



Crl.O.P.(MD)No.7739 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.02.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.7739 of 2024
& Crl.M.P.(MD)No.5387 & 5389 of 2024

Malarvizhi

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
(Crime No.323 of 2018)

2. Jothi

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records in C.C.No.1400 of 2022 on the file of the Learned Judicial Additional Mahila Court (Magistrate Level), Madurai and QUASH the same as against this petitioner as illegal.

For Petitioner : Mr.J.M.Arvind Pawlraj

For Respondents : Mr.M.Sakthi Kumar (R1)

Government Advocate

Mr.V.Shanthurthi Raja (R2)



Crl.O.P.(MD)No.7739 of 2024

ORDER

WEB COPY

This criminal original petition has been filed seeking to quash the final report in C.C.No.1400 of 2022 on the file of the learned Judicial Additional Mahila Court (Magistrate Level), Madurai.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the first accused in the pending trial in C.C. No. 1400 of 2022 before the learned Additional Mahila Court (Magistrate Level), Madurai. The petitioner's son, who passed away after the registration of the said case, was the second accused. The defacto complainant is a woman with whom the petitioner's husband had developed an extramarital affair. The defacto complainant is a senior citizen and her husband is also a senior citizen. Furthermore, the defacto complainant is a widow.

3. The case of the prosecution is that the defacto complainant, a widow, had given an amount of Rs. 5,00,000/- to the petitioner's husband, Kaluvathevar, with whom she had a relationship. However, the said person, after receiving the money, did not return it. In this regard, the defacto complainant went to the petitioner's house, where her husband was residing, and demanded the return of the money. The petitioner and her son together



Crl.O.P.(MD)No.7739 of 2024

abused the defacto complainant with filthy language. The second accused attacked the defacto complainant with a stick, while the petitioner also assaulted her with her hands. Together, they criminally intimidated the defacto complainant with dire consequences, following which a complaint was given by the defacto complainant to the first respondent police and an FIR in Crime No.323 of 2018 was registered for the offences under Sections 294(b), 323 & 506(1) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and after completion of investigation, the first respondent had filed a final report for the same offences before the trial Court.

4. The learned counsel appearing for the petitioner submitted that it is not the petitioner, who had proceeded to the defacto complainant's house and had created any harm to the defacto complainant at any point of time. It is only the defacto complainant, who had come to the petitioner's house and had created ruckus. Consequent to that, a false case has been foisted by the first respondent police and no specific overt act has been made out as against the petitioner. Even assuming such an incident had happened, all that was actually done only by the petitioner's son, who is no more now and sought the indulgence of this Court.



Crl.O.P.(MD)No.7739 of 2024

WEB COPY

5. Per contra, the learned Government Advocate appearing for the respondent police categorically contended that clear overt acts are attributable to the petitioner, where the petitioner had indulged in attacking the de facto complainant with her hands and tearing her blouse and she was also admitted in the hospital and took treatment, for which proper wound certificate has also been issued by the Medical Officer concerned and he is also cited as an Expert Witness and sought for dismissal of this petition.

6. Heard the learned counsel on either sides and carefully perused the materials available on record.

7. This Court has cautiously gone through the contents of the final report. Clear qualifying words causing annoyance to the defacto complainant were uttered by the petitioner and her son, which clearly constitute specific overt acts for the offence under Section 294(b) of the IPC. As regards the offence under Section 323 of the IPC, specific overt acts attributable to both the petitioner and her son are clearly made out. The acts of assault and harassment, including tearing the jacket of the defacto complainant, were committed against her. Consequently, the offences under Section 506(i) of the IPC and Section 4



Crl.O.P.(MD)No.7739 of 2024

of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 are clearly attracted.

8. This Court cannot conduct a mini trial and embark upon the disputed facts involved in the alleged offences, which is impermissible in the proceedings under Sections 482 Cr.P.C., and 528 BNSS. This Court is of the considered view that criminal law cannot be scuttled at threshold merely on the basis of the defences projected by the accused. When the prosecution has laid a final report disclosing a prima facie case, the accused must necessarily face trial and establish the defence in accordance with law. This Court finds no infirmity, illegality, or perversity in the impugned final report, and therefore, no interference with the same is warranted. The Criminal Original Petition is dismissed.

9. However, considering the facts and circumstances of this case, the personal appearance of the petitioner before the Trial Court is ordered to be dispensed with, on conditions that the petitioner shall appear at the time of initial questioning, proceedings under Section 313 Cr.P.C., / 351 BNSS, 2023 and at the time of passing judgment and on all the hearings, specifically directed by the Trial Court.



Crl.O.P.(MD)No.7739 of 2024

WEB COPY

10. The petitioner shall appear before the Court, in the event his presence is insisted by the learned Trial Judge for the purpose of identification. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the law laid down by the Hon'ble Supreme Court of India, in the case of *State of UP vs. Shambunath Singh*¹. Accordingly, Crl.M.P.(MD)No.5389 of 2025 is allowed and connected miscellaneous petition is closed.

17.02.2026

NCC : Yes / No
Index : Yes / No
Sm

¹ 2001 (4) SCC 667



Crl.O.P.(MD)No.7739 of 2024

WEB COPY

TO:-

1. The Sub-Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.
- 2.The Judicial Magistrate, Rajapalayam, Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.7739 of 2024

L.VICTORIA GOWRI, J.

Sm

Order made in
Crl.O.P.(MD)No.7739 of 2024

Dated
17.02.2026