



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.20594 of 2016

and

Crl.MP(MD)Nos.10473 and 10474 of 2016

WEB COPY

1.Annathai
2.Ravichandran

... petitioners/Accused Nos. 1 & 2

Vs

Saroja

... Respondent/ Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for records relating to the proceedings in S.T.C.No.1143 of 2015 on the file of the learned Judicial Magistrate, Aruppukottai and quash the same.

For petitioners : Mr.G.Mariappan

For Respondent : No Appearance

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.1143 of 2015 on the file of the learned Judicial Magistrate, Aruppukottai.

2.The petitioners are A1 and A2. A private complaint has been lodged by the respondent herein, alleging that she got married to one late M.C.Alagarsamy and then give birth to three children. They are the legal heirs of said M.C.Alagarsamy and they have also obtained legal heirs certificate from the authorities concerned. Aggrieved by the same, the first accused appealed before the Revenue Divisional Office, Aruppukottai, that she is the wedded wife of said Alagarsamy and her children are the legal heirs of Alagarsamy. Regarding the same, on 09.12.2014, enquiry was conducted at Revenue Divisional Office, Aruppukottai. After enquiry, the respondent and her son, while come out from the Revenue Divisional Office, the both accused have threatened the respondent with dire consequences. Therefore, the respondent lodged a complaint before the Inspector of Police, Aruppukottai Taluk Police Station, and the same has been registered in Crime No.371 of 2011 for the offences under Sections 465 & 506 (i) IPC. After conducting detailed enquiry, the police officials, closed the case as 'mistake of fact'. Hence, the respondent filed a private complaint before the learned Judicial Magistrate, Aruppukottai.



3.The learned counsel for the petitioners would submit that on the complaint lodged by the respondent, the Inspector of Police, Aruppukottai Taluk Police Station, Virudhunagar District, registered a case in Crime No.371 of 2014 for the offence under Sections 465 and 506 (i) of IPC. After completion of investigation, the same has been closed as 'mistake of fact'. Thereafter, the respondent preferred a private complaint before the learned Judicial Magistrate, Aruppukottai and after examining the witnesses and also the documents, the learned Magistrate, taken cognizance, only for the offence under Section 506 (i) of IPC, for the occurrence took place on 09.12.2014.

4.He further submitted that the learned Magistrate ought not to have taken offence under Section 506 (I), since there is absolutely no ingredients are available to make up the case for the offence under Section 506 (i) as against the petitioners herein. He further submitted that admittedly, the petitioners are the sister and brother. The first petitioner got married with one late Alagarsamy and that matter was suppressed by the respondent herein, while she obtaining legal heir certificate.

5.He further submitted that infact, the first petitioner has also filed a suit in O.S.No.122 of 2014 for partition as against the respondent and others claiming $\frac{1}{4}$ share of the property belongs to deceased Mr.Alagarsamy. It is pending for trial on the file of the learned Sub Court, Aruppukottai. Therefore, the present complaint is nothing, but, clear abuse of process of law and it cannot be sustained as against the petitioners.

6.Heard Mr.G.Mariappan, the learned counsel appearing for the petitioners. Though a notice was served to the respondent herein, she has not appeared in person or through counsel.

7.The respondent lodged a complaint before the police alleging that on 09.12.2014, Aruppukottai, after attending the enquiry on the appeal preferred by the petitioners as against the legal heir certificate issued in favour of the respondent herein, while come out from the Revenue Divisional Office, the petitioners are being the sister and brother, they have threatened the respondent herein with dire consequence. Initially, the respondent lodged a complaint before the Inspector of Police, Aruppukottai Taluk Police Station and the same was registered in Crime No. 371 of 2014 for the offence under Sections 465 and 506 (i) of IPC. Subsequently, it was closed as 'mistake of fact' and as such, the respondent filed a private complaint before the learned Judicial Magistrate, Aruppukottai. On perusal of the complaint and also the materials produced before the learned Magistrate, the learned Magistrate had taken cognizance only for the offence under Section 506 (i) IPC and in respect of the offence under Section 465 is concerned, the complaint was rejected.

<https://hccservices.courts.gov.in/hccservices/> On perusal of the complaint, the respondent alleged that simply they



threatened her with dire consequence.

8.Since there is no specific overt act as against the petitioners to attract the offence under Section 506 (i) of IPC. That apart, the first petitioner also filed a suit for partition as against the respondent claiming $\frac{1}{4}$ share of the property belongs to one late Mr.Alagarasamy in O.S.No.122 of 2014 on the file of the Sub Court, Aruppukottai and it is pending for trial. It is also seen that the first petitioner challenged the legal heir certificate issued in favour of the respondent before the Revenue Divisional Office, Aruppukottai. Therefore, the present impugned complaint is nothing, but, clear abuse of process of law and it cannot be sustained as against the petitioners.

9.Accordingly, proceedings in S.T.C.No.1143 of 2015 on the file of the learned Judicial Magistrate, Aruppukottai, is set aside and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

The Judicial Magistrate,
Aruppukottai.

+1 CC to Mr.G.Mariappan, Advocate (SR-23452[F] dated 01/02/2020)

Cr1.O.P. (MD)No.20594 of 2016

and

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(CO)

KV(12.02.2021) 3P 3C