

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.17555 of 2011

M.P.No.1 of 2011

Mrs.Pargavi

... Petitioner

Vs

1. State Represented by
The Inspector of Police,
Mangadu Police Station,
Mangadu.

2. Mrs.Sunitha

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C to call for the records in C.C.No.18 of 2010 pending before the District Munsif Cum Judicial Magistrate, Sriperumbudur and quash the same as far as the petitioner is concerned.

For Petitioner : Ms.Reshmi Christy
for ROY AN LAW Associates

For Respondents : Mr.G.Ramar
Government Advocate - R1

O R D E R

This petition has been filed to quash the charge sheet filed in C.C.No.18 of 2010 on the file of the learned District Munsif Cum Judicial Magistrate, Sriperumbudur as against the petitioner.

2. The petitioner and her husband were charge sheeted for offences under section 448 and 506(i) of IPC. The case of the prosecution is that the defacto complainant had purchased the property from the petitioner's husband, who is also arrayed as A1 in the charge sheet in Mangadu Police Station Crime No.392 of

2010 on the allegation that having sold the property to the defacto complainant by the husband of the petitioner, the petitioner and her husband forcibly broke open the lock of the house and threatened the defacto complainant.

3. This Court in Crl.O.P.No.6993 of 2011 has quashed the charges as against the husband of the petitioner. This Court by its Order dated 01.04.2011 quashed the charges against the husband of the petitioner on the ground that the allegations do not constitute any offence. It is the contention of the learned counsel for the petitioner that the petitioner had entered into the house only on the basis of the protection Order passed by the Judicial Magistrate in C.M.P.No.2071 of 2010 in STC.No.1785 of 2010 on the file of the District Munsif cum Judicial Magistrate, Sriperumbudur. Hence submitted that the charges against the petitioner may be quashed.

4. The learned counsel for the respondent has not disputed the factual aspects. However, submitted that the petitioner has infact threatened the defacto complainant. Hence, disputed the allegations of the petitioner.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents. Perused entire materials available on record.

6. The petitioner and her husband were originally arrayed as accused for the offences under sections 448 and 506(i) of IPC. Subsequently, by the Order of this Court in Crl.O.P.No.6993 of 2011 the charges as against the husband of the petitioner has been quashed. The allegations in the charge sheet when perused, on 16.08.2010, the petitioner and her husband trespassed into the property, which was sold to the defacto complainant and abused and criminally intimidated her. Except oral utterance, there is no serious allegations whatsoever made.

7. It is also to be noted that in STC.No.1785 of 2010, the learned Judicial Magistrate has granted protection Order in respect of the very same property. The above Order was passed on 07.08.2010. Only based on the above Order, the petitioner had entered into the house without knowing the fact that the property has already been sold by her husband to the defacto complainant. Therefore, when the petitioner had entered into the house with Order of the Court, it cannot be construed as trespass.

8. Similarly, the allegation that she has orally threatened the defacto complainant is also appears to be vague, without any details. Mere utterance of such words, in my view

do not constitute any offence under section 506(i) IPC. In order to attract any offence under section 506(i) of IPC, there must be real and imminent threat to the aggrieved person and mere utterance of words do not constitute any offence.

9. At any event, the petitioner has gone to the house only on the basis of the protection Order of the Court and she has legally entered the premises. Therefore, the charges filed against the petitioner for criminal trespass and criminal intimidation cannot be sustained. Continuing the criminal prosecution is nothing but abuse of process of law.

10. Having regard to the fact that the charges against A1 has already been quashed and that the charges alleged against the petitioner are also not made out, the charges against the petitioner are also liable to be quashed.

11. Accordingly, the charge sheet filed by the respondent in Crime No.392 of 2011 before the District Munsif cum Judicial Magistrate, Sriperumbudur in C.C.No.18 2010 is hereby quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

vrc

To

1. The District munsif cum Judicial Magistrate, Sriperumbudur.
2. The Inspector of Police, Mangadu Police Station, Mangadu.
3. The Public Prosecutor, High Court, Madras.

Cr1.O.P.No.17555 of 2011

BS (CO)
GMY (13/02/2019)

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