



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

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

Crl.O.P.(MD)No.19254 of 2016
and
Crl.M.P.(MD)No.9660 of 2016

1.Jeyachandran

2.Santha

3.Sampath

...Petitioners

Vs.

1.The Inspector of Police
Avaniyapuram Police Station,
Madurai City.

...R-1/Complainant

2.M.Solaiyappan

...R-2/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the impugned FIR in Crime No.1732/2016 on the file of the Respondent Police and quash the same.

For Petitioners : Mr.C.Gangai Amaran
For R-1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl. side)

For R-2 : Mr.J.Anandkumar

O R D E R

This Criminal Original Petition has been filed to quash the impugned FIR in Crime No.1732/2016 on the file of the Respondent Police.

2. The learned counsel appearing for the petitioners would submit that the entire allegations could not constitute any offence or make out the case against the petitioners. Infact, the first petitioner already lodged a complaint with regard to unauthorised



transaction done by the second respondent herein. Therefore, the present complaint is nothing. As a counter blast, the present complaint was lodged against the petitioners herein. No grievous injury sustained by the second respondent and he had never visited any hospital for treatment. He would further submit that therefore, they would not attract an offence u/s 324 of IPC, absolutely there is no allegations. Further there was no wordy quarrel in the public place and the offences under Section 294(b) & 506(i) of IPC also not attracted as against the petitioners. Therefore, he prays for quashment of the impugned FIR.

3. The learned counsel appearing for the second respondent would submit that on 29.08.2016 when the second respondent was on construction work the accused persons said to have come to the place of occurrence and started quarrel with him. They also abused him with filthy language and threatened him with dire consequences. They also assaulted and as such the second respondent sustained simple injury. Therefore, there are specific allegations as against the accused persons to attract the offences under Sections 294(b), 324, 506(ii) of IPC. He would further submit that the FIR and as such it has to be enquired and found the truth. Hence, he prayed for dismissal of the petition.

4. The learned Government Advocate (crl. Side) appearing for the respondent police would submit that, on a complaint lodged by the second respondent the first respondent has registered a case in Crime No. 1732 of 2016 as against the petitioner. On 29.08.2016, the petitioners went to the place of occurrence and abused the defacto complainant with filthy language and also assaulted with sticks and therefore, the second respondent sustained simple injury and also lodged a complaint before the respondent police.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl. Side).

6. It is seen from the records that there are totally three accused in which the petitioners are arrayed as A-1 to A-3 and the first petitioner herein lodged a complaint before the Commissioner, Madurai Corporation with regard to the unlawful construction done by the second respondent herein. On 12.05.2016, the officials concerned are about to take appropriate action with regard to the unauthorised construction put by the second respondent herein.

7. In pursuance of the same, the second respondent has lodged the present complaint as against the petitioners herein. According to the second respondent, on 29.08.2016 when the second respondent was in construction they went to the place of occurrence and scolded



him with filthy language and also attacked with hands thereby he sustained simple injuries. It is revealed from the records that the complaints lodged by the first petitioner in respect of unlawful construction put up by the second respondent before the officials concerned are pending. The ingredients of the offence under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioners. 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/R-1. Therefore, the offence under Section 294(b) of I.P.C. is not at all made out as against the petitioners herein. In this regard, the learned counsel for the petitioners 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."

8. The above Judgements are squarely applicable the case on hand. The impugned FIR cannot be registered as against the petitioners since no offence is made out as against the petitioners. That apart, the present complaint has been lodged only with a malafide intention and only to wreck the vengeance on the petitioners for the reason that the first petitioner had lodged a complaint as against the second respondent in respect of construction put by the second respondent. Therefore, the impugned FIR is liable to be quashed.



9. In the result, this Criminal Original Petition is allowed and the FIR in Crime No.1732 of 2016 is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Inspector of Police
Avaniyapuram Police Station,
Madurai City.
2. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P.(MD)No.19254 of 2016
09.10.2020

SSS(CO)
TR(11.11.2020) 4P 3C