



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.10215 of 2017

and

Crl.M.P.(MD).No.6983 of 2017

WEB COPY

1.Shahul Hameed

2.Asan Mohammed

...Petitioners/Accused Nos.1&2

Vs.

1.The State represenated by
The Inspector of Police,
Thenkarai Police Station,
Periyakulam, Theni District.
(FIR No.87 of 2016)

...Respondent/Complainant

2.S.M.Ajish

...Respondent/Informant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to FIR Nlo.87 of 2016, dated 09.02.2016, on the file of the first respondent, Thenkarai Police Station, Periyakulam, Theni District and quash the same.

For Petitioner	: Mr.R.Murugappan
For R-1	: Mr.M.Chandrasekaran
	Additional Public Prosecutor

For R-2	: No Appearance
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O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.87 of 2016, dated 09.02.2016, pending investigation on the file of the first respondent Police, Thenkarai Police Station, Periyakulam, Theni District.

2.The allegations that have been made in the complaint is to the effect that the petitioners along with one other accused person had borrowed a sum of Rs.80,000/- to meet the marriage expenses. On 20.11.2015, the *de facto* complainant is said to have gone to the house of the petitioners along with two others and demanded for repayment of the amount. At that point of time, the accused persons are said to have abused the *de facto* complainant with filthy language and intimidated him.

3. Based on the complaint given by the second respondent, a First Information Report has been registered by the respondent



Police for the offences under Sections 294(b) and 506 (i) of the Indian Penal Code.

4. The learned counsel appearing for the petitioners submitted that even if the allegations are taken as it is, no offence has been made out against the petitioners. The learned counsel further submitted that a civil dispute is given a criminal colour by the *de facto* complainant and the entire complaint is an abuse of process of law. Therefore, the learned counsel submitted that the First Information Report is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the first respondent, on instructions, submitted that the investigation has been completed and final report is yet to be taken on file by the concerned Court.

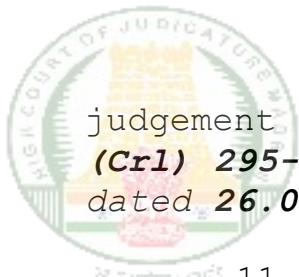
6. The second respondent has been served with the notice and his name has also been printed in the cause list. There is no appearance for the second respondent and therefore, this Court proceeds to deal with this case on merits.

7. This Court has carefully considered the submissions made on either side and perused the materials available on record.

8. The First Information Report has been registered for the offences under Sections 294(b) and 506 (i) of the Indian Penal Code.

9. In order to attract the offence under Section 294(b) of the Indian Penal Code, two ingredients will have to be satisfied. First ingredient is that the offender must have done any obscene act in any public place or has uttered any obscene words in or near any public place and the second ingredient is that it had caused annoyance to the complainant. In the present case, even as per the complaint, the incident has not taken place in or near public place and the petitioners are said to have abused the *de facto* complainant with filthy words in their house. Therefore, *prima facie*, the ingredients of Section 294(b) is not satisfied.

10. The First Information Report has been registered for offence under Section 506 (i) of the Indian Penal Code for criminal intimidation. In order to attract the offence of criminal intimidation, the complaint has to satisfy the requirements of Section 503 of the Indian Penal Code which defines criminal intimidation. It is now a well settled principle of law that empty threats does not by itself make out the offence of criminal intimidation, unless, there is an evidence to show that the threat is a real one. Useful reference can be made to the



judgement of the Hon'ble Supreme Court reported in **2019 (3) MLJ (Crl) 295-(Vikram Johar Vs. The State of uttar Pradesh and Others)** dated **26.04.2019**.

11. In view of the above, even if the allegations made in the complaint are taken as it is, no offence under Sections 294(b) and 506 (i) is made out in the First Information Report. Therefore, the continuation of the proceedings against the accused persons is an abuse of process of law and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

12. In the result, the First Information Report in Crime No.87 of 2016, is hereby quashed. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Inspector of Police,
Thenkarai Police Station,
Periyakulam, Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-86373[F] dated 12/09/2019)

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