



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.11.2019**

CORAM:

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

Crl.O.P. (MD)No.12044 of 2018

and

Cr.M.P (MD)Nos.5470 and 5471 of 2018

Sasikala ...Petitioner/Proposed Accused No.1
Vs.
Parameswari ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to quash the C.C.No.187 of 2017, dated 16.02.2018 on the file of the Judicial Magistrate Court No.I, Sivagangai against the petitioner and quash the same.

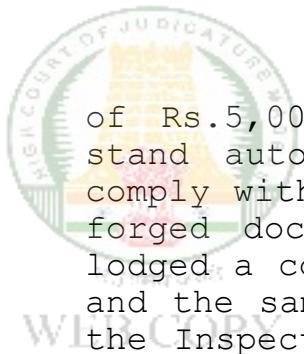
For Petitioner : Mr.C.M.Arumugam
for Mr.P.Saravanan
For Respondent : Mr.T.Kumar

O R D E R

This petition has been filed to quash the proceedings in C.C.No.187 of 2017, dated 16.02.2018 on the file of the Judicial Magistrate Court No.I, Sivagangai, as against the petitioner.

2. The crux of the complaint is that on 25.09.2017, the petitioner and her Office Assistant one Jansi Rani made life threaten to the respondent. After allotment of shed the respondent / complainant lodged a private complaint. After lodging the said complaint, the learned Judicial Magistrate Court No.1, Sivagangai have taken cognizance for the offences under Sections 147, 447, 294 (b), 353 and 506(i) of IPC.

3.The learned counsel for the petitioner would submit that the petitioner is working as a Manager in SIDCO, Sivagangai. While being so, the respondent was allotted a shed to run a unit under the name and style of 'JSR FOOD PRODUCTS' at SIDCO. The allotted shed measuring to an extent of 1000 sq.ft. constructed in 0.175 acre of land at Sivagangai SIDCO. The total value of the land and building is Rs.10,06,300/- including all administrative charges. Initially the respondent has paid 10% of the total sale consideration and assured to pay the remaining 90% of the sale consideration thereafter. However, she failed to do so. Therefore, the petitioner issued show cause notice and also so many reminders to the respondent. The petitioner cancelled the allotment order granted in favour of the respondent. In fact, the respondent also filed Writ petition in W.P.(MD)No.14388 of 2017 for extension of time to remit the balance payment. This Court while passing conditional interim order directed the respondent to deposit a sum



of Rs.5,00,000/- failing which, the interim order granted shall stand automatically vacated. Even then the respondent did not comply with the said order. While being so, the respondent created forged documents with an endorsement and as such the petitioner lodged a complaint as against the respondent and her family members and the same was registered in Crime No.639 of 2017 on the file of the Inspector of Police, Sivagangai Police Station for the offence under Sections 147, 447, 294(b), 353 and 506(i) of IPC. Pending investigation the present complaint has been lodged. Therefore, the entire process is malicious one arising out of the same occurrence.

4.Per contra, the learned counsel for the respondent submitted that there is a specific allegation as against the petitioner and as such the learned Judicial Magistrate rightly taken cognizance in C.C.No.187 of 2017 for the offences under Sections 147, 447, 294(b), 353 and 506(i) of IPC. Further all the points raised by the petitioner can be considered during the course of trial. Hence, he prayed for quash the petition.

5.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

6.On perusal of the records it reveals that the petitioner has allotted a shed in favour of the respondent and for the said allotment, the respondent paid only 10% of total sale consideration and the remaining sale consideration has not been paid in time and therefore, the petitioner was constrained to issue show cause notice and also subsequently, canceled the allotment order granted in favour of the respondent herein. Pursuant to the same, the respondent also filed a writ petition in W.P.(MD)No.14388 of 2017, in which this Court granted conditional interim stay that the respondent shall deposit a sum of Rs.5,00,000/-. Till then she did not comply with the same. Thereafter, the respondent and her family members indulged in all the criminal activities. Therefore, the petitioner lodged a complaint and the same was registered in Crime No.639 of 2017 for the offences under Sections 147, 447, 294(b), 353 and 506(i) of IPC on the file of the Inspector of Police, Sivagangai. While pending investigation, the present impugned complaint has been lodged by the respondent. Therefore, it is nothing but malicious prosecution as against the petitioner. The learned Judicial Magistrate has taken cognizance in C.C.No.187 of 2017 for the offences under Sections 147, 447, 294(b), 353 and 506 (i) of IPC., as against the petitioner.

7.It is also relevant to rely upon the judgment of this Court in ***CrI.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."

8. The above judgment is squarely applicable to the case on hand. Therefore, the entire private compliant nothing but clear abuse of process of law and it is liable to be quashed.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.187 of 2017 on the file of the learned Judicial Magistrate Court No.I, Sivagangai, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

vsd
To

The Judicial Magistrate Court No.I,
Sivagangai.

+1 CC to Mr.P.SARAVANAN, Advocate (SR-98437[F] dated 15/11/2019)

**CrI.O.P. (MD)No.12044 of 2018
and**

**Cr.M.P(MD)Nos.5470 and 5471 of 2018
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