

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:01.11.2018

CORAM
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM
Crl.O.P.No.2203 of 2011

1. Paramasivam

2. Raja Mohammed

..Petitioners /Accused 1 & 2

Vs

1. The Inspector of Police
Orleanpet Police Station,
Puducherry,
Crime No.344/2010.

2. S.Sakthivel
Revenue Officer,
Office of the Sub Collector
(Revenue) North,
Puducherry.

..Respondents/Respondents/State/complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records pertaining to STR No.9785/2010 on the file of the Learned Judicial Magistrate No.2, Puducherry, and quash the same.

For Petitioners : Mr.N.Suresh

For Respondents : Mr. D.Bharatha Chakravarthy,
Public Prosecutor (Puducherry).

ORDER

This petition has been filed by the accused Nos. 1 and 2 to quash the proceedings against them in STR No.9785 of 2010 on the file of the learned Judicial Magistrate No.2, Puducherry.

2. The first respondent has filed a charge sheet alleging that on 06.08.2010 at about 11.25 hours the petitioners herein, in furtherance of common intention criminally trespassed into the office of Sub-Divisional Magistrate (North) Puducherry, abused one P.Vallavan who is the staff working in the said office with filthy language as such to hold him to do his official duty and also threatened him with dire consequences as he delayed to forward the file pertaining to correction of the Re-Survey number to the concerned office and thereby prevented him from discharging his official duty as a Government servant and thereby the petitioners herein have committed offences

punishable under Sections 448, 189, 294 and 506 read with 34 of the Indian Penal Code.

3. The learned Counsel for the petitioners has submitted that one Kanagasabai gave a letter to the Deputy Collector, Revenue Department, North Puducherry, requesting to correct the guideline value in the GLR in respect of his lands. On 07.07.2009, based on

the said letter, the Deputy Collector (Revenue) North has passed an order on 09.07.2010, that the petitioners' request cannot be considered and subsequently on 21.07.2010, the said Kanagasabai gave another petition to consider his request. He further submitted that on 26.07.2010 the Sub Collector has forwarded the said letter to the Tahsildar, Taluk Office, Oulgaret, calling for the report, with regard to the admissibility of the said Kanagasabai's request and based on the same, on 29.07.2010 itself, the Tahsildar has submitted his report, but, thereafter, till 06.08.2010, the officials attached to the Sub Divisional Magistrate (North), Puducherry have not taken any steps to pass orders and hence the petitioners went along with the said Kanagasabai to the aforesaid office and politely they have made request that the representations submitted by the said Kanagasabai has not been considered and immediately, the second respondent gave a false complaint against the petitioners stating that they have criminally intimidated the staff and also used filthy language and criminally trespassed into the public office. He further submitted that since the alleged place of occurrence is a public office, Section 448 IPC will not attract. He further submitted that in the complaint as well as in the 161 Cr.P.C statement recorded, the words which are said to have been used by the petitioners are not mentioned. In the said circumstances, it cannot be said that the petitioners have committed an offence under Section 294 IPC. He further submitted that in the statement recorded under Section 161 Cr.P.C, it is not specifically stated that the petitioners armed with any weapons or the words uttered by the petitioners created any fear in the mind of the concerned staff namely P.Vallavan and therefore offences under Sections 189 and 506 IPC also will not attract.

4. Per contra, the learned Public Prosecutor (Puducherry) has submitted that in the statement recorded under Section 161 Cr.P.C, witnesses have clearly stated that the petitioners came with the said P.Kanagasabai and criminally intimidated them and thereby they have prevented the witness P.Vallavan from discharging his public duty and filthy words also have been used and therefore there is a prima facie case against the petitioners to proceed further and hence he prayed to dismiss the petition.

