



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2016

CORAM:

THE HONOURABLE DR. JUSTICE P.DEVADASS

C.R.L.RC(MD) No.268 of 2016

CrI.M.P.(MD) No.3523 and 3524 of 2016

Dhanalakshmi

... Petitioner / Petitioner /Accused

-vs-

The State Rep. by,
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.
(In Crime No.747/2013)

... Respondent / Respondent /Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order dated 21.12.2015 made in CrI.M.P.No.3507 of 2014 in C.C.No.73 of 2014 on the file of Judicial Magistrate No.1, Tirunelveli and set aside the same as illegal.

For Petitioner : Mr.J.Sulthan Basha

For Respondent : Mr.P.Kandasamy
Govt.Advocate (CrI.Side)

ORDER

This revision arises out of dismissal of a discharge petition filed in Cr.M.P.No.3507 of 2014 by the learned Judicial Magistrate No.I, Tirunelveli.

2.On 28.12.2013, at about 6.15 p.m., the defacto complainant, a women S.I. was doing vehicle check up at Perumalpuram, Tirunelveli. At that time the accused came in a two-wheeler. The woman S.I. asked her about her not wearing helmet. Wordy altercation took place. The defacto complainant/woman S.I. lodged complaint alleging that when she demanded why she was not wearing helmet, the accused called her a whore, should she live by getting money from her, she also threatened that she will make her to loose her job and because of that, the accused has prevented the defacto complainant from discharging her public duty.

3.On the basis of the said complaint a case was registered in Crime No.747 of 2013 for offences u/s 294(b), 353 I.P.C. and 129 r/w 177 of Motor Vehicles Act. After investigation, the Investigation Officer filed final report, before the learned Judicial Magistrate No.I, Tirunelveli for offences under Section 294(b), 353, 506(i) I.P.C. and Section 129 r/w 177 M.V. Act. The learned Magistrate took cognizance in C.C.No.73 of 2014.

4.The revision petitioner filed discharge petition in Cr.M.P.No.3507 of 2014 u/s 239 Cr.P.C. The learned Magistrate dismissed the petition on the ground that there are incriminating materials to proceed against the revision petitioner.



5. Offences punishable upto 2 years are summons offences. In summons cases no discharge petition u/s 239 Cr.P.C. will lie. Of course Magistrate can stop further proceedings under 258 Cr.P.C.

6. Now, in this case, it is seen that at a public place the accused is alleged to have abused the defacto complainant. Ex facie, those words are obscene words. In calling a woman a whore a woman will get insulted because of the obscenity attached to the words alleged to have been uttered by the accused. So, an offence under Section 294(b) I.P.C. arises.

7. The offence of criminal intimidation is defined in 503 I.P.C. It is punishable under Section 506 I.P.C. Its 1st part prescribes punishment upto 2 years. 2nd part prescribes punishment more than 2 years. The 1st part of the offence is a summons offence. At the time of occurrence, the accused was unarmed. So, they brought the case under Section 506(i) I.P.C. To attract criminal intimidation the overtact of the accused must create instant, immediate fear in the mind of the victim. Telling a woman that she will lose her job will not create fear. The fear must relate to danger to one's life. So, Section 506(i) I.P.C. is not attracted.

8. When a Government Servant is prevented from doing his public duty Section 353 I.P.C. is attracted. In this case, there is no allegation that the accused has assaulted nor used criminal force as against the woman S.I. Further, the alleged act does not result in disruption in further carrying out of her public duties. Offence under Section 353 I.P.C. also will not arise.

9. Ultimately, the case can go on only for an offence under Section 294(b) I.P.C. and under Section 129 r/w 177 M.V. Act. Accordingly, this criminal revision is disposed of. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Chief Judicial Magistrate, Tirunelveli.
 2. The Judicial Magistrate No. I, Tirunelveli.
 3. The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court, Madurai.
 4. The Inspector of Police,
Perumalpuram Police Station, Tirunelveli District.
- +1cc to M/S. Ajmal Associates, Advocate in SR.No.29697

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