



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) No.4366 of 2017

and

Crl.M.P. (MD) Nos.3113 & 3114 of 2017

WEB COPY

M.Seyed Abdul Kadar ... Petitioner/Accused (Single)
Vs.
M.Madasamy ... Respondent/ *De facto* Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.114 of 2015 on the file of the learned Judicial Magistrate Court, Sankarankovil, Tirunelveli District and quash the same.

For Petitioner : Mr.V.Kannan
For Respondent : Mr.Ramasamy

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.114 of 2015 pending on the file of the learned Judicial Magistrate Court, Sankarankovil, Tirunelveli District.

2. The respondent had given a complaint against the petitioner before the police on the ground that he is an Advocate Clerk and the petitioner had borrowed a sum of Rs.1,00,000/- on 15.04.2005 and had issued a cheque dated 01.09.2005. The amount was not repaid and therefore, a complaint was given to the concerned police. Since no action was taken, a complaint was given under Section 156(3) of Cr.P.C. before the Court. The Court below has taken the complaint on file in C.C.No.114 of 2015 for the alleged offenses under Sections 294(b) and 506(i) of IPC.

3.The learned counsel for the petitioner submitted that, even if the allegations are taken as it is, no offence has been made out. The learned counsel submitted that the primary allegation that has been made by the respondent is that the amount that was given as loan was not repaid and the cheque that was given as a security has not been honoured and when the amount was asked to be repaid, the respondent was abused in filthy language and threatened. The learned counsel submitted that the respondent has not even alleged in the complaint as to what were the words used by the petitioner to abuse him and to threaten him.

4. The learned counsel for the respondent submitted that the petitioner had cheated the respondent by not repaying back the loan amount received by him and when it was asked to be repaid, the respondent was abused and threatened. The learned counsel submitted



that the petitioner has to necessarily undergo trial before the Court below.

5. This Court has carefully considered the submissions that have been made by the learned counsel appearing on either side and the materials available before the Court.

6. The primary allegation that has been made in the complaint is to the effect that the respondent has given a loan for a sum of Rs.1,00,000/- to the petitioner and it was not repaid. The cheque that was given as a security was also not honoured and no proceedings were initiated under Section 138 of the Negotiable Instruments Act. When this amount was asked to be repaid, the petitioner is said to have abused the respondent and threatened him.

7. Even as per the allegations in the complaint, the obscene words which are said to have been used by the petitioner was not done in a public place and therefore, the offense under Section 294 (b) is not attracted. That apart, mere usage of words will not constitute an offense of criminal intimidation without anything more done by the petitioner.

8. The Court below went wrong in taking cognizance of the complaint and no offense has been made out under Sections 294(b) and 506(i) of IPC.

9. In the result, C.C.No.114 of 2015 pending on the file of the learned Judicial Magistrate Court, Sankarankovil, Tirunelveli District is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate,
Sankarankovil, Tirunelveli District

Order made in

Crl.O.P. (MD) No.4366 of 2017

SMA/02/01/2020/2P/2C