



WEB COPY

1

CRL.O.P.(MD)No.12659 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.12659 of 2015 and

M.P.(MD)Nos.1 & 2 of 2015

Suresh Johnpaul

... Petitioner/Sole Accused

Vs.

1. State rep. by,
The Sub Inspector of Police,
Alagappapuram Police Station,
Sivagangai District.
(Crime No.28 of 2015)

... Respondent/Complainant

2. Pappu

... Respondent/Defacto
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in connection with C.C.No.123 of 2015 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi and quash the same as illegal.

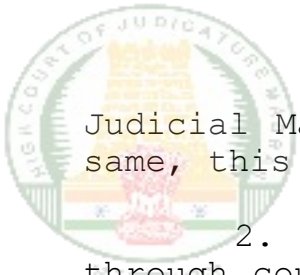
For Petitioner : Mr.R.Srinivasan,
for Mr.M.Sendhilkumar

For R-1 : Mr.A.Robinson,
Government Advocate(Cr1. Side)

For R-2 : No appearance.

O R D E R

The petitioner Suresh Johnpaul and the second respondent Pappu, W/o.Somasundaram were having some financial transactions. The petitioner is the borrower, while the second respondent is the creditor. On 06.04.2015, the second respondent lodged a complaint against the petitioner on the file of the Azhagappapuram police station alleging that the petitioner came in a car and was about to hit her and that she fell down and sustained injuries. According to the second respondent, the occurrence had taken place on 03.04.2015 at about 08.30 p.m. However, during the investigation the defacto complainant had given a statement under Section 161 of Cr.P.C. that she gave an exaggerated version that what had actually happened. The investigation officer therefore filed final report against the petitioner only in respect of the offences under Sections 341 and 506(ii) IPC. Cognizance of the aforesaid offences was taken by the



Judicial Magistrate, Karaikudi in C.C.No.123 of 2015. To quash the same, this Criminal Original petition has been filed.

2. Though the defacto complainant had entered appearance through counsel, there is no representation on his behalf before me today.

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

4. The petitioner's counsel also drew my attention to the fact that the petitioner's father had in turn lodged a complaint against the defacto complainant and the same was registered in Crime No.47 of 2015 for the offences under Sections 341, 294(b) and 506(i) of I.P.C. He would state that the said criminal case had also culminated in a calender case in C.C.No.386 of 2015 on the file of the Judicial Magistrate, Karaikudi. Both the calender cases are still pending.

5. The petitioner's counsel on instructions not only from Suresh Johnpaul, but also from his father, namely, K.P.Selvam states that they would have no objection if both these cases are directed to be quashed.

6. The case on hand relates to the offences under Sections 341 and 506(ii) of I.P.C. Section 506(ii) of I.P.C. can be invoked, only if it is shown that the threat held out by the accused is real and substantial. The Madras High Court in the decision reported in (1988) L.W.(Crl.) 178 (Noble Mohandass V. State) 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 it 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.Ws.3 and 4 came to the place and separated both the husband and 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 not



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."

7. In this case, there is nothing on record to show that the defacto complainant felt any real threat. Even she had fairly stated in the statement made under Section 161 of Cr.P.C. that her earlier First Information Report was the exaggerated one. Admittedly, the defacto complainant did not suffer any injury. The case of the wrongful confinement is also not *prima facie* made out. The relationship between the parties is a strained one. Therefore, the minor confrontation between them cannot be said to constitute wrongful confinement. The impugned prosecution stands quashed. Likewise the prosecution against the second respondent in C.C.No.386 of 2015 on the file of the Judicial Magistrate, Karaikudi, is also quashed.

8. The Criminal Original petition stands allowed, on these terms. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Principal District Munsif
cum Judicial Magistrate, Karaikudi.
2. The Sub Inspector of Police,
Alagappapuram Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No. 12659 of 2015 and
M.P.(MD)Nos.1 & 2 of 2015
05.11.2019

AP(17/06/2020) 3P 4C

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