



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P(MD)No.2613 of 2015

and

M.P.(MD)No.1 of 2015

Pattammal

... Petitioner/Accused No.2

Vs

1.The State through the
Inspector of Police,
West Police Station,
Virudhunagar,
In Crime No.514 of 2014,
Virudhunagar District.

2.Muthulakshmi

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.264 of 2014 pending on the file of the Judicial Magistrate No.I, Virudhunagar and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.R.Rajamohan

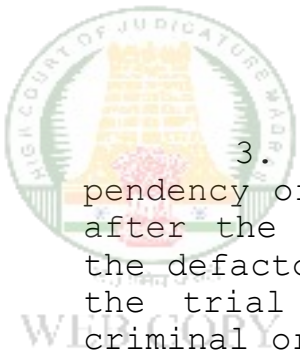
For R1 : Mr.A.Robinson
Government Advocate (Cr1.side)

For R2 : Mr.G.Mariappan

ORDER

The petitioner is facing trial in C.C.No.264 of 2014 on the file of the Judicial Magistrate No.I, Virudhunagar, for the offence under Section 294 (b) of IPC. To quash the same, this criminal original petition has been filed.

2. When the case was taken up for disposal, the learned counsel appearing for the defacto complainant submitted that the trial had already commenced in this case and that, Investigating Officer alone remains to be examined. He therefore called upon this Court to dismiss this criminal original petition.



3. It is seen that the trial had commenced only during the pendency of this original petition. If the quash petition is filed after the commencement of the trial, then the objection raised by the defacto complainant will have some substance. But in this case, the trial had been taken up only during the pendency of this criminal original petition. Therefore, I am not inclined to dismiss this criminal original petition as infructuous.

4. It is seen that the petitioner's husband -Karuppasamay issued a legal notice under Section 138 of the Negotiable Instruments Act to Thiru.Paramasivam-husband of the defacto complainant-Muthulakshmi herein. According to the defacto complainant herein, after receiving notice, she went to the house of Karuppasamy and made an enquiry and during the course of enquiry, the petitioner as well as her husband uttered the offending words and committed offending acts.

5. The only allegation against the petitioner is that she abused the defacto complainant in filthy language. Section 294 (B) of IPC will come into play only if offending words were uttered in a public place. In this case, the petitioner was very much in her house. It was the defacto complainant who went to the house of the petitioner and threw her out. The petitioner's husband has issued a legal notice to the husband of the defacto complainant. The defacto complainant should only issue a reply notice. She had deliberately gone to the house of the petitioner and picked up quarrel.

6. The case of the prosecution is inherently improbable. It is obvious that since the petitioner's husband had issued a legal notice, the entire case has been engineered more to wreck vengeance and out of personal spite. The Hon'ble Supreme Court, in the decision reported in **(1992 Supp(1) SCC 335) State of Haryana V. Bhajanlal**, has laid down set of parameters for quashing the proceedings. One such parameter is as under:-

"(7). Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7. Since I have come to the conclusion that the petitioner had been falsely roped in more out of spite, the impugned proceedings deserves to be quashed. The continuation of the impugned proceedings would amount to abuse of legal process. Hence, in order to secure the ends of justice, the



impugned proceedings are quashed as far as the petitioner is concerned. This criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi

(*)TO BE SUBSTITUTED THE ORDER ALREADY DESPATCHED ON 20.02.2020

To

- 1.The Judicial Magistrate No.I, Virudhunagar.
- 2.The Chief Judicial Magistrate, Virudhunagar at Srivilliputhur.
- 3.The Inspector of Police, West Police Station,
Virudhunagar, Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

(*)+1CC TO MR.R.RAJAMOHAN, Advocate Sr. No. 88915

Cr1.O.P(MD)No.2613 of 2015

and

M.P. (MD)No.1 of 2015

24.09.2019

NS (CO)

JMN(19.02.2020) 3P : 5C

TR (16.03.2020) 3P 6C