



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.4276 of 2017

1.Alagusundaram

2.Ganesan

... Petitioners

-vs-

1.The Sub Inspector of Police,
Surandai Police Station,
Tirunelveli District.

2.Mohan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in STC No.49 of 2016 on the file of Judicial Magistrate, Court, Sengottai, Tirunelveli District and quash the same.

For Petitioners : Mr.G.Karuppasamy Pandian

For Respondents : Mr.K.Anbarasan for R1
Government Advocate (Crl. side)

O R D E R

On the complaint lodged by the 2nd respondent, the first respondent registered a case in Crime No.202/2015 and after completing the investigation has filed a final report in STC No.49/2016 before the Judicial Magistrate, Sengottai under Sections 294(b), 323 and 506(i) IPC against the petitioners herein, challenging which, the petitioners are before this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate for the 1st respondent.

3. Today, Mr.A.Paramasivam, Surandai Police Station, Tirunelveli District is present before this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned counsel for the petitioners submitted that



even if the entire chargesheet is accepted as truth, it does not disclose the commission of the aforesaid offences. He further submitted that the alleged incident in this case had taken place on 14.09.2015, but the FIR itself was registered only on 22.09.2015 after a lapse of 7 days. He contended that even in the Accident Register relating to the de-facto complainant, the Doctor has found that he was under the influence of alcohol and therefore, the probability of he having suffered the injuries in an inebriated stage cannot be ruled out.

5. The learned counsel for the petitioner placed strong reliance on the judgment of this Court in **R.Ramesh v. State by Inspector of Police, Kachirapalayam Police Station, Villupuram District** reported in **(2010) 2 MLJ (Crl)**, wherein, this Court had held that for making out an offence under Section 294(b) IPC, a chargesheet should also not merely repeat the words, but they should also be materials to show that the words uttered by the accused annoyed others. He further contended that the offence under Section 506(i) IPC has also not made out.

6. This Court gave its anxious consideration to the submissions made.

7. There are only prima facie materials to show that some fracas had occurred between the de-facto complainant and the accused on the alleged date. Just because, there is a delay in registration of the FIR, that cannot be a good reason for concluding that the entire prosecution is vitiated. The delay can always be explained during trial and it is for the trial Court to appreciate the explanation. As regards the allegation under Section 294(b) IPC, I am inclined to accept the submissions of the learned counsel for the petitioner, inasmuch as in the present chargesheet except saying that the accused had abused in filthy language, there is no other materials for attracting the said provision. However, there are prima facie materials for the offence under Section 323 IPC, as the de-facto complainant and one other person had sustained some simple injuries.

8. That apart, as regards Section the offence under Section 506(i) IPC, there is a clear allegation that the accused had threatened the de-facto complainant that they will annihilate them with explosives. Whether the same had the necessary effect on the defacto complainant or not is the question of fact and that has to be decided only by the trial Court and not by this Court in a petition under Section 482 Cr.P.C.

9. In the result, this petition is disposed of with liberty to the petitioner to raise all the points before the trial Court. Whatever observed above is only for the limited extent of deciding the quash application and the trial Court shall proceed with the



trial uninfluenced by whatever observed above. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

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Sub Assistant Registrar

To:

1.The Judicial Magistrate, Court, Sengottai,
Tirunelveli District

2.The Sub Inspector of Police,
Surandai Police Station,
Tirunelveli District.

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

+1 cc to Mr.G.Karuppasamy Pandian , Advocate in SR.No. 51619

RR

AE/SV MMS/SAR4/20.04.2017/3P/5C

**Crl.O.P.(MD)No.4276 of 2017
and Crl.M.P.No.3076 of 2017
12.04.2017**