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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.6649 of 2016
and
Crl.M.P(MD) No.3340 of 2016

R.Russel Raj ... Petitioner/Sole Accused

Vs.

1. The State Represented by
The Inspector of Police
Karungal Police Station
Kanyakumari District ...1st Respondent/Complainant

2.P.Jospeh ...2nd Respondent/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the First Information Report in connection with Crime No.30 of 2016 dated 17.01.2016 on the file of the Inspector of Police,Karungal Police Station, Kanyakumari District.

For Petitioner : Mr.S.Ramakrishnan

For Respondents : Mrs.S.Bharathi
No.1 Government Advocate(Crl.Side)
No.2 : Mr.G.Karuppasamy Pandian

ORDER

This Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No. 30 of 2016 on the file of the first respondent police.

2. The defacto complainant had given a complaint before the respondent police and the same was registered in Crime No.30 of 2016 on 17.01.2016 for an alleged offence under Sections 294(b) and 506(ii) of IPC. Admittedly the petitioner and the second respondent are relatives.

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3. The learned counsel for the petitioner would submit that the second respondent had owed some money to one Selvi who is the close

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relative of the wife of the petitioner. This amount was not repaid back by the second respondent and therefore the petitioner had gone along with her inorder to ask for the said money. The second respondent taking advantage has given a false complaint before the respondent police. The learned counsel brought to the notice of this Court that the alleged incident is said to have been taken place on 11.10.2015 and the First Information Report itself came to be registered only on 17.01.2016. The learned counsel would further submit that the allegations as contained in the First Information Report do not make out an offence under Sections 294(b) and 506(ii) of IPC.

4. The learned counsel appearing for the second respondent vehemently opposed the submissions made by the learned counsel for the petitioner. He would further submit that the allegations as contained in the complaint clearly makes out the offence under Sections 294(b) and 506(ii) of IPC. He would further submit that the defacto complainant is an old man aged more than 80 years and was threatened by the petitioner.

5. The learned Government Advocate would submit that the case is still pending investigation and no final report has been filed.

6. It is seen from records that the alleged incident is said to have taken place on 11.10.2015. But however complaint itself came to be registered only on 17.01.2016. This delay has not been properly explained by the second respondent. Insofar the allegations contained in the complaint is concerned, it is seen that the petitioner had gone to the house of the second respondent and had abused him with obscene language. In the considered view, this will not constitute the offence under section 294(b) of IPC. The basic ingredient for this offence is that the incident should have been taken place in a public place. This requirement has not been fulfilled in this case.

7. Insofar as the offence under section 506(ii) is concerned mere utterance of words will not constitute the offence and there must be some act more than utterance of words which should have been criminally intimidated the defacto complainant. The allegations made in the complaint does not contain anything more than mere words that were used by the petitioner. Therefore the offence under section 506(ii) of IPC is also not made out in this case.

8. In the result the First Information Report in Crime No.30 of 2016 is hereby quashed and the criminal original petition is allowed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(cs-III)

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Sub Assistant Registrar(cs-II)

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To

1. The Inspector of Police
   Karungal Police Station
   Kanyakumari District

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

+1cc to Mr.S.Ramakrishnan Advocate in SR.No.89793

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