

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2019

Coram

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.20833 of 2018

and

CrI.M.P.No.11264 of 2018

1. Panchaiyammal

2. Mani Petitioners / Accused

Vs.

1. The State Represented

By its Sub-Inspector of Police,
T12 Police Station, Poonamalle,
Chennai.

2. C.Lingam ... Respondents / Respondents

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in F.I.R.120 of 2018 on the file of the T12 Poonamalle Police Station, dated 25.01.2018 and quash the same.

For Petitioners : Mr.M.Muruganantham

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

For R2 : No Appearance

ORDER

This petition is filed to quash the F.I.R in Crime No.120 of 2018 registered for the offences under Section 294(b) and 506(1) of IPC on the file of the 1st respondent against the petitioners.

2. The learned counsel for the petitioners would submit that the complaint itself does not constitute any offence as alleged by the prosecution. Further, there is nothing in the complaint to satisfy the ingredients to charge the petitioners under Sections 294(b) and 506(1) of

IPC. Even according to the F.I.R, there is absolutely no specific allegations to attract the offences under Sections 294(b) and 506(1) of IPC.

3. The learned counsel for the petitioners would further submit that the 1st petitioner is aged about 60 years and being an old woman, she would not have threatened or committed any offences under Sections 294(b) and 506(1) of IPC, as alleged by the Defacto Complainant. Therefore, the petitioners prayed for quashing the F.I.R registered against them.

4. The learned Additional Public Prosecutor would submit that the F.I.R. in Crime No.120 of 2018 which registered as against the petitioner for the offences under Sections 294(b) and 506(1) of IPC, the investigation is pending and further submitted that they have to examine few more persons to record their statements under Section 161 of C.R.P.C. He prayed for dismissal of quash petition

5. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for R1. No one appeared for R2.

6. A case has been registered in Crime No.120 of 2018 as against the petitioners for the offences under Sections 294(b) and 506(1) of IPC on the complaint alleged by the 2nd respondent herein. However, no appearance on behalf of the 2nd respondent.

7. To attract the offences under Sections 294(b) and 506(1) of IPC, there must be specific allegations as against the petitioners.

8. It is seen from the complaint that the 2nd respondent made vague and bald allegations as against the petitioners. The complaint lodged by the Defacto Complainant alleging that on 24.01.2018 the petitioners had scolded Defacto Complainant with filthy language in respect of common pathway and further, threatened the Defacto Complainant through phone to his Life with dire consequences.

9. There is absolutely no specific allegations as against the petitioners to attract the said offences.

10. In support his arguments, the learned counsel for the petitioners relied upon the Judgment reported in 2011 (7) SCC 59 in the case of [Joseph Salvaraj.A Vs. State of Gujarat and Others]. The relevant portion of the Judgment is extracted hereunder:

"23. Section 506 of the Indian Penal Code deals with punishment for criminal intimidation. Criminal intimidation, insult and annoyance have been defined in Section 503 of the Indian Penal Code but the FIR lodged by complainant does not show or reflect that any such threat to cause injury to person or of property was ever given by the Appellant to the Complainant.

24. Thus, from the general conspectus of the various sections under which the Appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the Complainant's FIR. Even if the charge sheet had been filed, the learned Single Judge could have still examined whether the offences alleged to have been committed by the Appellant were prima facie made out from the complainant's FIR, charge sheet, documents etc. or not."

11. The learned counsel for the petitioners have also relied upon the Judgment reported in 1998 (1) SCC 692 in the case of [Madhavrao Jiwaji Rao Scindia Vs. Sambhajirao Chandrojirao Angre]. The relevant portion of the Judgment is extracted hereunder:

"7. The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

12. When there is absolutely no specific allegations to attract the offences under Sections 294(b) and 506(1) of IPC, there is no useful purpose rightly to be served to continue the criminal prosecution.

13. Taking into consideration, the special facts of this case, though it may be at preliminary stage, the F.I.R is liable to be quashed.

14. That apart, in order to satisfy the test of obscene words uttered must be acceptable of arousing sensational matters that as in the minds of its harmons. There is absolutely no filthy language mentioned in the complaint to attract the offence under Section 294(b) of IPC.

15. Insofar as the offence under Section 506(1) of IPC is concerned, the FIR does not show or reflect with any such threaten to cause injury to the Defacto Complainant. Therefore, the impugned F.I.R. cannot be sustainable for further investigation.

16. In view of the discussions, the Criminal Original Petition is allowed and the F.I.R. in Crime No.120/2018 on the file of the 1st respondent is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Inspector of Police,
T12 Police Station, Poonamalle,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Muruganantham , Advocate SR.No. 11055

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A.SK(14/03/2019)