

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

Crl.O.P.No.8042 of 2011

and

M.P.No.1 of 2011

1.Tmt.Mahalaxmi

2.Annakodi

3.Poonkodi @ Poonkothai ...Petitioners/A2 to A4

Vs.

1.State by:

The Inspector of Police,
All, Women Police Station,
Jayankondam
Ariyalur District.
Crime No.5 of 2010.

2. Shanmugavalli

...Respondents/Complainants

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records in P.R.C.No.5 of 2011 on the file of the Judicial Magistrate, Jayankondam, Ariyalur District and quash the same.

For Petitioners : Mr.C.Prakasam

For Respondent-1 : Mr.T.Shunmuga Rajeswaran
(Government Advocate (Crl.Side))

For Respondent-2 : No Appearance

ORDER

The petitioners are accused nos.2 to 4 in P.R.C.No.5 of 2011 on the file of the learned Judicial Magistrate, Jayankondam, Ariyalur District. The petitioners 1 & 2 / accused nos.2 & 3 were charged for the offence under Sections 294(b) & 506(i) IPC. The third petitioner / fourth accused was charged for the offence under Section 294(b) IPC. In order to quash the proceedings pending against them, they have filed the instant criminal original petition.

2. The case of the prosecution is that the first accused, namely, Balamurugan had a love affair with the second respondent / defacto complainant and by promising her to marry, he had sexual relationship with her. Both the first accused and the defacto complainant had eloped to Chennai and the family members of the first accused searched for them and insisted them to return, by promising that they would arrange for the marriage. But, on 14.10.2009, when the second respondent / defacto complainant returned to the village along with the first accused, the petitioners herein had abused her with filthy words and also criminally intimidated her. Hence, she lodged a complaint before the respondent Police on 31.05.2010 and the same was registered in Crime No.5 of 2010 and after completing the investigation, final report was also filed.

3. The first accused / Balamurugan was charged for the offence under Sections 417, 376, 294(b) & 506(i) IPC and the first accused moved a separate quash application before this Court in Crl.O.P.No.3843 of 2017 and this Court, by order dated 19.12.2017, has allowed the same.

4. The petitioners herein are the relatives of the first accused and they have called the defacto complainant and the first accused back to the village. On their words, the defacto complainant and the first accused have returned to the village on 14.10.2009 at about 04.00 am and at that time, the petitioners have abused and criminally intimidated her. But, for the incident said to have been occurred on 14.10.2009, the second respondent / defacto complainant has lodged the complaint only on 31.05.2010, ie., nearly after seven months.

5. As stated supra, the charges framed as against the petitioners herein are 294(b) & 506(i) IPC.

6. Section 506 IPC prescribes punishment for criminal intimidation. Criminal intimidation has been defined in Section 503 IPC which reads as under:-

"503. Criminal intimidation.-Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation. -A threat to injure the reputation of any deceased person in whom the person threatened is

interested, is within this section. Illustration A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."

7. To constitute an offence under Section 503 IPC, the requirement is that one has to threaten another with injury to his person, reputation or property with the intent to cause alarm to that person or to cause that person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat. Moreover, a person who makes a complaint for intimidation must have felt the threat. In the present case on hand, for the incident said to have been taken place on 14.10.2009, the complaint was lodged only on 31.05.2010. Therefore, it cannot be termed that the complainant felt the intimidation alleged to have made by the accused and as such, the offence under Section 506(i) IPC is not made out.

8. Even according to the complainant, she and the first accused reached their village on 14.10.2009 at about 04.00 am and at that time, in the public place, the petitioners have abused her. But, there is no averment whether there were any other persons in the early hours, who have witnessed the occurrence. Section 294(b) IPC would be attracted when abusive words are uttered by the accused in a public place in the presence of others. But, there is no averment that she was abused in the presence of others, in a public place. In the absence of any such averment, the abusive words said to have been uttered by the accused, not in the vicinity of any public place and out of which no public was annoyed, the offence under Section 294(b) IPC is not made out in the given circumstances of the case.

9. Moreover, the first accused, who was charged for the offence under Sections 417, 376, 294(b) & 506(i) IPC, has already been discharged from the case by this Court, vide order dated 19.12.2017, in CrI.O.P.No.3843 of 2017.

10. In view of the foregoing discussions, this Court is of the view that the prosecution has not made out a case as against the petitioners and hence, the proceedings pending against the petitioners in P.R.C.No.5 of 2010, on the file of the learned Judicial Magistrate, Jeyakondam, Ariyalur District stands quashed.

11. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Jayamkondam,
Ariyalur District.
2. The Inspector of Police,
All, Women Police Station,
Jayamkondam
Ariyalur District.
3. The Public Prosecutor,
High Court, Madras.

AKM/17.03.2020/4P- 4C /

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