



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

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

Cr1.O.P. (MD)No.7217 of 2018

and

Cr1.MP(MD)Nos.3429 & 3430 of 2018

1.Kalidass
2.Chithra
3.Sumathi
4.Santhi
5.Karthigairani

... Petitioners/Accused 1 to 5

-Vs-

1.The State rep by
The Inspector of Police,
Peraiyur Police Station,
Madurai District.
(Crime No.230/2016)

... 1st Respondent/Complainant

2.G.Paraman

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to impugned charge sheet in S.T.C.No.65 of 2017 pending on the file of the learned Judicial Magistrate, Peraiyur, and quash the same as illegal and improper.

For Petitioner	: Mr.R.Murugan
For R1	: Mr.K.Suyambulinga Bharathi
	Government Advocate (Cr1.Side)
For R2	: Mr.T.Vadivalan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.65 of 2017 pending on the file of the learned Judicial Magistrate, Peraiyur.

2. Heard the learned counsel appearing for the petitioners, learned Government Advocate (Cr1.Side) appearing for the first respondent and learned counsel appearing for the third respondent.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have no way connected in this case. He further submitted that there is no specific overt act said to have been attributed by any of the petitioners as per the allegation made either in the FIR or in the 161 (3) Cr.P.C., Hence, he prayed for quashment of this petitioner.



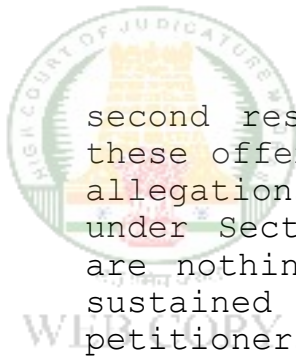
4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that there are totally five accused persons. The petitioners are arrayed as accused Nos.1 to 5. According to the second respondent on 31.10.2016, unfortunately, the petitioners trespassed into the house of the second respondent and abused him with filthy language. Hence, the case has been registered as against two accused persons and other ten persons. After completion of investigation, the first respondent has filed final report as against the petitioners and the same has been taken cognizance in S.T.C.No.65 of 2017.

5. It is seen that the occurrence took place on 31.10.2016 and the complaint lodged before the respondent police only on 03.11.2016. There is no explanation for delay in lodging the complaint. Further, the date of occurrence pointed out in the charge sheet is 30.10.2016. Even assuming that the occurrence took place on 30.10.2016, there is no explanation for delay in lodging the complaint. Therefore, the entire allegations are baled and vague and no specific overt act as against each of the petitioners herein to attract the offence under Section 294 (b) IPC.

6. 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, the words used by the petitioners would not attract offence under Section 294 (b) IPC. Insofar as the other offences are concerned, they entered into the house of the



second respondent and abused him with filthy language to attract these offences under Sections 147, 148 of IPC. There are no specific allegations and no ingredients to make out the case for the offences under Sections 147, 148 of IPC. Therefore, the entire proceedings are nothing, but, clear abuse of process of law and it cannot be sustained against the petitioners. Under these circumstance, the petitioners need not go for ordeal of the trial.

8. Considering the above facts and circumstance, the proceedings in S.T.C.No.65 of 2017 pending on the file of the learned Judicial Magistrate, Peraiyur, is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

dss
To

- 1.The Judicial Magistrate Court,
Peraiyur.
2. The Inspector of Police,
Peraiyur Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.R.MURUGAN, Advocate Sr. No.95263
+1CC TO MR.T.VADIVELAN, Advocate Sr. No. 95646

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and

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