



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD).No.12957 of 2019

and

Crl.M.P.(MD) No.7965 of 2019

K. Mohankumar

.. Petitioner / Accused No.2

Vs.

S.Ramesh Chandran

.. Respondent / Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to complaint in P.R.C.No.107 of 2014 on the file of the Judicial Magistrate No.II, Madurai and quash the same.

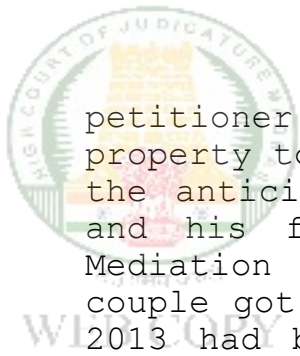
For Petitioner : Mr.C. Jeyaprakash

For Respondent : Mr.V.Palani

O R D E R

This petition is filed to quash the criminal proceedings in P.R.C.No.107 of 2014 on the file of the Judicial Magistrate No.II, Madurai pending committal for the offences under Sections 166 and 420 of I.P.C. and Section 2(d) and 2(e) of the Protection of Human Rights Act, 1993 as against the petitioner.

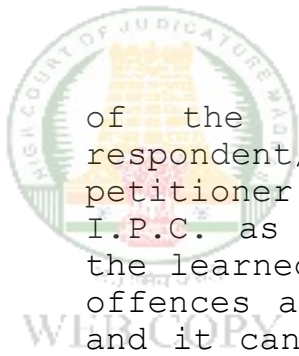
2. The case of the complainant is that he filed a private complaint alleging that his second son married the step daughter of the petitioner on 24.03.2011 and on the ill advice of the said accused and his wife Chandra, the son of the complainant and his wife were separated. Thereafter, the said Chandra had lodged a complaint against the complainant and his family members on 06.11.2012. When the investigation was pending, the son of the complainant and his wife were reunited. However, once again, they were separated at the instigation of the petitioner. Therefore, the daughter-in-law of the complainant viz., M.Ananthi, W/o.Manikandan lodged a complaint as against the complainant and his family members before the All Women Police Station, Tallakulam, Madurai, where the services are provided as working. On the guise of the complaint, the



petitioner intimidated the respondent herein to transfer his property to his grandson, aged about 1-1/2 year old. Thereafter, on the anticipatory bail petition filed by the respondent/complainant and his family members, this Court referred the matter before Mediation and Conciliation Centre, attached to this Court and the couple got reunited again and therefore, the case in crime No.40 of 2013 had been withdrawn. Thereafter, on 30.09.2013, against the daughter-in-law of the respondent/complainant filed a complaint before the other accused and the same was registered a case in crime No.40 of 2013 for the offences under Sections 498(A), 406 and 294(b) of I.P.C. After, examining the witnesses, the son of the respondent/complainant viz., R.Manikandan was arrested on 01.10.2013 and remanded to judicial custody by the learned Judicial Magistrate No.2, Madurai. After investigation, charge sheet has been laid as against the respondent and his family members on 30.11.2013 for the offences under Sections 498(A), 294(b) of I.P.C. and the Additional Mahila Court, Madurai, has taken cognizance in C.C.No.59 of 2014 and the same is pending for trial. Though the earlier matter has been compromised between the daughter-in-law of the respondent/complainant and his family members, only on the instigation of the petitioner in the private complaint in P.R.C.No.107 of 2014, the other accused/A1 had acted misusing her official powers and foisted false case as against the respondent and his family members and his son was also arrested and remanded to judicial custody for not committing any crime. Hence, the respondent/complainant filed a complaint before the learned Judicial Magistrate No.2, Madurai against the petitioner and other accused and the father of his daughter-in-law to punish them under Sections 166 and 420 of I.P.C. and Section 2(d) and 2(e) of the Protection of Human Rights Act, 1993. This complaint is under challenge in this petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner arraigned as A2 and there are totally two accused. The petitioner is none other than the father of the daughter-in-law of the respondent/complainant. On the complaint of the daughter-in-law of the respondent/complainant, the other accused/A1 registered a case in crime No.40 of 2013 for the offences under Sections 498(A), 406 and 204(b) of I.P.C and the same was investigated and laid charge charge sheet and the learned Additional Mahila Judge, Madurai has taken cognizance in C.C.No.59 of 2014 and it is pending for trial. Insofar as Sections 2(d) and 2(e) and 30 of the Protection Human Rights Act, 1993 are concerned, the learned Judicial Magistrate has no power to take cognizance as against the petitioner and hence, he prayed for quashment of the complaint as against the petitioner.

