

Crl.R.C.(MD).No.1381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.04.2025

PRONOUNCED ON : 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1381 of 2024

and

CrI.M.P.(MD)No.13977 of 2024

Mala

... Petitioner/Respondent

Vs.

The State of Tamil Nadu
represented by
The Inspector of Police,
Valliyur Police Station,
Tirunelveli.
Cr.No.72/2021.

: Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the impugned order in Cr.M.P.No. 3666 of 2024 in C.C.NO.112 of 2023, dated 02.12.2024, pending on the file of the learned Judicial Magistrate, Valliyur and set aside the same.



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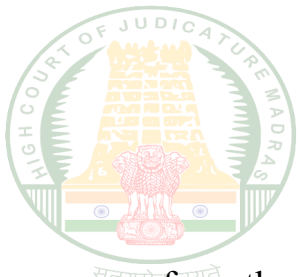
For Petitioner : Mr.G.Karuppasamy Pandiyan

For Respondent : Mrs.M.Aasha
Government Advocate(Crl.Side)

ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No. 3666 of 2024, in C.C.NO.112 of 2023, dated 02.12.2024, on the file of the Court of the Judicial Magistrate, Valliyur, in dismissing the petition filed under Section 262 of BNSS.

2. On the basis of the complaint lodged by one Rabila, F.I.R., came to be registered in Cr.No.72 of 2021 on 21.02.2021 against 5 persons including the petitioner herein for the alleged offences under Sections 147, 148, 323, 324, 506(ii) I.P.C., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The respondent, after completing the investigation filed a final report for the offences under Sections 294(b), 352, 323, 506(i) I.P.C., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act against 3 persons and thereby deleting two accused including the petitioner. The learned Magistrate, upon receiving the final report, sent a notice to the defacto complainant calling for the objections with regard to the deletion of two accused named in the F.I.R,



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from the charge sheet. The defacto complainant has entered into appearance and filed a protest petition in Cr.M.P.No.9464 of 2024 and the learned Magistrate, after enquiry, has passed an order dated 15.03.2022 allowing the protest petition and thereby ordering for taking cognizance against the second accused (petitioner herein) and the fifth accused and also for inclusion of the offences under Sections 148, 506(ii) and 324 I.P.C. The petitioner who was added as second accused in C.C.No.112 of 2023, in pursuance of the summons received, has entered into appearance and filed the above petition invoking Section 262 of BNSS seeking discharge from the above case.

3. The case of the defacto complainant is that there existed previous enmity between her family and their neighbour Antony Pitchai family, that on 20.02.2021 at about 06.30a.m., when the complainant was moving in front of the house of Antony Pitchai for getting water, all the accused had abused her in filthy language, that when the same was questioned by her, the first accused had slapped on her face, that his wife Mala – petitioner herein had attempted to stab the complainant's son with knife and on seeing the same, the complainant had intervened and stopped the petitioner, as a result of which, the complainant received a cut injury on her right hand and that the other accused 3 to 5 by



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abusing the complainant had attacked with stick and also caused criminal intimidation.

4. It is evident from the records that when the complainant was taking treatment at Valliyur Government Hospital, the respondent police visited the hospital and recorded the statement of the complainant and only on that basis, F.I.R., came to be registered against five persons including the petitioner. The petitioner's case as canvassed in the discharge petition is that the respondent police after conducting proper investigation has rightly excluded the petitioner and the fifth accused and filed the charge sheet only against the three accused, that the Investigating Officer has not raised any charges or allegations against the petitioner in the final report, that no prima facie case is shown in the charge sheet and other materials filed along with the charge sheet, that except the defacto complainant, no other witness has stated anything about the petitioner, that the only allegation levelled by the defacto complainant against the petitioner is that she had caused cut injury on the right hand of the complainant, but admittedly, the complainant was not having any cut injury on her right hand, that the complainant's son who was also shown to be injured in the accident has not stated that the petitioner was also present at the occurrence place and attacked



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his mother, that there is absolutely no evidence or material available to corroborate the version of the defacto complainant implicating the petitioner, that mere suspicion is not sufficient to frame charges against the petitioner and that since there are no materials prima facie to frame charges against the petitioner, she is entitled to be discharged from the above case.

5. The respondent police filed a counter statement raising objections and further stated that the above application is a vexatious one and has been filed only to delay the process of law, that whether the accused was involved in the occurrence can only be decided at the trial, that F.I.R., came to be registered only on the basis of the complaint given by the defacto complainant and the petitioner was a named accused in the F.I.R., and a prima facie case has been made out against her and that therefore, the petition is liable to be dismissed.

6. The petitioner has also produced the copy of the order passed in Cr.M.P.No.9464 of 2024 which came to be filed as protest petition by the defacto complainant and the learned Magistrate by observing that there are prima facie materials to show the alleged involvement of the petitioner and the fifth accused



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in the occurrence and taking note of the materials available on record, has proceeded to pass an order for addition of the accused and the offences.

7. Although other occurrence witnesses did not mention the petitioner's presence at the scene, only implicating the three accused, the defacto complainant specifically stated in her complaint and 161(3) CrPC statement that she intervened when the petitioner attempted to stab her son, resulting in injuries to her right hand. The Medical Officer's report corroborates this, noting abrasive injuries on her right hand, face, abdomen, neck, and thigh.

8. It is pertinent to mention that the petitioner-Mala is none other than the wife of the first accused Antony Pitchai and according to the complainant, there existed previous enmity between her family and Antony Pitchai's family. According to the prosecution, the incident was occurred at about 06.30a.m., when the complainant was attempting to take water from the tap available in front of the accused house.

9. 9. Considering the materials available on record, the petitioner has failed to demonstrate that the charges are groundless or that no prima facie case



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exists. Considering the facts, circumstances, defacto complainant's statement, and medical records, the Magistrate's finding that a prima facie case exists against the petitioner is justified. Therefore, this Court concludes that the Criminal Revision Case lacks merit and is liable to be dismissed.

10. In the result, the Criminal Original Case is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

20.06.2025

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

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To

1. The Judicial Magistrate Court, Valliyur.
2. The Inspector of Police,
Valliyur Police Station,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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20.06.2025