



CRL.OP(MD). No.22258 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.02.2025

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**THE HON'BLE MR.JUSTICE R.SAKTHIVEL**

CRL.OP(MD). No.22258 of 2022

and

CRL.MP(MD). Nos.15726 of 2022 and 4829 of 2023

1.Rajamani

2.Radhi devi

... Petitioners /Accused Nos.1 & 2

**Vs.**

1.The State rep by,  
The Sub Inspector of Police  
Mallaginar Police Station,  
Virudhunagar.  
(Crime No.88 of 2022)

... 1<sup>st</sup> Respondent /  
Complainant

2. Thangaraj

... 2<sup>nd</sup> Respondent /  
Defacto complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the charge sheet in C.C.No.403 of 2022 on the file of the learned Judicial Magistrate No.I, Virudhunagar and quash the same as illegal in respect of the petitioners herein.



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For Petitioners : Mr.N.Ananda Kumar  
For R1 : Mr.R.Meenakshi Sundaram  
Additional Public Prosecutor  
For R2 : Mr.M.Sankar

### **ORDER**

This Criminal Original Petition has been filed by the petitioners praying to call for the entire records pertaining to the charge sheet in C.C.No.403 of 2022 on the file of the learned Judicial Magistrate No.I, Virudhunagar and quash the same as illegal in respect of the petitioners.

2. The petitioners herein have been arrayed as Accused Nos.1 and 2 in C.C.No.403 of 2022 on the file the Judicial Magistrate No.I, Virudhunagar.

3. The petitioners are husband and wife. The case of the prosecution is that one Thangaraj/Defacto Complainant, who is the second respondent herein, gave a complaint on 11.07.2022 to the first respondent-police stating that he is residing along with his family members at Anna Nagar East, Mallaginar, Virudhunagar District. His daughter/Karthika is also living with the defacto complainant since her

2/10



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husband is in abroad. The defacto complainant's son is working in Indian Army. The defacto complainant was constructing a house for his daughter/Karthika at Anna Nagar. While so, on 11.07.2022 at about 5.45 a.m., the defacto complainant's dogs were barking. On hearing the noise, when he came out, he saw that the second petitioner herein was attending to a natural call near the construction site. The defacto complainant directed the second petitioner to go somewhere else. Due to the said vengeance, on the same day at about 7.00 a.m., the petitioners herein came to the house of the defacto complainant and shouted at the defacto complainant by using filthy and abusive language. The first petitioner herein bit the right hand of the defacto complainant and the father of the first petitioner herein attacked the defacto complainant with an wooden log on his right leg and thereby, caused injury. When the wife of the defacto complainant attempted to pacify them, she was also severely beaten by the second petitioner herein by using broom stick and the parents of the first petitioner also attacked the defacto complainant's wife. Thereafter, the defacto complainant and his wife were admitted in Government Hospital, Virudhunagar and gave a complaint to the respondent-police. Based on the complaint, the respondent police



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registered a case under Sections 294(b), 323, 324 and 355 of IPC in Crime No.88 of 2022.

4. After investigation, the respondent-police came to a conclusion that the first petitioner's parents did commit any offence as alleged by the defacto complainant and his wife. Hence, they deleted the first petitioner's parents in the array of accused.

5. The investigation officer filed a charge sheet against the first petitioner under Sections 294(b) and 324 of IPC and against the second petitioner under Sections 323 and 355 of IPC. The charge sheet, which was filed on 04.08.2022, was taken on file by the learned Judicial Magistrate No.I, Virudhunagar in C.C.No.403 of 2022.

6. The first petitioner also gave a complaint against the defacto complainant and his family members. Based on the complaint, an FIR was registered in Crime No.88 of 2022 under Sections 147, 294(b) and 324 of IPC and 3(1)(r), 3(1)(s) and 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act,



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2015 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. In these circumstances, the petitioners herein filed this Criminal Original Petition to quash the proceedings in C.C.No.403 of 2022 on the file of the Judicial Magistrate No.I, Virudhunagar.