4. Per contra, the learned counsel appearing for the respondent would submit that in the first complaint of the daughter-in-law of the respondent/complainant, there was a compromise between the petitioner and his family members and they got reunited. Only on the instigation



of the other accused herein, the daughter-in-law of the respondent/complainant again lodged a complaint, on which, the petitioner registered a case in crime No.498(A), 406 and 294(b) of I.P.C. as against the respondent and his family members. Further, the learned Judicial Magistrate has rightly taken cognizance for the offences and as such, it has to be gone into a full-fledged trial and it cannot be quashed on question of facts and hence, he prayed for dismissal of the petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on records.

6. The challenge made in this petition is a private complaint, having been taken cognizance for the offences under Sections 166 and 420 of I.P.C. and Sections 2(d) and 2(e) and 30 of the Protection Human Rights Act, 1993 in P.R.C.No.107 of 2014 on the file of the Judicial Magistrate No.2, Madurai lodged by the respondent herein. The fact is that the respondent is the father-in-law and on the complaint lodged by the daughter-in-law as against him and his family members, A-1 registered a case in crime No.40 of 2013 for the offences under Sections 498(A), 406 and 294(b) of I.P.C. In this regard, she arrested the son of the respondent and remanded him to judicial custody. Thereafter, the Additional Mahila Juge, Madurai has taken taken cognizance in C.C.No.59 of 2014 and it is pending for trial. At this juncture, the respondent filed this private complaint for the offences stated above.

7. Insofar as the offence under Section 420 of I.P.C. is concerned, it is very unnatural that the offence under Section 420 of I.P.C. has also been taken cognizance by the learned Judicial Magistrate No.2, Madurai. It is seen from the entire averments of the complaint, there is no iota of evidence to have taken cognizance for the offence under Section 420 of I.P.C. as against the petitioner.

8. Further, the offence under Sections Sections 2(d) and 2(e) and 30 of the Protection Human Rights Act, 1993 are concerned, the learned Judicial Magistrate has no power to take cognizance for the said offences as against the petitioner, since Section 30 of the Protection of Human Rights Act, 1993 provides that taking cognizance is only by a Court of Sessions to be a Human Rights Court to try the offences. Section 30 of the Protection Human Rights Act, 1993 would read thus:

"30.Human Rights Courts.- For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Sessions to be a Human Rights Court to try

<https://hcservices.ecourts.gov.in/hcservices> offences:



Provided that nothing in this section shall apply if -

(a) a Court of Session is already specified as a special Court; or

(b) a special Court is already constituted, for such offences under any other law for the time being in force."

Therefore, the Judicial Magistrate has no jurisdiction to take cognizance for the offence under Sections 2(d) and 2(e) and 30 of the Protection of Human Rights Act, 1993. Therefore, this Court is of the view that the learned Judicial Magistrate ought not to have taken cognizance for these offences as against the petitioner.

9. In view of the above discussion, this Court is inclined to quash the criminal proceedings as against the petitioner. Accordingly, this criminal original petition is allowed and the criminal proceedings in P.R.C.No.107 of 2014 on the file of the Judicial Magistrate No.2, Madurai is quashed as against the petitioner alone. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.2,
Madurai.

+1 CC to M/s.V.PALANI, Advocate (SR-97297[F] dated 11/11/2019)

+1 CC to M/s.C.JEYA PRAKASH, Advocate (SR-97410[F] 11/11/2019)

Crl.O.P. (MD) .No.12957 of 2019
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