5. A perusal of the statements recorded under Section 161 Cr.P.C of the witnesses Sakthivel and Vallavan, would prima facie show that the petitioners herein have criminally intimidated the witness Vallavan. According to the said witness, the petitioners herein have specifically used the words " உன்னை என்ன செய்கிறேன் பார்? ". The learned counsel for the petitioners has submitted that from the aforesaid words it cannot be said that the petitioners have criminally intimidated the witness. He further submitted that from the aforesaid words it may be inferred that the petitioners have uttered the said words with an intention that they will send complaint to the superiors. Whether, those words have been used only for giving caution that they will give complaint against the said staff before the higher officials or to do some injury cannot be decided at this stage. Therefore, this Court is of the view that there are prima facie materials available to proceed against the petitioners in respect of the offences punishable under Sections 189, 506 part (1) IPC. Since the alleged occurrence took place in public office, Section 448 IPC may not attract. Further in the Statements recorded under Section 161 (3) Cr.P.C, it is not specifically stated the words used by the petitioners. Under the said circumstances, Section 294 IPC also will not attract.

6. In the result, this petition is partly allowed. The charge sheet in respect of the offences punishable under Sections 448 and 294 IPC are quashed. In respect of the offences under Sections 189 and 506 (i) IPC, r/w 34 IPC, it is open to the petitioners to contest the case before the trial court.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ebsi/vv

To

1.The Judicial Magistrate No.2
Puducherry.

2.Thro' The Chief Judicial Magistrate,
Puducherry.

3.The Inspector of Police
Orleanpet Police Station,
Puducherry, Crime No.344/2010.

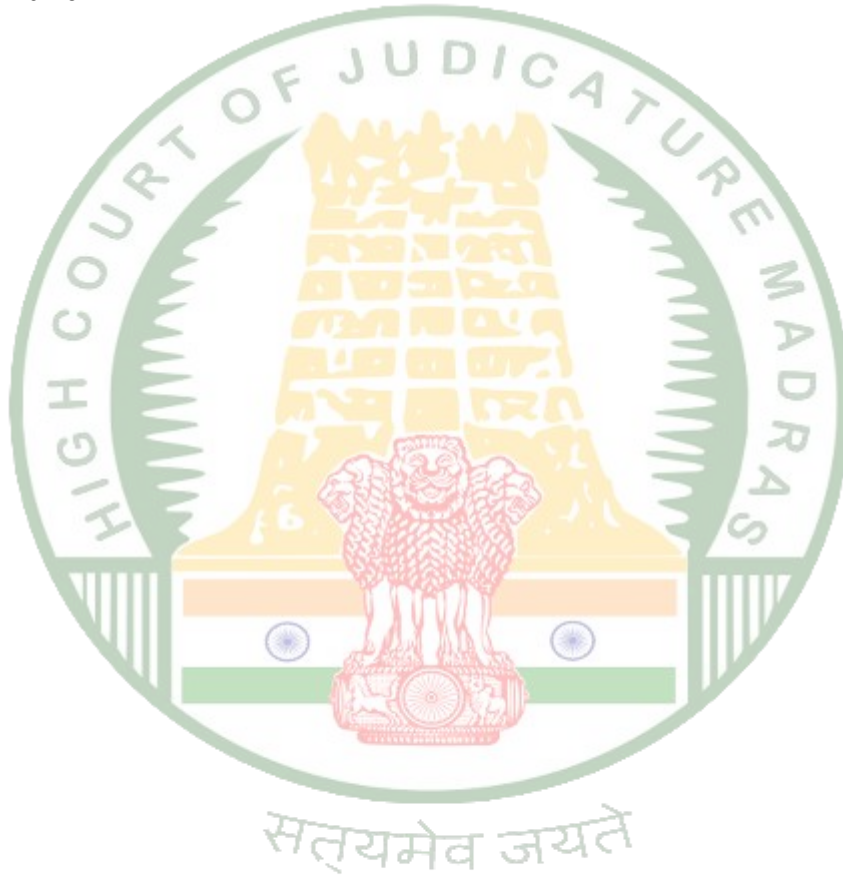
4. The Public Prosecutor,
Puducherry.

+lcc to Mr.N.Suresh, Advocate, S.R.No.75926

CrI.O.P.No.2203 of 2011

GJ(CO)

rrs 26/12/2018



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