



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

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

Crl.O.P. (MD)No.2528 of 2018

and

Crl.M.P. (MD)Nos.1156 & 1157 of 2018

WEB COPY

1.Sikkender Niyaz

2.Haja Mohideen

3.Nagoor Meeran

: Petitioners/Accused Nos.1,3 & 4

-vs-

1.The Inspector of Police,

Kadayam Police Station,

Ambasamudram Taluk,

Tirunelveli District.

(Crime No.191 of 2014)

..:1st Respondent/ Complainant

2.Seydhusulaiman

:2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.402 of 2017 on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District and quash the same as so far as the petitioners are concerned.

For Petitioners : Mr.S.R.A.Ramachandhran

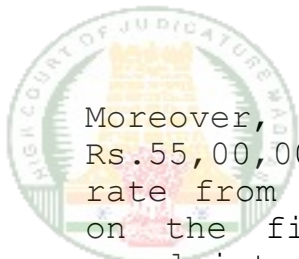
For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.side)

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.402 of 2017 on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District.

2.The learned counsel appearing for the petitioners submitted that there are totally 4 accused in which, the petitioners are arrayed as A1, A3 & A4 and they were charged for the offence under Sections 341, 294(b), 506(ii) IPC. According to the prosecution, on the date of occurrence the accused persons waylaid the defacto complainant and threatened him with dire consequences and also scolded in filthy language. He further submitted that on the date of occurrence when the petitioners proceeded by their car, the second respondents stopped the car and asked about the money to the tune of Rs.55,00,000/- given by him to purchase gold biscuit. Therefore, the offence under Section 341 is not attracted.



Moreover, according to the defacto complainant, he paid a sum of Rs.55,00,000/- to the petitioners to purchase gold biscuit in lower rate from Kerala. In this regard, already a complaint was pending on the file of the first respondent. Therefore, the present complaint is only to threaten the petitioners. Moreover, all the petitioners are family members. According to the defacto complainant, first accused received a sum of Rs.55,00,000/- to purchase gold biscuit. Therefore, the entire complaint is false one and hence, the learned counsel for the petitioners prayed for quashing of the above said proceedings.

3.The learned Government Advocate(Crl.side) appearing for the first respondent submitted that initially, complaint registered for the offence under Sections 417, 420, 341, 294(b), 506(ii) IPC and subsequently altered into Sections 341, 294(b), 506(ii) IPC. The defacto complainant did not provide any document to attract the offence under Sections 417 & 420 IPC. On 28.05.2014, when the accused persons were proceeded by their car, the defacto complainant stopped them and asked about money given by him. At that juncture, he was waylaid by other accused persons and threatened him with dire consequence and scolded in filthy language. Therefore, there are evidence to attract all the offences as against the accused persons. Further, it is submitted that so far as A2 is concerned, Non-Bailable Warrant is pending as against him.

4.Heard Mr.S.R.A.Ramachandhran, learned counsel appearing for the petitioners and Mr.K.Suyambulinga Bharathi, learned Government Advocate(Crl.side) appearing for the first respondent.

5.It is seen that there are totally 4 accused in this case in which, the petitioners herein are arrayed as A1, A3 & A4. According to the case of the prosecution, the defacto complainant had given a sum of Rs.55,00,000/- to the accused persons to purchase gold biscuits at lower cost. Thereafter, they failed to purchase the same and hence, the petitioner requested them to return the amount. However, the accused persons did not return the same. Hence, a complaint was lodged before the first respondent police and the same is pending. While being so, on 28.05.2014, when the accused persons were proceeded in their car, the defacto complainant stopped the car and asked them to return the amount immediately. At that time, the accused persons waylaid the defacto complainant and threatened him with dire consequences and scolded him in filthy language. Hence, initially a case was registered for the offence under Sections 417, 420, 341, 294(b), 506(ii) IPC. Thereafter, the defacto complainant failed to produce documents to attract the offence under Sections 417, 420 IPC. Hence, the first respondent altered the offence under Sections 341, 294(b), 506(ii) IPC and filed a final report which has been taken cognizance in C.C.No.402 of 2017 pending on the file of learned Judicial Magistrate, Ambasamudram, Tirunelveli District.



6.It is seen that when the petitioners were proceeded in their car, the defacto complainant stopped the car and asked them to return the amount, which was allegedly paid by him to purchase gold biscuits. At that juncture, the accused persons threatened the defacto complainant with dire consequences and scolded in filthy language. Therefore, the offence under Section 341 IPC not at all attracted as against the petitioners. Insofar as other offences are concerned, the entire allegations are bald and vague and also to commit the offence there are absolutely no grounds. When the accused persons proceeded by their car, the defacto complainant only stopped the car and the alleged occurrence took place.

7.Further, the occurrence took place on 28.05.2014 and the complaint lodged on 29.05.2014 and the same was registered only on 30.05.2014. There is absolutely no explanation for the delay in preferring complaint and delay in registration of FIR. Further, to attract 294(b), 506(ii) IPC, there is no evidence to connect the petitioners and as such the entire charges levelled against the petitioners are vitiated and the entire proceeding is liable to be quashed. Accordingly, proceedings in C.C.No.402 of 2017 on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District is hereby quashed as against the petitioners herein and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Judicial Magistrate, Ambasamudram, Tirunelveli District.
- 2.The Inspector of Police, Kadayam Police Station,
Ambasamudram Taluk, Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.R.A.RAMACHANDHRAN, Advocate SR-86035.

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