7. Mr.N.Ananda Kumar, the learned counsel for the petitioners, argues that the defacto complainant falsely gave a complaint against the petitioners. In fact, the petitioners herein are victims and the first petitioner gave a complaint against the defacto complainant and his family members. Based on the complaint, an FIR in Crime No.88 of 2022 was registered. He further submits that the eye-witness, Vijayasundram, is not residing in the street where the occurrence happened street and he indeed belongs to another street. He is stock witness of the respondent-police. The statement of LW10/Doctor namely Shamugaraji reveals that the defacto complainant's wife did not sustain any external injuries. The injuries sustained by the defacto complainant and his wife are simple in nature. The materials available on record would not make out a case as against the petitioners. This case has been lodged as a counterblast to Crime No. 88 of 2022, which was registered against the first petitioner



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by the defacto complainant and his family members. The investigation officer did not conduct investigation properly. Therefore, the calender case in C.C.No.403 of 2022 is an abuse of process of law. Accordingly, he prays to allow this Criminal Original Petition and quash the impugned charge sheet.

8. *Per contra*, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that the investigating officer, after following due process, collected materials that establish the offence committed by the accused persons against the defacto complainant and his wife. Further, the investigation officer, after thorough investigation, came to a conclusion that the first petitioner's parents did not commit any offence, as they indeed intervened only to pacify the quarrel between the petitioners and the defacto complainant and his wife. Accordingly, he prays to dismiss this Criminal Original Petition.

9. Mr.M.Sankar, the learned counsel appearing on behalf of the defacto complainant, submits that the first petitioner attacked the defacto



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complainant with wooden log and caused bite injury on his right hand.

Further, the second petitioner attacked the defacto complainant's wife with broom stick in a public place and thereby, caused injuries. Accordingly, he prays to dismiss this Criminal Original Petition.

10. This Court has considered the submissions made on either side and perused the materials available on record.

11. LW12, who is the investigation officer, examined 11 witnesses as LW1 to LW11. LW1 is the defacto complainant, LW3 is the wife of the defacto complainant, LW4 is the defacto complainant's daughter-in-law, LW5 is the defacto complainant's daughter, LW6 is the defacto complainant's brother, LW7 is the defacto complainant's brother's wife, LW8 and LW9 are the observation magazer witnesses and LW10 is the doctor, who gave a treatment to the defacto complainant and his wife. LW11 is the Head Constable, who has registered the FIR.

12. It is true that except LW2, all other private witnesses are all close relatives. LW2 is the eye-witness to the incident. No specific



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details have been furnished regarding LW2's involvement in criminal activities. Assuming that LW2 has criminal antecedents, it cannot be concluded that he is not a competent witness. Whether LW2 was present at the scene of occurrence and whether he witnessed the alleged incident are the matters to be determined only after his examination during the trial.

13. LW10/Doctor has clearly stated that the defacto complainant has sustained injury, but it is a simple injury and he gave treatment. Further, he clearly stated that no external injuries were found on the defacto complainant's wife.

14. The further case of the prosecution is that the second petitioner attacked the defacto complainant's wife with broomstick and thereby defamed her. The materials collected by the investigation agency are sufficient to proceed with the case against the first petitioner for the alleged offences under Sections 294(b) and 324 of IPC and against the second petitioner for the alleged offences under Sections 323 and 355 of IPC. Further, on perusing of the materials, it is evident that sufficient



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materials are available on record to presume that the accused committed the alleged offence.

15. In the light of the above discussion, this Court is not inclined to allow this Criminal Original Petition. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

**06.02.2025  
(RSVJ)**

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

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To

1. The Judicial Magistrate No.I,  
Virudhunagar .
2. The Sub Inspector of Police  
Mallaginar Police Station,  
Virudhunagar.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.SAKTHIVEL,J.**

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Order made in  
**CRL.OP(MD). No.22258 of 2022**

**06.02.2025**