



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.8035 of 2017
and
Crl.M.P. (MD) No.5463 of 2017

Priya Govindaraj

... Petitioner/Sole Accused

Vs

1. State Rep. by,
The Inspector of Police,
Thillai Nagar Police Station,
Tiruchirappalli City,
Tiruchirappalli District. ... 1st Respondent/Complainant
(Crime No.447 of 2017)

2.Seema Gayathiri ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records and quash the FIR in Crime No.447 of 2017, dated 16.06.2017, on the file of the first respondent herein, registered for the offences under Sections 294 (b), 420 and 506(ii) of IPC on the basis of the complaint lodged by the second respondent herein.

For Petitioner : Mr.A.Thiruvadi Kumar

For R1 : Mr.S.Chandra Sekar
Additional Public Prosecutor

For R2 : Mr.P.Sivachandran

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.447 of 2017 pending investigation before the first respondent police.

2. The allegations contained in the complaint shows that the defacto complainant/second respondent had joined stitching class that was conducted by the petitioner and she had also paid course fees of Rs.9,000/-. Since the class was not conducted properly, the



defacto complainant demanded for return of the money. However, the money was not returned and the defacto complainant was also threatened with dire consequences. Based on this complaint, FIR was registered for the offences under Sections 294(b), 420 and 506(i) of IPC.

3. The learned counsel appearing for the petitioner submitted that even if the allegations made in the complaint are taken as it is, no offence of cheating has been made out. The learned counsel further submitted that the defacto complainant did not attend the class regularly and the complaint itself has been given with an intention to harass the petitioner and the criminal prosecution itself is an abuse of process of law.

4. Per contra, the learned counsel appearing on behalf of the second respondent submitted that the second respondent paid a sum of Rs.9,000/- towards course fees and the stitching class did not go on regularly and therefore, the defacto complainant claimed for refund of the fees. The defacto complainant was threatened in the presence of Police and she was also abused in filthy language. Therefore, the respondent police must be permitted to proceed further with the investigation and complete the same within a time limit that may be fixed by this Court.

5. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

6. A reading of the complaint clearly shows that the defacto complainant had paid money for attending the stitching class conducted by the petitioner. There was some misunderstanding between the parties and the defacto complainant was insisting for refund of the amount and it was not repaid by the petitioner. This allegation per se does not make out an offence of cheating. The fact remains that the defacto complainant was not happy in the manner, in which, the classes were conducted and therefore, it cannot be said that there was an intention on the part of the petitioner to cheat the defacto complainant from the inception.

7. Insofar as the offence of criminal intimidation is concerned, except for a general allegation, there are no other materials to show that there was a criminal intimidation which will fulfill the requirements of Section 503 of IPC. That apart, to constitute an offence under Section 294(b) of IPC, obscene words should have been used in a public place. There are no such allegation made in the complaint.

8. In the considered view of this Court, the continuation of the criminal prosecution will amount to an abuse of process of law and the allegation, even if it is taken as it is, does not make out any offence against the petitioner.

9. In the result, FIR in Crime No.447 of 2017 pending investigation on the file of the first respondent Police is hereby



quashed and accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar (CS)

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To

1.The Inspector of Police,
Thillai Nagar Police Station,
Tiruchirappalli City,
Tiruchirappalli District.

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

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-94999[F] dated
30/10/2019)

+1 CC to Mr.P.SIVACHANDRAN, Advocate (SR-95284[F] dated 31/10/2019

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VB(13.11.2019) 3P 5C