



Crl.O.P.(MD) No.16624 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.16624 of 2025

and

Crl.M.P.(MD) Nos.13562 & 13563 of 2025

M.Kalaivani

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Sivagangai Taluk Police Station.
(FIR in Crime No.65 of 2024)

2.Malarkodi

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to the charge sheet in C.C.No.40 of 2024 on the file of the Additional Mahila Court, Sivagangai District and quash the same as illegal as against the petitioner.

For Petitioner : Mr.S.Arivalagan

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

For R2 : Mr.Balasubramanian



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ORDER

This Criminal Original Petition has been filed seeking to quash the final report in C.C.No.40 of 2024 on the file of the Additional Mahila Court, Sivagangai District, filed against the petitioner/A3 for the offences punishable under Sections 294(b), 323, and 506(ii) of the Indian Penal Code, 1860.

2. The gist of the allegations in the final report is that, on account of prior enmity, on 09.02.2024 at about 10:00 a.m., the petitioner, along with three others, entered the agricultural land belonging to the second respondent/defacto complainant with a JCB; that while the second respondent/defacto complainant questioned them about the same, the petitioner and the other accused attacked the second respondent/defacto complainant with sticks and also threatened her with an aruval, and thus committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that the prosecution against the petitioner is an abuse of the process of law; that the petitioner has a physically challenged child, and due to the proceedings, the said child would suffer irreparable hardship; that the



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second respondent/defacto complainant and her husband have encroached upon the land used by the villagers as a pathway, and all the villagers are against the second respondent/defacto complainant and have also made representations to the authorities to remove the encroachment made by the second respondent/defacto complainant; that in order to wreak vengeance, the second respondent/defacto complainant lodged an FIR against the petitioner and the other accused, which culminated in the impugned final report; that the allegations would not constitute any of the offences punishable under Sections 294(b), 323, and 506(ii) of the Indian Penal Code, 1860; that the allegations in the FIR and the final report pertain only to the manner in which the alleged occurrence took place; and that the petitioner has been implicated in this case because his father had filed a Public Interest Litigation in W.P.(MD) No.708 of 2024 before this Court seeking action for removal of the encroachment, which is still pending.

4. The learned Additional Public Prosecutor for the first respondent police, would submit that the points raised by the petitioner are factual in nature and cannot be adjudicated in this quash petition, and sought for dismissal of this quash petition.



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5. The learned counsel for the second respondent/defacto complainant would submit that the petitioner and others attacked the second respondent/defacto complainant with sticks, causing simple injuries; that the filing of the Public Interest Litigation by the petitioner's father against the encroachers cannot be considered a ground for quashing the final report, which has been filed after due investigation; and that the mere filing of the PIL and mere giving representation to the authorities to remove the encroachment would not mean that the petitioner did not commit any of the offences, and hence, sought for dismissal of this petition

6. The allegation in the final report is that the petitioner, along with others, attacked the second respondent/defacto complainant with sticks and thereafter threatened her with an aruval. The petitioner's father had filed a Public Interest Litigation before this Court seeking removal of the encroachment said to have been made by the second respondent/defacto complainant and her husband. Admittedly, there are no external injuries. In the facts and circumstances of the case, the allegation of assault on the second respondent/defacto complainant appears to be an afterthought.



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According to the second respondent/defacto complainant, she had not sustained any external injuries and had not taken any treatment in the hospital. Apart from that, the allegation against the petitioner is vague and general. Hence, this Court is of the view that the allegation that the petitioner committed the offence under Section 323 of the Indian Penal Code, 1860 appears to be highly improbable.

7. In view of the above, the allegations would, at best, disclose only a wordy quarrel or altercation by the petitioner with the second respondent/defacto complainant. The question is whether the said wordy quarrel or altercation would attract the offences punishable under Sections 294(b) and 506(ii) of the Indian Penal Code, 1860.

8. In order to attract the offence punishable under Section 294(b) of the Indian Penal Code, 1860, the words uttered or the act committed by the accused must be obscene. The Hon'ble Supreme Court in ***N.S.Madhanagopal and Another Vs. K.Lalitha*** reported in (2022) 17 ***SCC 818*** has held as follows:



“8. It has to be noted that in the instant case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC.

9.To prove the offence under Section 294 IPC mere utterance of obscene words are not sufficient but there must be a further proof of establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants-accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.”

9. In order to attract the offence under Section 506(ii) of the Indian Penal Code, 1860, there must be a real and imminent threat. This Court in ***Noble Mohandass vs. State*** reported in ***1989 Cri.Lj 669***, had held as follows:

“7. Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word



when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually.”

10. There is nothing in the final report to indicate that the petitioner had uttered any obscene words or committed any obscene act, or made any real and imminent threat to attract the offences punishable under Sections 294(b) and 506(ii) of the Indian Penal Code, 1860. As stated above, the second respondent/defacto complainant had not sustained any external injuries and had not taken any treatment in the hospital. Apart from that, no weapon allegedly used by the petitioner has been seized by the first respondent police. Therefore, the offence under Section 323 of the Indian Penal Code, 1860, would also not be made out.

11. In the light of the above discussion and the motive attributed to the second respondent/defacto complainant to prosecute the petitioner, this Court is of the view that the impugned prosecution as against the petitioner is attended with *mala fides*. Therefore, the impugned prosecution is quashed insofar as the petitioner alone is concerned.



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WEB COPY 12. Hence, this Criminal Original Petition is allowed. Consequently,
the connected Miscellaneous Petitions are closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Judge,
Additional Mahila Court,
Sivagangai District.
- 2.The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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