



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.22228 of 2016

and

Crl.M.P.(MD) Nos.11518 & 11519 of 2016

WEB COPY

1.B.Kalpana
2.S.Vijayaragavan
3.Dharmaraj
4.Sasikumar ... Petitioners / Accused No.1 to 4
Vs.

1.The State rep. by
The Sub Inspector of Police,
Kattuputhur Police Station,
Thottiyam Taluk,
Trichy District.
(Crime No.336/2014) ... Respondent No.1 / Investigating Officer

2.Muthulakshmi ... 2nd Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.129 of 2016 before the learned Chief Judicial Magistrate, Musiri, Trichy District and quash the same.

For Petitioners : Mr.N.Dhilip Kumar

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side) for R1

: Mr.RM.Sivakumar for R2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.129 of 2016 before the learned Chief Judicial Magistrate, Musiri, Trichy District.

2. The learned counsel for the petitioners would submit that the case of the defacto complainant is that the daughter of the defacto complainant viz., Sumitra was studying in Sriram Nursery and Primary School. While being so, on 26.08.2014, when the daughter of the defacto complainant was travelling in the School van, driven by the fourth accused in a rash and negligent manner and met with an accident and sustained fractures. Thereafter, on 22.12.2014, when the defacto complainant took her child to the School, all the accused persons were threatened the defacto complainant and also scolded her with filthy language, to take away the daughter. With

these allegations, the second respondent lodged a complaint to the first respondent and the first respondent police registered an FIR in Crime No.336 of 2014 for the offences under Sections 294(b) and 506(i) I.P.C. After completion of investigation, the first respondent referred the case as 'mistake of fact' and served R.C.S notice to the second respondent herein. On receipt of the R.C.S. notice, the second respondent lodged a private complaint and the same has been taken cognizance in C.C.No.129 of 2016 for the offences under Sections 294(b) and 506(i) I.P.C. He would further submit that the alleged occurrence took place on 22.12.2014, whereas, the complaint lodged only on 28.12.2014 and there is no explanation by the second respondent for the delay and as such, the entire complaint is nothing but, after thought and to extract more money from the petitioners, a false case has been foisted as against the petitioners. Therefore, the first respondent is rightly referred the complaint as 'mistake of fact'. Without considering those facts, the learned Magistrate mechanically taken cognizance and issued summons. It is further stated that in fact in a road accident, the daughter of the second respondent injured and also filed a claim petition in M.C.O.P.No.1250 of 2014 and received compensation as awarded by the Motor Claims Accident Tribunal. Therefore, the allegation is that the petitioners forcibly prevented the daughter of the second respondent by attending her School. He would further submit that there is no prima facie case made out as against the petitioners under Section 294(b) and 506(i) IPC and prayed for quashment of entire proceedings.

3. The learned counsel for the second respondent would submit that after taking treatment, when the second respondent and her daughter went to the School, all the petitioners have threatened and also abused in filthy language and not permitted the second respondent's daughter to went in her School for further studies. He would further submit that all the points raised by the petitioners are mixed question of facts and they cannot be considered here under Section 482 of Cr.P.C.

4. Heard the learned counsel for the petitioners, the learned Government Advocate (Criminal Side) for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

5. It is seen that there are totally four accused in this case, in which, the petitioners are arrayed as A1 to A4. Initially, the second respondent lodged a complaint for the occurrence took place on 26.08.2014, alleging that when the second respondent entered in to the School, all the petitioners threatened her and also threatened to take her daughter from the School and also abused her in filthy language using obscene words. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.336 of 2014 and after completion of investigation referred



the F.I.R as 'mistake of fact'. On receipt of the referred charge sheet, the second respondent lodged a private complaint and the same has been taken cognizance as against the petitioners for the offences under Sections 294(b) and 506(i) IPC.

6. The daughter of the second respondent was studying in the School running by the second petitioner herein. While she was travelling in the School van, driven by the fourth petitioner herein, she met with an accident, due to which, she sustained fractures. In fact accident case was registered and also the second respondent herein filed a claim petition in M.C.O.P. No.1250 of 2014 before the Principal Sub Judge, Namakkal and the compensation was awarded and the same was duly received by the second respondent herein. On perusal of the statements of one Sumathi, who is running a tea shop in front of the School, categorically deposed that after the accident took place, daughter of the second respondent and the husband of the second respondent to visit the School almost daily and scolded the petitioners herein in filthy language and also demanded money for the injuries for their daughter, further, deposed that on 22.12.2014, the second respondent brought her daughter to the School and she scolded all the petitioners using with filthy languages and abused them before the public. When it was questioned by the third petitioner herein, she also scolded him with filthy languages. Further stated that the petitioners did not threaten and abuse the second respondent at any point of time. The other witness, one Ramesh, as stated by the said Sumathi. Except the statement of the second respondent, no one has spoken about the petitioners' involvement in the crime as alleged by the prosecution. Therefore, there is absolutely no material to attract the offence under Sections 294(b) and 506(i) I.P.C. as against the petitioners. In this regard, it is relevant extract 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



entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

7. The above judgment is squarely applicable in the case on hand. As such, the present complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners. Hence, this Criminal Original Petition is allowed and the proceedings in C.C.No.129 of 2016 before the learned Chief Judicial Magistrate, Musiri, Trichy District, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

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 Chief Judicial Magistrate,
Musiri,
Trichy Distric.

2.The Sub Inspector of Police,
Kattuputhur Police Station,
Thottiyam Taluk,
Trichy District.

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

4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.N.DHILIP KUMAR, Advocate (SR-23480[F] dated 01/12/2020

Order made in

CRL.O.P (MD) No.22228 of 2016

30.11.2020

AC (CO)

KK(14.12.2020) 4P 7C

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