



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.17840 of 2016

and

Crl.M.P.(MD)No.8885 of 20165

WEB COPY

1.Vijayalakshmi

2.Saravanan

... petitioners/Accused Nos. 2 & 3

Vs

1.The State rep by

The Inspector of Police,

Uraiyur Police Station,

Trichy, Trichy District.

(In Crime No.181 of 2015)

... Respondent/Complainant

2.Banu

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.34 of 2016 on the file of the Judicial Magistrate No.IV, Trichy and quash the same.

(Amended as per order of this Hon'ble Court made in Crl.MP(MD) No.11878/2016 in Crl.OP(MD)No.17840 of 2016 dated 01.12.2016 by MKKSJ)

For petitioners : Mr.P.Deepan Chakkaravarthi

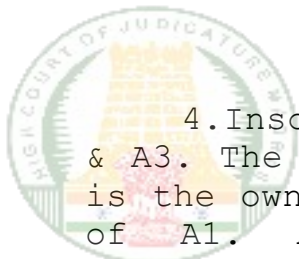
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the proceedings in C.C.No.34 of 2016 on the file of the Judicial Magistrate No.IV, Trichy.

2.There are totally 3 accused, in which, the petitioners are arrayed as A2 & A3.

3.The case of the prosecution is that on 15.03.2015, while the defacto complainant's brother installing a drainage pipe in an outside of the wall, the first accused along with the other accused entered into the defacto complainant's house and abused her with filthy language and also attacked her and also caused simple injury.



4. Insofar as the petitioners are concerned, they arrayed as A2 & A3. The defacto complainant is the tenant and the first accused is the owner of the house. The petitioners A2 & A3 are neighbours of A1. According to the defacto complainant, though the petitioners also along with other accused, entered into the house of the defacto complainant, the first accused only attacked her by hands and also kicked her. Insofar as the petitioners are concerned, they abused her with filthy language and the case has been registered for the punishable offences under Sections 294(b), 452, and 323 of IPC. Insofar as the offence under Section 294 (b) is concerned, the learned counsel for the petitioner also relied upon the judgment of this Court in ***Crl.O.P. (MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police)***, which reads as follows:-

"7. It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(B) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

5. The above judgment is squarely applicable in the case on hand. Admittedly, the petitioners entered into the house of the defacto complainant and thereafter, there was quarrel between them. Therefore, offence under Section 294 (b) IPC is not attract as against the petitioner. Insofar as the offence under Section 452 IPC is concerned, 'commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person'. As far as the petitioners are concerned, they entered into the defacto complainant's house and they did not commit any offence as alleged by the prosecution to attract the offence under Section 323 of IPC. There is no allegation as against the petitioners to attract the offence under Section 323 of IPC.



6.Even according to the defacto complainant, the first accused only attacked the defacto complainant by hands. Therefore, the offence under Section 323 also not attract as against the petitioners. It is clear abuse of process of law. To meet the ends of justice, the entire proceedings is liable to be quashed.

7.Accordingly the proceedings in C.C.No.34 of 2016 on the file of the Judicial Magistrate No.IV, Trichy, is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judge, Judicial Magistrate No.IV,
Trichy District.

2.The Inspector of Police,
Uraiyur Police Station,
Trichy, Trichy District.

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

Crl.O.P. (MD)No.17840 of 2016
and

Crl.M.P. (MD)No.8885 of 2016
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