



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.1227 of 2019

and

Crl.M.P.(MD)Nos.581 & 582 of 2019

WEB COPY

Susanna Daisy Rani
(Wrongly Mentioned in
Chargesheet Daisy Rani

... Petitioner/Accused

-Vs-

1. The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District.

2.Vincent Anbukkarasi
3.Vijaya Vaikundaraja

... Respondents/complainants

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records connected with the case in C.C.No.21/2018 pending before the Learned Judicial Magistrate, Sengottai and quash the same.

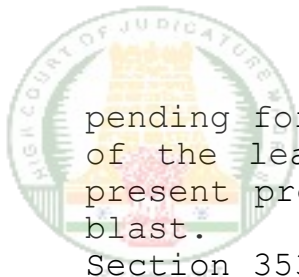
For Petitioner	: Mr.G.Karuppasamy Pandian for Mr.J.Sathiaraj
For R1	: Mr.K.Suyambulinga Bharathi Government Advocate(crl.side)
For R2 & R3	: Ms.Jessi Jeeva Priya

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.21 of 2018 pending before the Learned Judicial Magistrate, Sengottai.

2. Heard the learned counsel for the petitioner, the learned counsel for the second and third respondents and the learned Government Advocate (Crl. side) for the respondents.

3. It is seen that the petitioner is the sole accused in this case. The crux of the complaint is that on 01.02.2017, at about 11.30 a.m, near THADCO Nagar bus stop, the petitioner abused the third respondent, who is the police constable, using filthy language and also obstruct her from doing her official duty. The learned counsel for the petitioner would submit that the petitioner has lodged a private complaint as against the second respondent, who is working as Sub-Inspector of Police in the same Station and it is

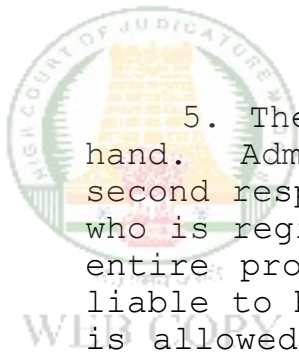


pending for taking cognizance in Cr.M.P.No.2376 of 2017, on the file of the learned Judicial Magistrate, Shengottai and therefore, the present proceeding has been initiated, which is nothing but counter blast. Further, it is seen that to attract the charge under Section 353 I.P.C., there are no ingredients and no averments and no one has spoken about the obstruction of doing official duty by the petitioner. In this regard, the learned counsel for the petitioner relied upon the judgment of this Court reported in **2016 (2) T.N.L.R. 520 (Mad) (MB) [Dhanalakshmi Vs. The State]** which reads as follows:-

"8. When a Government Servant is prevented from doing his public duty Section 353, I.P.C is attracted. In this case, there is no allegation that the accused has assaulted nor used criminal force as against the woman S.I. Further, the alleged act does not result in disruption in further carrying out of her public duties. Offence under Section 353, I.P.C also will not arise. "

4. The ingredients of the offence under Sections 294(b) and 506 (i) of I.P.C. are not made out as against the petitioner. The charge does not show the obscene words, which were uttered by the accused and no one even whisper about the filthy words uttered by the accused as against the defacto complainant/ third respondent. Therefore, the offence under Section 294(b) of I.P.C. is not at all made out as against the petitioner herein. In this regard, the learned counsel for the petitioner also relied upon the judgment of this Court in **Crl.O.P.(MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police)**, which reads as follows:-

"7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(B) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."



5. The above judgments are squarely applicable in the case on hand. Admittedly, the private complaint is pending as against the second respondent herein, who is working as Sub-Inspector of Police, who is registered the case as against the petitioner. Therefore, the entire proceeding is clear an abuse of process of law and it is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.21 of 2018 pending before the learned Judicial Magistrate, Sengottai, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

1. The Judicial Magistrate,
Sengottai.
2. The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.SATHIYARAJ, Advocate (SR-96167[F] dated 05/11/2019)
+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-96287[F] dated
06/11/2019)

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