



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2019

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.O.P. (MD) Nos.24587 of 2015 & 5776 of 2016

M.P. (MD) .No.1 & 2 of 2015 and

Crl.M.P. (MD) .Nos.2856 & 2857 of 2016

Crl.O.P. (MD) .No.24587 of 2015

1.K.Vadivambal

2.Kannathaal

.. Petitioners/Accused Nos.7 and 8

Vs.

1.The State

through Inspector of Police,
All Women Police Station,
Sivagangai.

.. 1st Respondent/Complainant

2.Sivamani

3.Subbiah

4.Nallapirappu

5.Senthilpandian (Late),

6.Usharani

7.Thirumagal

8.Shanthi

.. 2 to 7 Respondents/Accused Nos.1 to 6

.. 8th Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.228 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai and quash the same as far as the petitioners are concerned.

For Petitioners : No Appearance

For Respondents : Mr.R.Anandharaj for R1
Additional Public Prosecutor



Crl.O.P.(MD).No.5776 of 2016

1.Usharani
2.Thirumagal

.. Petitioners/Accused No.5 & 6

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Vs.

1.The Inspector of Police,
All Women Police Station,
Sivagangai.

2.Shanthi

.. Respondents/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.228 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai and quash the same as illegal insofar as the petitioners are concerned.

For Petitioners : Mr.V.Sasi Kumar
For Respondents : Mr.R.Anandharaj for R1
Additional Public Prosecutor
No Appearance for R2

COMMON ORDER

The Accused Nos.5 & 6 in C.C.No.228 of 2015 have moved Crl.O.P.(MD).No.5776 of 2016 to quash the proceedings pending against them in C.C.No.228 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai. The Accused Nos.7 & 8 in the said C.C.No.228 of 2015 have filed Crl.O.P.(MD).No.24587 of 2015 to quash the same proceedings. Since the issue involved in both petitions are one and the same, both petitions are taken up together and are disposed by way of this common order.

2.Though notice was ordered and the name is also printed in the cause list, there is no representation for the defacto complainant. Since the present criminal original petitions are of the year 2015 & 2016, this Court proceeds with the matter.

3.The case in C.C.No.228 of 2015 was initiated at the instance of the defacto complainant on 07.12.2013 for the offences punishable under Sections 498 A and 506(ii) of IPC. This case itself was registered pursuant to the directions of the learned Judicial Magistrate No.I, Sivagangai, in Crl.O.P.No.3287 of 2013. According to the defacto complainant, she met the second accused at Tiruppur, while they were working together and thereafter, marriage was arranged between them and solemnized on 17.11.2004 at Uthamar Temple, Trichy. At the time of marriage she has brought 7 sovereigns of gold ornaments, Rs.50,000/- cash and house hold articles. They started their matrimonial life at Tiruppur and when



they visited Sivagangai to her in-law's house, she was subjected to harassment and the in-laws have demanded additional jewels and dowry. Thereafter, she was driven away from the matrimonial home and her husband married another woman by name Raji. In the year 2006, she gave birth to a child and living with her parents from 2006 onwards. On coming to know that her husband returned from abroad, she went to her matrimonial home on 04.10.2012 and at that time, the petitioners along with the other accused assaulted her and criminally intimidated that if she entered into the house, she would be killed. For this incident took place on 04.10.2012 the present complaint was filed on 07.12.2013 pursuant to the directions of the Judicial Magistrate.

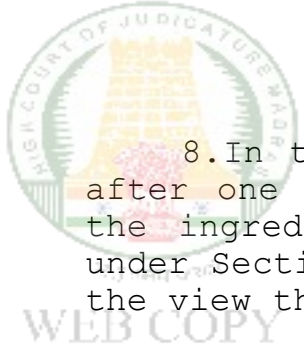
4.The respondent police had also conducted an investigation and filed the final report as against these petitioners and four others and the same is pending in C.C.No.228 of 2015 on the file of the Judicial Magistrate No.I, Sivagangai.

5.Totally 8 persons are arrayed as accused by the respondent police and the final report has been filed as against A1 to A3 for the offences punishable under Sections 498 A, 506 (ii) IPC and as against A4 to A8 final report is filed for the offence punishable under Section 506 (ii) of IPC. The petitioners herein, who are A5 to A8, are now facing the trial before the concerned Magistrate for the offences punishable under Section 506 (ii) IPC. Admittedly, the occurrence in this case was taken place on 04.10.2012, for which the complaint was preferred by the second respondent, through the Court, only in the month of December 2013. The case was also registered on 07.12.2013. The respondent police has proceeded with the complaint, filed the final report as against the petitioners for the offence punishable under Section 506 (ii) of IPC. To attract an offence under Section 506(ii) IPC, the complainant must have felt the intimidation.

6.In order to attract the ingredients of Section 506, the intention of the accused must be to cause alarm to the victim. Mere expression of words without any intention to cause alarm, would not suffice. To constitute an offence under Section 506 IPC, it must be shown that the person charged actually threatened another with injury to his person, reputation or property, with the intention to cause alarm.

7.This Court in the decision reported in 1988 (2) MWN (Cr1.184, in the case of Noble Mohandass V. State has held as follows:

"Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually."



8. In this case, the complaint has been lodged belatedly, i.e., after one year from the alleged date of occurrence and therefore, the ingredients which is required for constitution of an offence under Section 506 (ii) is not made out. Therefore, this Court is of the view that the charge under Section 506(ii) would not stand.

9. Since the Charge sheet has been filed as against the petitioners herein for the offence punishable under Section 506(ii) IPC alone, these criminal original petitions are allowed and the proceedings in C.C.No.228 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai is quashed in respect of these petitioners alone. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.S)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.I, Sivagangai.
2. The Inspector of Police,
All Women Police Station,
Sivagangai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

**Cr1.O.P. (MD) Nos.24587 of 2015
& 5776 of 2016
01.04.2019**

CS: (20/06/2019) 4P 4C