



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P (MD) No.10455 of 2017

and

CRL.M.P (MD) Nos.7141 and 7142 of 2017

Patick Joshua

.. Petitioner/Sole accused

Vs.

1.The Inspector of Police,
Muthiahpuram Police Station,
Muthiahpuram, Thoothukudi.
(Cr. No.168 of 2016)

.. 1st Respondent/Complainant

2.Edwin

.. 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C.No.231 of 2016 on the file of the Judicial Magistrate No.II, Thoothukudi and quash the same.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.K.Suyumbulinga Bharathi for R1
Government Advocate (Crl. Side)

Mr.S.Sathiya Chidambaram for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings pending in S.T.C.No.231 of 2016 on the file of the learned Judicial Magistrate No.II, Thoothukudi.

2.The respondent police have filed a final report against the petitioner for an offence under Sections 294 (b) and 341 of IPC.

3.The allegations as found in the final report is to the effect that there was a dispute between the petitioner and the defacto complainant regarding a common wall in between their houses. On

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



02.04.2016, the defacto complainant is said to have questioned as to why a window has been placed on the common wall. Immediately, the petitioner is said to have restrained the defacto complainant who was coming in a two wheeler and abused him in filthy language and threatened him.

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4.The learned counsel for the petitioner submitted that for the purpose of constituting an offence of wrongful restraint, there must be an intention to obstruct any person and prevent that person from proceeding in any direction, in which that person has a right to proceed. In the present case, the ingredients have not been fulfilled and therefore no offence is made out under Section 341 of IPC. The learned counsel further submitted that even as per the allegations, the abusive language has not been used in any public place and no offence under Section 294 (b) IPC is also attracted.

5.The learned Government Advocate (Crl. Side) appearing for the State submitted that the allegations as contained in the final report and the statements given by the witnesses clearly make out an offence under Section 294(b) and 341 IPC and absolutely there is no ground to interfere with the proceedings.

6.The learned counsel appearing for the second respondent adopted the arguments of the learned Government Advocate (Crl. Side) and submitted that the present petition is liable to be dismissed.

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

8.There is already a dispute between the parties and the petitioner is said to have placed a window in the common wall. This was questioned by the defacto complainant. As a result of which the petitioner is said to have been restrained him and abused him in filthy language.

9.The entire reading of the allegations made in the final report along with the statement of witnesses, does not make out an offence under Section 341 and 294(b) of IPC. The so called restraint of the defacto complainant who was coming in the two wheeler does not fulfill the requirements of Section 339 of IPC. That apart the abusive words that is said to have been used was not done in a public place and therefore no offence is made out under Section 294(b) of IPC.

10.The continuation of the proceedings in this case will amount to an abuse of process of Court and therefore, it requires the interference of this Court in exercise of its jurisdiction under Section 482 of IPC.

11.In the result, the proceedings in S.T.C.No.231 of 2016 on <https://hcs.judges.ecourts.gov.in/hcs/judges/> Judicial Magistrate, Thoothukudi, is hereby quashed



and the Criminal Original Petition is allowed accordingly.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-I)

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// True Copy //

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II,
Thoothukudi.

2.The Inspector of Police,
Muthiahpuram Police Station,
Muthiahpuram, Thoothukudi.

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

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-94444[F] dated 24/10/2019)

+1 CC to M/s.S.SATHYA CHIDAMBARAM, Advocate (SR-94643[F] dated 25/10/2019)

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