

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.1246 of 2019
and
CrI.M.P.No.787 of 2019

Sharfudeen

... Petitioner

-Vs-

1.State represented by,
The Inspector of Police,
Karungalpalayam Police Station,
Erode District,
Crime No.483 of 2018.

2.Palanisamy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.110 of 2018 on the file of the Judicial Magistrate No.I, Erode and quash the same.

For Petitioner : Mr.C.S.Saravanan

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

For R2 : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.110 of 2018, on the file of the Judicial Magistrate Court No.I, Erode.

2.The learned counsel for the petitioner submitted that the charge as against the petitioner for the offences under Sections 294(b) and 506(i) IPC are not at all made out as against the petitioner even according to the case of the prosecution. The 2nd respondent lodged a complaint even in the month of April 2018, before the District Crime Branch, Erode and the same was

closed as "Mistake of Fact". Suppressing the said fact, the second complaint was filed on 09.07.2018, before the 1st respondent and the same was registered in Crime No.483 of 2018 for the offences under Sections 294(b) and 506(i) of IPC. The entire averments in the complaint alleged to have cheated the defacto complainant to the tune of Rs.2,30,000/- (Rupees two lakhs thirty thousand only) whereas registered for the offences under Sections 294(b) and 506(i) IPC. In fact, there is no one have spoken about the occurrence and no offence is made out as against the petitioner and even then the 1st respondent charged the petitioner for the offences under Sections 294(b) and 506(i) IPC. Therefore, he prayed to quash the entire proceedings.

3.Though the notice served on the 2nd respondent and no one entered appearance on behalf of him, as such name has been printed in the cause list, even then no one appeared today.

4.The learned Additional Public Prosecutor would submit that on behalf of the 1st respondent the case has been registered in Crime No.483 of 2018 for the offences under Sections 294(b) and 506(i) of IPC. The petitioner is the sole accused, after recorded the statements under Section 161(3) Cr.P.C. Supporting the witnesses, charge sheet has been filed as against the petitioner for the offences under Sections 294(b) and 506(i) IPC. There are materials to connect the petitioner and also to prove the charges for the offences under Sections 294(b) and 506 (i) IPC and prayed for dismissal to quash the petition.

5.Heard, Mr.C.S.Saravanan, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent Police.

6.The petitioner is the sole accused and he has been charged for the Sections 294(b) and 506(i) IPC. It is seen from the complaint lodged by the 2nd respondent alleging that the 2nd respondent is running a Finance business for the past eight years. While being so, the petitioner approached him for hand loan of Rs.2,00,000/- (Rupees two lakhs only) for his family expenses. After receipt of the same to repaying the said amount he issued two cheques for the sum of Rs.1,00,000/- each, when the defacto complainant questioned the petitioner to return the amount, but, he threatened him with dire consequences. Hence, the complaint.

7.It is also seen from the complaint he alleged that the petitioner cheated him to the tune of said amount, but the complaint has been registered for the offences under Sections 294(b) and 506(i). Even to make out the charge, there is no materials and evidence to connect the petitioner to attract the proof of said offences. It is also seen that the charges are

simple and trivial in nature. There is no possibility of conviction as against the petitioner for the charges alleged by the 1st respondent.

8.Considering the above facts and circumstances of this case, the petitioner need not undergo for ordeal trial and to meet the ends of justice. The charges cannot be sustained as against the petitioner.

9.In view of the above fact, this Criminal Original Petition is allowed. However, the proceedings as against the petitioner in C.C.No.110 of 2018 on the file of the Judicial Magistrate Court No.I, Erode stands quashed. Consequently, connected miscellaneous petition is closed.

vsn/vv2

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Erode.
2. - Do- Thro' The Chief Judicial Magistrate,
Erode.
3. The Inspector of Police
Karungalpalayam Police Station,
Erode District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.S.Saravanan, Advocate, SR.No.20307

Cr1.O.P.No.1246 of 2019

Kak (24/05/2019)