



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2019

CORAM:

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

Crl.O.P.(MD)No.6002 of 2018

and

Crl.M.P.(MD)Nos.2878 & 2879 of 2019

1.T. Kadhar Khan

2.S. Kadhar Mohdeen

... Petitioners/Accused Nos.1 & 2

-Vs-

1.The Sub Inspector of Police

Appanthiruppathi Police Station,
Madurai District,

in Cr No. 642 of 2012

... Respondent/Complainant

2.A. Sellappa

... Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No. 396 of 2016 on the file the Judicial Magistrate No.V, Madurai and quash the same.

For Petitioners : Mr.G.Thiruvavutselvan

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

For R2 : Mr.V.Perumal

O R D E R

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.396 of 2016 on the file the learned Judicial Magistrate No.V, Madurai.

2. Heard the learned counsel for the petitioners, the learned counsel for the second respondent and the learned Government Advocate (Crl. side) for the respondent police.



3. It is seen that the petitioners are arrayed as A1 and A2. The crux of the complaint is that on 03.06.2016, the defacto complainant along with his friend / Vijayan went to the disputed land and fencing the said land, at that, time the petitioners along with other accused abusing the defacto complainant and threatened him with dire consequences. Hence, a case has been registered by the first respondent in Crime No.642 of 2012 for the offences under Sections 452, 447, 294(b) and 506(i) I.P.C. and after investigation the first respondent filed the final report before the learned Judicial Magistrate No.V, Madurai and the same was taken cognizance in C.C.No.396 of 2016.

4. The ingredients of the offence under Sections 294(b) and 506 (i) of I.P.C. are not made out as against the petitioners. The charge does not show the obscene words, which were uttered by the accused and no one even whisper about the filthy words uttered by the accused as against the defacto complainant/ second respondent. Therefore, the offence under Section 294(b) of I.P.C. is not at all made out as against the petitioners herein. In this regard, it is also relevant to rely upon the judgment of this Court in ***Crl.O.P. (MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police)***, which reads as follows:-

"7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(B) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

5. The above judgment is squarely applicable in the case on hand. Therefore, the entire proceeding is clear an abuse of process of law and it is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings C.C.No. 396 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai, is hereby



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quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

- 1.The Judicial Magistrate No.V,
Madurai.
- 2.The Sub Inspector of Police
Appanthiruppathi Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.THIRUVARUTSELVAN, Advocate (SR-99219[F] dated 18/11/2019)

+1 CC to M/s.V.PERUMAL, Advocate (SR-99445[F] dated 19/11/2019)

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JMN(10.12.2019) 3P : 6C