



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2019

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.5792 of 2018
and
Crl.MP.(MD)No.2777 & 2778 of 2018

Sankari

... Petitioner/Accused No.5

Vs.

1.The Inspector of Police,
All Women Police Station,
Thiruchendur,
Tuticorin District.
(Crime No.1/2016)

... Respondent/Complainant

2.Sivakani

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records of the charge sheet in C.C.No.92 of 2016 pending on the file of the learned Judicial Magistrate, Thiruchendur and quash the same as illegal in respect of the petitioner.

For Petitioner : Mr.C.Arul Vadivel Alias Sekar

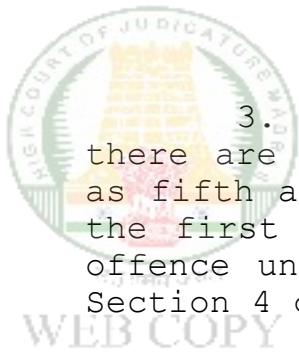
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

For R2 : Mr.Pon.Karthikeyan

O R D E R

This petition has been filed to quash the proceedings in C.C.No.92 of 2016 pending on the file of the learned Judicial Magistrate, Thiruchendur.

2. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

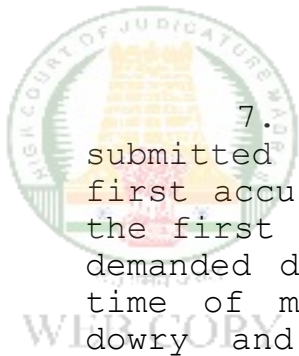


3. The learned counsel for the petitioner would submit that there are totally six accused. In which, the petitioner is arrayed as fifth accused. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.1/2016 for the offence under Sections 498 (A), 494, 294 (b), 506 (ii) of IPC and Section 4 of TNPWH Act.

4. The crux of the complaint is that the second respondent's daughter got married with the first accused on 18.03.2012. At the time of marriage jewels, cash and house-hold articles were presented as 'Sridhana'. The first accused on the instructions of his mother and sister/A3 and A4, ill treated the second petitioner's daughter. While being so, on 02.03.2014, the second respondent lodged a complaint before the first respondent and the entire Sridhana articles were returned by the first accused. Thereafter, the first accused got married another woman at temple. When it was questioned by the second respondent and her family members, all the accused persons were scolded them with filthy language and also threatened them with dire consequences. After completion of investigation, the first respondent registered a case in Crime No.1 of 2016 for the offence under Sections 498 (A), 294 (b), 506 (i) of IPC and Section 4 of TNPWH Act and the same has been taken cognizance in C.C.No.92 of 2016 before the learned Judicial Magistrate, Thiruchendur.

5. The learned counsel for the petitioner would submit that the entire allegations are bald and vague and the petitioner is no way connected with any offence as alleged by the prosecution. She is happen to be the sister of the first accused, she has been falsely implicated in this case. He further submitted that there is no allegations with regarding to demand of dowry or subjecting the victim to cruelty by this petitioner. Therefore, the offence under Section 498 (A) could not be invoked against the petitioner. The petitioner got married long before and never lived with the victim under the one roof at any point of time.

6. Further, insofar as the offences under Sections 294 (b) IPC is concerned, in the charge sheet, there is no allegation shows that on hearing the obscene words uttered by the accused, they second respondent and her family members were felt annoyed. He further submitted that insofar as the offence under Section 506 (ii) IPC is concerned, the learned counsel for the petitioner relied upon the judgment of this Court reported in **1988 (2) MWN (Cr) 184**, has categorically held that to invoke Section 506 (ii) IPC, 'which is rather an important offence punishable with imprisonment, which may extend to seven years, the threat should be real one and not just a mere word when the person does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually'. Therefore, he prayed for quashment of proceedings.

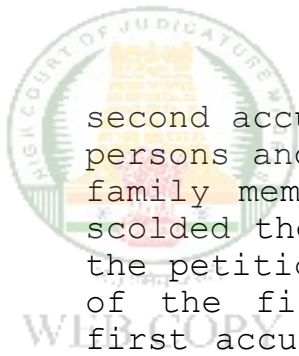


7. The learned counsel for the second respondent would submitted that the second respondent's daughter is the wife of the first accused. They got married on 18.03.2012. During the marriage, the first accused and his relatives viz., the other accused persons demanded dowry and their request was completely fulfilled at the time of marriage. Even after marriage, they demanded additional dowry and harassed the second respondent's daughter on the instigation of the other relatives. Therefore, she lodged a complaint before the respondent police and the same has been registered in Crime No.1/2016 for the offences under Sections 298 (A), 494, 294 (b), 506 (ii) of IPC and Section 4 of TNPWH Act. He further submitted that the petitioner herein is the own sister of the first accused and only on her instigation, the first accused harassed the second respondent's daughter. Further, all the accused persons tortured the second respondent's daughter and scolded her with filthy language and also threatened her with dire consequences. Therefore, there is specific averments as against the petitioner to attract the offences under Sections 298 (A), 294 (b), 506 (ii) of IPC and Section 4 of TNPWH Act. Further, he submitted that the points raised by the petitioner cannot be considered in this quash petition and only consider at the time of trial before the Trial Court and hence he prayed for dismissal of this petition.

8. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.1 of 2016 for the offence under Sections 498 (A), 294 (b), 506 (i) of IPC and Section 4 of TNPWH Act and the same has been taken cognizance in C.C.No.92 of 2016 before the learned Judicial Magistrate, Thiruchendur and it is pending for trial. Insofar as the petitioner is concerned, she is arrayed as fifth accused. She is none other than the own sister of the first accused. According, to the second respondent, when the second respondent and her family members questioned about the harassment and torture was given by the petitioner and the other accused persons to the daughter of the second respondent, they scolded them with filthy language and abused them and threatened them with dire consequences and as such, all the offences are clearly attract as against the petitioner and he also prayed for dismissal of the quash petition.

9. Heard the learned counsel for the petitioner, learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

10. There are totally six accused. In which, the petitioner arrayed as fifth accused. She is the sister of the first accused viz., husband of the second respondent herein. The first accused and the second respondent got married on 18.03.2012. Thereafter, she was harassed and tortured by the first accused and his relatives for additional dowry. Therefore, she was driven out from matrimonial home. She in her first, the first accused got married another woman/



second accused with the help of the petitioner and the other accused persons and the same was questioned by the second respondent and her family members, the petitioner and the other accused persons have scolded them and threatened them with dire consequences. As far as the petitioner is concerned, when the second respondent and the wife of the first accused questioning about the marriage between the first accused and the second accused, the petitioner and the other accused persons abused them and also scolded them with filthy language and threatened then with dire consequences. Admittedly, the petitioner never lives with the first accused and his wife viz., daughter of the second respondent at any point of time. She is residing separately along with her husband and no way connected with the second accused. Hence, the offence under Section 498 (A) IPC would not be attracted.

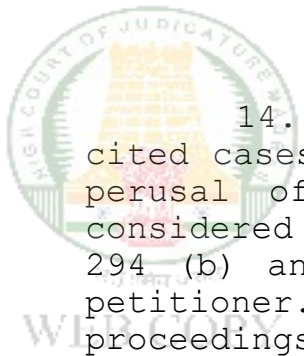
11. In so far as the offence under Sections 294 (b) and 506 (ii) IPC are concerned, the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioner, the witnesses felt annoyed. No one has spoken about the obscene words they felt annoyed and in the absence of legal evidence to show that the words uttered by the accused annoyed others, it cannot be said that the ingredients of the offence under Section 294 (b) IPC is made out. In this regard, it is relevant to rely upon the judgment in the case of **K.Jeyaramanuju Vs. Janakaraj & another** reported in **(1996 (I) CTC 470)**, which is held as follows:-

"To prove the offence under Section 294 IPC mere utterance of obscene word are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in this case."

12. in the case on hand, as discussed above, there is absolutely no evidence to show that the petitioner uttered obscene words as against the second respondent and as well as the daughter of the second respondent. Therefore, the above judgment is squarely apply to the present case.

13. Insofar as the offence under Section 506 (ii) IPC is concerned, this Court relied upon the judgment in the case of **Noble Mohandass Vs. State** reported in **(1998 (2) MWN (Cr) 184)**, which is 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 odes not feel threatened actually."



14. In the light of the above principles laid down in the cited cases supra, the allegations shows in the charge sheet and on perusal of statements of the witnesses, this Court is of the considered opinion that the ingredients of offences under Sections 294 (b) and 506 (ii) IPC are not at all made out as against the petitioner. Therefore, in view of the above said reasons, the proceedings in C.C.No.92 of 2016 pending on the file of the learned Judicial Magistrate, Thiruchendur, is hereby quashed as against the petitioner is concerned and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

15. The learned Judicial Magistrate, Thiruchendur, is directed to complete the trial in C.C.No.92 of 2016, within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

dss

To

1. The Judicial Magistrate,
Thiruchendur.
2. The Inspector of Police,
All Women Police Station,
Thiruchendur,
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate SR-93315.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate SR-93147.

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