Inspector of Police,
Chinnalapatti Police Station,
Dindigul.

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



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P.DHANABAL,J

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