

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 15.04.2019**

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CORAM**THE HONOURABLE MR. JUSTICE B.PUGALENDHI****Cr1.O.P. (MD) No.4074 of 2016****Cr1.M.P. (MD) .Nos.2056 & 2057 of 2016**

1.Deepalakshmi
2.V.Swaminathan
3.Perumal Aasari

.. Petitioners/Accused 1 to 3

Vs.

1.State represented by
Sub-Inspector of Police,
Othakadai Police Station,
Madurai.

.. 1st Respondent/Complainant

2.Prabakar

.. 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in relating to the impugned charge sheet in C.C.No.496 of 2007 on the file of the Judicial Magistrate, Melur and quash the same.

For Petitioner : Mr.G.Karuppasamy Pandiyan

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

Mr.V.Muthukamatchi for R2

ORDER

This criminal original petition has been filed by the petitioners as against the final report filed against them in C.C.No.496 of 2007 on the file of the learned Judicial Magistrate, Melur.

2.The respondent/complainant is none other than the husband of the first petitioner. Admittedly, there was a matrimonial dispute between the parties and the first petitioner/wife has lodged a complaint as against the defacto complainant for the offence punishable under Section 498 (A) IPC and Section 4 of Dowry Prohibition Act in Crime No.5 of 2007. According to the petitioners, only as a counter blast, this complaint has been foisted by the husband for the offences under Sections 353, 294(b) and 506(i) of IPC, as if the petitioners have abused the respondent/complainant when he was working in the Dispensary.



3. A plain reading of the complaint as well as the final report does not disclose the manner in which the petitioners prevented the complainant from discharging his official duty. In the absence of any specific materials attracting the offence under section 353 IPC, this Court is of the opinion that the offence under section 353 IPC is not made out in this case.

4. In the circumstances of the case, this petitioner has also raised a plea that the offence under Sections 294(b) and 506(i) are also not made out in this case and are liable to be quashed. Insofar as offence under Section 506(i) IPC is concerned, the occurrence was taken place on 20.06.2007, whereas this complaint has been lodged on 18.09.2007. To attract offence under Section 506 (i) IPC, a complainant must have felt the threat.

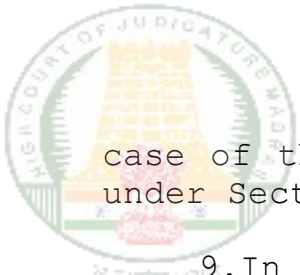
5. In order to attract the ingredients of Section 506, the intention of the accused must be to cause alarm to the victim. Mere expression of words without any intention to cause alarm, would not suffice. To constitute an offence under Section 506 IPC, it must be shown that the person charged actually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

6. This Court in the decision reported in 1988 (2) MWL (Crl.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."

7. 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 (i) is not made out. Therefore, this Court is of the view that the charge under Section 506(i) would not stand.

8. Insofar as the offence under Section 294(b) IPC is concerned, there is a specific allegation that the first petitioner has abused the complainant with filthy words while he was working in the Dispensary of Government Rehabilitation Centre at Y.Pudhupatti. According to the petitioner, there is no necessity for her to use filthy words against the complainant and there is no witnesses that he has been annoyed. This Court is not convinced on this ground. The occurrence took place in a Government hospital, where several patients will be standing for treatment. Moreover four witnesses have been cited by the prosecution to establish the



case of the prosecution. It is a matter for trial and this Court, under Section 482 Cr.P.C, cannot quash the same *in limini*.

9. In such view of the matter this Court is not inclined to quash the charge sheet in respect of the offence under Section 294 (b) IPC. At this juncture, it is represented by the learned counsel for the petitioners that the petitioners 2 and 3 are senior citizens who happened to be the relatives of the first petitioner and they have been unnecessarily implicated as accused. Insofar as the offence under section 294(b) IPC is concerned, it is specific case of the prosecution that the first petitioner has abused the complainant and there is no averment as to the other petitioners, ie., petitioners 2 and 3, who are said to have been accompanied the first petitioner, that they have instigated or abetted the first petitioner to commit the offence under Section 294(b) IPC. In such view this Court is inclined to quash the C.C.No.496 of 2007 in respect of the petitioners 2 and 3 for the offence punishable under Section 294(b) IPC also.

10. Accordingly, with regard to the first petitioner, the charge sheet in C.C.No.496 of 2007, on the file of the Judicial Magistrate, Melur, is quashed in respect of the offences under Sections 353 and 506(i) of IPC alone. The trial Court shall proceed with the trial as against the first petitioner for the offence punishable under Section 294(b) IPC only. Insofar as the petitioners 2 and 3 are concerned, the entire proceedings in the above charge sheet is quashed.

11. In the result, this criminal original petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate, Melur

2. The Sub Inspector of Police, Othakadai Police Station, Madurai.

3. The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.G.KARUPPASAMY, Advocate Sr. No.61149

+1CC TO MR.V.MUTHUKAMATCHI, Advocate Sr. No. 61521

Crl.O.P. (MD) No. 4074 of 2016

15.04.2019



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