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CRL.O.P.(MD)NO. 16052 OF 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.16052 of 2016 and
CRL.M.P.(MD)Nos.7771 & 7772 of 2016

Rajapandi

... Petitioner/Single Accused

Vs.

1. State rep. by,

The Deputy Superintendent of Police,
Usilampatti Sub-Division,
All Women police station,
Usilampatti,
Madurai District.
(Crime No.68 of 2015).

... Respondent/Complainant

2. Vasuki

... Respondent/Defacto
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to Spl.S.C.No.34 of 2016 pending on the file of the learned II Additional Sessions Judge for PCR cases, Madurai and quash the same.

For Petitioner : Mr.S.Ravi

For R-1 : Mr.A.Robinson,
Government Advocate(Crl. Side).

For R-2 : No appearance.

O R D E R

This criminal original petition has been filed for quashing the proceedings in Spl.S.C.No.34 of 2016 on the file of the III Additional Sessions Judge for PCR cases, Madurai.

2. The second respondent is the defacto complainant. She lodged a complaint against the petitioner before the All Women police station, Usilampatti, leading to registration of Crime No.68 of 2015. It was investigated and final report was filed against the petitioner before the learned Judicial Magistrate Special Court, Usilampatti, for the offences under Sections 417 and 420 of I.P.C. r/w.Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 was taken. To quash the same, this criminal original petition has been filed.



3. Though the defacto complainant has been served and her name is also printed in the cause list, there is no appearance on her behalf.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate(Crl. Side) appearing for the first respondent.

5. The case of the defacto complainant is that the defacto complainant belongs to Hindu Paraiyar community. The petitioner belongs to Kallar community. The complainant would claim that when the complainant was at Vikkiramangalam, the petitioner herein fell in love with her and got married to her. They had taken a house at K.Pudhur, Madurai and lived as husband and wife. Thereafter, the petitioner left the complainant and returned to his native village at Vikkiramangalam. The complainant could not trace the petitioner. When the complainant attempted to contact the petitioner over phone, the petitioner is said to have abused the complainant by referring to her community and the petitioner left her on that ground.

6. Even though according to the complainant, the petitioner referred abusively to her community, still it will not be attracted as per Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes(Prevention of Atrocities) Act. This is because the offence was not committed within public view. Only if the humiliation had taken place within public view, Section 3(1)(x) of the Act would be attracted. That is not the case here. Therefore, the Court below was went wrong in taking cognizance of the offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act.

7. I am of the view that Section 420 of I.P.C. pertains to cheating and dishonestly inducing delivery of property However, the basic ingredients of cheating are present in this case. Section 415 of I.P.C. reads as follows:-

415. Cheating - Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Therefore, the Court below rightly took cognizance of the offence under Section 417 I.P.C. In this view of the matter, the impugned proceedings stand quashed as regards Section 420 I.P.C. and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes(Prevention



of Atrocities) Act 1989. The impugned proceedings will go on against the petitioner in respect of the offence under Section 417 of I.P.C.

8. This criminal original petition stands partly allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

Pmu

To:

1. The III Additional Sessions Judge for PCR cases,
Madurai.
2. The Deputy Superintendent of Police,
Usilampatti Sub-Division,
All Women police station, Usilampatti,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAVI, Advocate (SR-9551[F] dated 02/03/2020)

Cr1.O.P.(MD)No.16052 of 2016
28.02.2020

AP(03/06/2020) 3P 5C