



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.15746 of 2014
and
M.P. (MD)No.1 of 2014

1.Ananthi
2.John Arockiam
3.Arockia Amutha
4.Rani Esabella
5.John Anthoni ... Petitioners

Vs

1.The Inspector of Police,
Town North Police Station,
Dindigul.
(In Crime No.248/13)

2.Rajendran ... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.274 of 2014 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same against the petitioner as illegal.

For Petitioners : Mr.D.Selvaraj
For R1 : Mr.A.Robinson
Government Advocate (Crl.side)
For R2 : Mr.V.Kannan

ORDER

The second respondent herein is the defacto complainant. It is not in dispute that the marriage between the first petitioner and the second respondent was solemnized.

2.The case of the second respondent is that the first petitioner has suppressed the factum of the earlier marriage.



Therefore, the second respondent filed a suit for nullifying the marriage and the same was decreed. Thereafter, the first petitioner filed a maintenance case against the second respondent. That was dismissed for default. It has not been restored till date.

3. In this background, the second respondent lodged the impugned FIR in Crime No.12 of 2013 on the file of the Inspector of Police, Town North Police Station, Dindigul.

4. The case of the second respondent is that the petitioners herein abused him and also threatened him. The Madras High Court has held that the offence under Section 506(2) will be attracted only if it is shown that the defacto complainant felt intimidated. In the decision reported in **1989 1 Crimes(HC) 73**, it was held as follows:-

"7. As far as the offence under Section 506(2) is concerned, the learned counsel for the revision petitioner contended that the threat was not a real one, that is was of the kind of words which are currently and frequently used by, people when they are angry and that further, the threat was not spoken to by P.W.3 and P.W.4 who by that time had already come to the scene of occurrence. It is, in fact, found from the records that the threat would have been lashed out after P.W.3 and P.W.4 came to the place and separated both the husband and the wife. Therefore, the evidence of P.W.1 should have been corroborated by the evidence of P.W.3 and P.W.4 who were necessary witnesses to the occurrence. Since they did not corroborate the testimony of P.W.1 in this aspect, the offence cannot be held to be proved. 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 it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually. In fact, P.W.1, when she filed the complaint to the police officer, did not express any fear for her life nor asked for any protection. Therefore, the offence under Section 506(2) is not made out."

5. In this case, this Court can come to the conclusion that threat held out by the petitioners cannot be said to be a real one. A child was born through the relationship between the first petitioner and the second respondent. Therefore, utterance of certain words in such a factual background cannot attract the offence under Section 294(b) of IPC. The petitioners are relatives and their coming together to resolve a matrimonial issue, cannot be said to constitute an unlawful assembly.



6.I am of the view that the continuation of the impugned proceedings would amount to abuse of legal process. In this view of the matter, the impugned proceedings are quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (A.S)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Town North Police Station,
Dindigul.

2.The Judicial Magistrate No.II, Dindigul.

+1 CC to Mr.S.SARVAGAN PRABHU, Advocate SR-87052.

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and
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CS(27.09.2019) 3P 4C