



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.17879 of 2016

and

Crl.M.P.(MD)Nos.8903 and 8904 of 2016

Sundar Singh

...Petitioner/Accused

-Vs-

1.State Rep.by

The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

... 1st Respondent/Complainant

2.Vincent

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in connection with the C.C.No.163 of 2016 on the file of the Judicial Magistrate, Eraniel and quash the same.

For Petitioner : Mr.D.Christenson Juguna

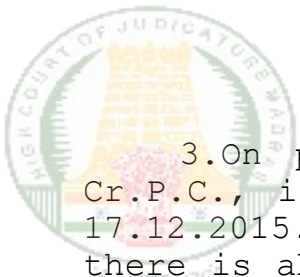
For R1 : Mr.R.Erottuchamy
Government Advocate (Crl.side)

For R2 : Mr.G.M.Xavier

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.163 of 2016 on the file of the learned Judicial Magistrate, Eraniel, as against the petitioner.

2.The petitioner is the sole accused. On the complaint lodged by the second respondent, the first respondent has registered a case in Crime No.94 of 2015 for the offence under Sections 294(b) & 506 (i) IPC. The petitioner was running Piggery Farm in his own property, there was a bad smell spreading near the defacto complainant's house. The same was questioned by the defacto complainant, for that issue, there was a wordy quarrel between them. According to the defacto complainant, the petitioner scolded him by using filthy language and also threatened him with dire consequence.



3. On perusal of the statement recorded under Section 161(3) Cr.P.C., it is revealed that the alleged occurrence took place on 17.12.2015. Whereas the complaint was lodged only on 19.12.2015 and there is absolutely no explanation from the defacto complainant for the belated in lodging the complaint. Therefore, only after thought of previous enmity, a false case is foisted against the petitioner.

4. The ingredients of the offence under Sections 294(b) and 506 (i) of I.P.C. are not made out as against the petitioner. The charge does not show the obscene words, which were uttered by the accused and no one even whisper about the filthy words uttered by the accused as against the defacto complainant/second respondent. Therefore, the offence under Section 294(b) of I.P.C. is not at all made out as against the petitioner herein. In this regard, 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. Therefore, the entire proceeding is vitiated as against the petitioner and it cannot be sustained and it is liable to be quashed.

6. Accordingly, the Criminal Original Petition is allowed and the proceedings in C.C.No.163 of 2016, pending on the file of the



learned Judicial Magistrate, Eraniel, is hereby quashed.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

vsd

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 Judicial Magistrate,
Eraniel.
- 2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

CrI.O.P.(MD)No.17879 of 2016

and

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