



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.(MD).No.18237 of 2014
and
M.P.(MD).1 of 2014

S.Ravichandran

....Petitioner/Accused

Vs.

S.Senthil Kumar

..Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records from the file of the learned Judicial Magistrate No.VI, Madurai in C.C.No.291 of 2014 and quash the same as it has no prima facie case against the petitioner.

For Petitioner : Mr.K.Vinayagan

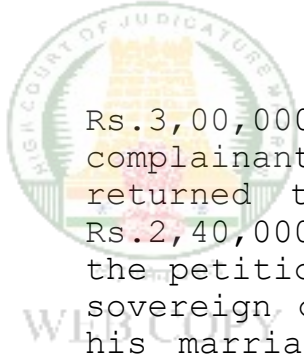
For Respondent : Mr.Siva Subramanian

O R D E R

This criminal original petition has been filed to quash the proceedings in C.C.No.291 of 2014, on the file of the learned Judicial Magistrate No.VI, Madurai, for the offences under Sections 294(b), 506(ii) and 323 of IPC as against the petitioner.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.The case of the respondent/complainant is that he had four brothers and one sister. The petitioner is the elder brother and he is working as Team Commander in National Security Guard (NSG), New Delhi and he is residing at New Delhi along with his family members. The complainant had a family property at Anna Nagar, Madurai, in which, he is residing along with his mother and three brothers. Apart from that the complainant's father and mother had 6 cents of land at his native Village, Alampatti, Thirumangalam Taluk, Madurai District. The said land was sold to the petitioner by other members of the family due to compulsion of him for the sale consideration of



Rs.3,00,000/- . On 28.07.2013, the petitioner quarrelled with the complainant and other brothers stating that RS.60,000/- has to be returned to him because the above said land worth only about Rs.2,40,000/- . At that juncture, on 29.07.2013 at about 5.30 p.m, the petitioner came to the house of the complainant and demanded 5 ½ sovereign of gold jewels, which is given to his younger brother at his marriage. Due to which, quarrel arose between them and the petitioner attacked the mother and two brothers. Hence, the complaint.

4.The learned counsel for the petitioner would contend that the complaint has been falsely foisted and only to the vengeance against the petitioner, a false complaint has been foisted against him. The petitioner had never indulged in any criminal activities and the injuries sustained by his mother only due to an accident fall and the petitioner is nothing to do with the crime. Therefore, he prayed for quashing the private complaint.

5. The learned counsel for the respondent/complainant would submit that on 29.07.2013, at about 5.00 p.m, the petitioner came to the house of the complainant and demanded 5 ½ sovereign gold jewels. Without receiving the same and he attacked his own mother and other two brothers. Therefore, they sustained injuries. Hence, the learned Magistrate rightly have taken cognizance for the offences under Sections 294(b), 506(ii) and 323 of IPC as against the petitioner. Hence, he prayed for dismissal of the quash petition.

6.Admittedly, the petitioner and the de-facto complainant are the brothers. Further, the land admeasuring 6 cents of the family members, to the tune of Rs.3,00,000/-, in which, the petitioner returning a sum of Rs.60,000/- to the family members. With regard to the said agreements, on 29.07.2013, at about 5.30 p.m., the petitioner went to the de-facto complainant's house and quarrelled with him. During the quarrell, he attacked his own mother and she was sustained injuries. Further, he entered into the house and scolded with filthy language and abused the complainant and others. Further, the grounds raised by the petitioner have to be gone into in a full fledged trial. The question of facts,cannot be considered under Sections 482 of the Criminal Procedure Code to quash the entire proceedings. Whatever, the documents submitted here, have to be attested during the trial. Therefore, this Court is of the view that this criminal original petition is liable to be dismissed.

7.In view of the same, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



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To

1.The Judicial Magistrate No.VI, Madurai.

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

• 1 CC TO Mr.A.SIVASUBRAMANIAN , ADVOCATE IN SR No. 91600.

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and
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