



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM :

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

Crl.O.P.(MD)No.6018 of 2018

and

Crl.M.P.(MD)Nos.2885 and 2886 of 2018

Mukesh Kumar

... Petitioner/Accused No.1

Vs.

1.State Represented by
The Inspector of Police,
Thilagar Thidal Police Station,
Madurai.

... 1st Respondent/Complainant

2.T.Suresh

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the case in S.T.C.No.53 of 2017, on the file of the Judicial Magistrate No.II, Madurai, and quash the same as against the petitioner.

For Petitioner : Mr.C.Vakeeswaran

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

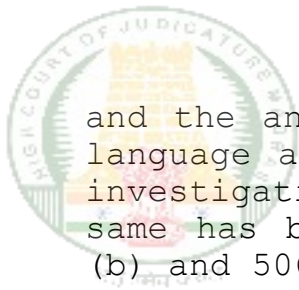
For R2 : No appearance

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.53 of 2017, on the file of the Judicial Magistrate No.II, Madurai.

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

3.There are two accused. The petitioner is arrayed as the first accused. The case of the prosecution is that the petitioner



and the another person scolded the defacto complainant with filthy language and abused the second respondent. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance for the offence under Sections 294 (b) and 506 (I) of IPC.

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4.The petitioner and other accused are tenants under the father of the second respondent. In this regard, there was a dispute to vacate the premises. The second accused also vacated the premises and entered into compromise and the entire proceedings has been quashed as against the second accused.

5.Insofar as the petitioner/A1 is concerned, the civil suit is filed by him in O.S.No.464 of 2014 before the learned Principal District Munsif, Madurai, for the relief of permanent injunction as against the second respondent. In fact, the second respondent also filed a petition in RCOP.No.238 of 2014 before the same Magistrate for eviction and it is also pending. Therefore, the entire matter is civil in nature.

6.It is seen that the entire allegations are simple in nature. Further, there is absolutely no ingredients to attract the offence under Section 294 (b) IPC. In this regard, this Court relied upon the judgment of this Court in Crl.OP(MD)No.11030 of 2014 dated 19.09.2018, which is held as follows:-

" It is seen from the statements recorded under Section 161 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) IPC., 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 IPC 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."

7. In view of the above judgment, the entire proceedings is nothing, but, clear abuse of process of law. Considering the above facts and circumstances, the proceedings in S.T.C.No.53 of 2017, on



the file of the Judicial Magistrate No.II, Madurai, is hereby quashed as against the petitioner and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

dss

To

- 1.The Judicial Magistrate No.II,
Madurai.
- 2.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-93486[F] dated
22/10/2019)

Crl.O.P. (MD)No.6018 of 2018
and

Crl.M.P. (MD)Nos.2885 and 2886 of 2018
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JMN(20.11.2019) 3P : 5C