



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.8955 of 2017

and

Crl.M.P.No.6064 of 2017

1.Muthumanikandan

2.Akilandam

... Petitioners/Accused

-vs-

1.The Inspector of Police,

All Women Police Station,

Tirumangalam, Madurai District. ... Respondent/Complainant

Crime No.63/2017

2.Rajalakshmi

... Respondents/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and quash the same in Crime NO.63/2017 dated 16.06.2017 on the file of the respondent police.

For Petitioners

: Ms.B.Asha

For Respondents

:Mr.M.Chandrasekaran for R1
Additional Public Prosecutor
Mr.R.Gowrishankar for R2

O R D E R

This criminal original petition has been filed seeking to quash the FIR in Crime No.63/2017 pending investigation on the file of the first respondent.

2.It is seen from the records that the second respondent is the wife of the first petitioner. Initially, she had filed a complaint before the All Women Police Station, Madurai and the same was taken on file in Crime No.13/2011. This FIR was for offence under Sections 498(A) and 406 IPC. The investigation was completed in this case and a final report came to be filed before the Additional Mahila Court, Madurai.

3.The final report was taken on file in C.C.No.21/2014 and after a full-fledged trial, the petitioners, who were shown as accused in the said case, were acquitted by judgment dated 29.12.2015.

4.Thereafter, the second respondent has chosen to file one more complaint against the petitioners in the year 2017. The



complaint was taken on file and an FIR was registered in Crime No.63/2017.

5.The learned counsel for the petitioners submitted that the present FIR is the second complaint and the first complaint has already ended in acquittal and therefore, the FIR itself is an abuse of process of law. The learned counsel further submitted that in the earlier judgment that was passed in C.C.No.21/2014, it was clearly found that the petitioners are not guilty for the offences under Sections 498(A) and 406 IPC. However, in the present complaint, the very same provisions have again been added in the FIR.

6.The learned counsel appearing on behalf of the second respondent submitted that even if the offence under Sections 498(A) and 406 IPC are not attracted, the offence under Sections 294(b) and 506(I) IPC are attracted, since the second respondent has been abused with filthy language by the petitioners and she has also been threatened with dire consequences. The learned counsel submitted that the respondent police may be directed to continue further with the investigation and a time limit may be fixed for completion of the investigation and to file a final report.

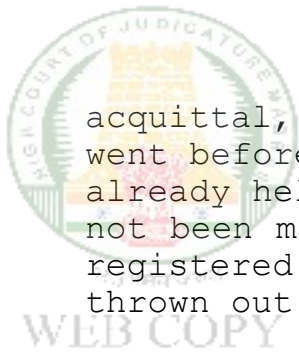
7.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the investigation has been stalled due to the stay that was granted by this Court and the respondent police will complete the investigation within the time limit fixed by this Court.

8.This Court has carefully considered the submissions made on either side and the materials placed before this Court.

9.This is a textbook case of how the matrimonial disputes are being attempted to be resolved through criminal proceedings. The second respondent had earlier given a complaint against the petitioners and one other person and the same resulted in a trial in C.C.No.21/2014 and the Judicial Magistrate, Additional Mahila Court, Madurai, after considering the entire materials on record, found that the charges under sections 498(A) and 406 IPC have not been made out and it acquitted the accused persons. This judgment was rendered in the year 2015.

10. The second respondent waits for two years and gives one more complaint on 16.06.2017. A reading of the complaint shows that the first portion of the complaint completely contains the same allegations that are contained in the earlier complaint. In order to justify the second complaint, certain allegations have been made as if she was abused in filthy language and she was also threatened with dire consequences.

11. When the second respondent has already given a complaint <https://services.e-courts.gov.in/home> resulted in a full-fledged trial and ended in



acquittal, it is not known as to why the second respondent again went before the petitioners in the year 2017. A competent Court has already held that the charges under Sections 498(A) and 406 IPC have not been made out and in spite of the same, the second FIR has been registered for the very same offences. Therefore, the FIR has to be thrown out insofar as these offence are concerned.

12. Insofar as the offence under Section 294(b) is concerned, the obscene words will have to be used in a public place. In the present case, there is no such averment in the complaint and the obscene words are said to have been used against the second respondent by the petitioners, when she was demanding for return of her properties. Similarly, the offence under Section 506(I) IPC is also not made out, since an offence of criminal intimidation requires more than utterance of words.

13. Even otherwise, it is clear that the present complaint has been given only to arm twist the petitioners. The second respondent wants to somehow use the criminal law to settle scores with the petitioners. In the considered view of this Court, the FIR itself is an abuse of process of law and requires interference of this Court in exercise of its jurisdiction under section 482 Cr.P.C.

14. In the result, the proceedings in Crime No.63/2017 on the file of the respondent police is hereby quashed and the criminal original petition is allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

RR
To

1.The Inspector of Police,
All Women Police Station,
Tirumangalam
Madurai District.

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

+1 CC to Mr.B.ASHA, Advocate (SR-100131[F] dated 21/11/2019)

Crl.O.P. (MD)No.8955 of 2017
20.11.2019