



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

WEB COPY

C.R.L.RC(MD) No.38 of 2016

and

Cr1.M.P. (MD) No.861 of 2016

Mervin Babu

... Petitioner / Petitioner /
Accused

-vs-

State : Represented by its
Inspector of Police
Munnirpallam Police Station
Tirunelveli
(Cr.No.139 of 2014)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order passed in Cr.M.P.No.2546 of 2015, on the file of the Judicial Magistrate, Nanguneri, dated 28.04.2015 and set aside the same.

For Petitioner: Mr.T.A.Ebenezer

For Respondent: Mrs.S.Prabha

Govt.Advocate (Cr1.Side)

ORDER

Dissatisfied with the dismissal of his discharge petition in Cr.M.P.No.3272 of 2014 in S.T.C.No.225 of 2014, on the file of the learned Judicial Magistrate No.V, Tirunelveli, the accused has directed this revision under Section 397 Cr.P.C.

2. According to the learned counsel for the petitioner, actually aggrieved persons have not preferred any complaint in this case. Further, in order to wreck vengeance, this case has been foisted against the petitioner. Before filing final report, no preliminary enquiry was conducted. The Trial Court has missed the vital aspect. Thus, in the Trial Court the accused has missed the bus.

3. On the other hand, the learned Government Advocate (Criminal Side) submitted that the Trial Court has rightly considered all the aspects and viewed the matter in its true perspective. The discharge petition has been rightly dismissed.



4. I have anxiously considered the rival submissions, perused the impugned order and also the materials on record.

5. The offences appears to have been committed are under Sections 294(b), 352, 506(i) I.P.C. If anyone uses obscene words, makes obscene songs, utterances etc., or commits obscene act in a public place or near a public place, it will be an offence under Section 294(b) I.P.C.

6. Using of criminal force by assault is an offence under Section 352 I.P.C. Criminal intimidation is an offence under Section 506(i) I.P.C. Under Section 506(i) I.P.C., the period of punishment is upto 2 years. As per Cr.P.C., the offences punishable for more than 2 years are warrant-cases. And cases, which are not warrant cases are all summons-cases. In this case, all the offences are summons offences. In summons-cases, there is no discharge petition. Ofcourse, stopping of further proceedings can be considered under Section 258 Cr.P.C.

7. Present case is a summons-case. No discharge petition will lie. Ofcourse, we can view the matter from the angle of Section 258 Cr.P.C. At this stage, the Court has to take the material consisting of final report under Section 161 Cr.P.C., on its face value and the Court should not see its probative value. The truthness and genuineness of the allegations cannot be seen at this stage.

8. In this case, the accused was an Engineering College student in Tirunelveli. On the occurrence day, he is alleged to have manhandled Elango, a Professor. He has pulled his shirt. In other words, he has used criminal force. He used obscene words in a College premises. So, offences under Section 294(b) and 352 I.P.C., will also arise. He is stated to have suddenly took a Board and attempted to assault them with murderous tones. Therefore, an offence under Section 506(i) I.P.C., will arise.

9. A reading of the final report filed by the Police shows that the petitioner appears to have committed offences under Sections 294(b), 352 and 506(i) I.P.C.

10. Thus, this revision fails and it is dismissed. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar



To:

1.The Judicial Magistrate No.V,
Tirunelveli.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Munnirpallam Police Station,
Tirunelveli.

+1cc to Mr.T.Ebenezer, Advocate Sr.No.28066

krk

AA/DB/13.06.2016/3p-5c

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