



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

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

Crl.O.P.(MD)No. 22276 of 2016

and

Crl.OP(MD) Nos.11555 & 11556 of 2016

Rajesh Kanna ...Petitioner/Sole accused

-Vs-

1. The Inspector of Police,
East Police Station,
Kovilpatti, Tuticorin District. ...R-1/Complainant

2. R. Bahavathichandran ... R-2/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in S.T.C.No.1982 of 2015 on the file of the Judicial Magistrate No.1, Kovilpatti, Tuticorin District, and quash the same.

For Petitioner	: Mr.G. Karuppasamy Pandiyan
For R-1	: Mr.KR.Bharathi Kannan
	Government Advocate (crl. Side)

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.1982 of 2015 on the file of the Judicial Magistrate No.1, Kovilpatti, Tuticorin District, for the offences under Sections 294 (b), 353 & 506(i) of IPC, as against the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a sole accused. The second respondent has lodged a complaint alleging that, on 17.03.2014 the petitioner alleged to have questioned the defacto complainant as to how he registered the sale deed without considering the objection petition. He would further submit that, he also prevented the defacto complainant from discharging his official duty and thereby criminally intimidated him by using filthy language. He would further submit that, even according to the prosecution case the petitioner neither assaulted nor used criminal force against the second respondent and as such no ingredients to constitute the offence under Section 353 of IPC. In this regard, the learned

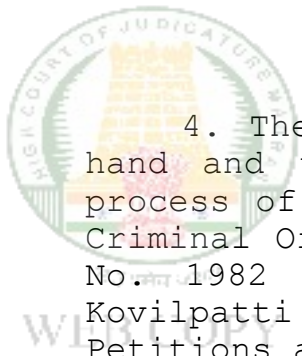


counsel for the petitioner relied upon the judgment of this Court reported in **(2) T.N.L.R. 520 (Mad) (MB) [Dhanalakshmi Vs. The State]** which reads as follows:-

"8. When a Government Servant is prevented from doing his public duty Section 353, I.P.C is attracted. In this case, there is no allegation that the accused has assaulted nor used criminal force as against the woman S.I. Further, the alleged act does not result in disruption in further carrying out of her public duties. Offence under Section 353, I.P.C also will not arise. "

3. It is seen from the First Information Report and charge sheet, an offence under Sections 294(b) & 506(i) of IPC are not at all attracted as against the petitioner. To attract the offence under Section 294(b) of IPC mere utterance or obscene word are not sufficient. It must be a further proof to establish that it was to the annoyance of others which is lacking in this case. Insofar as the offence under Section 506(i) of IPC is concerned the threat should be a real one and not just a mere word when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. 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."



4. The above judgments are squarely applicable in the case on hand and therefore, the entire proceeding is clear an abuse of process of law and it is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C. No.1982 of 2015 before the learned Judicial Magistrate No.I, Kovilpatti is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// 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 Judicial Magistrate No.1, Kovilpatti,
Tuticorin District.
2. The Inspector of Police,
East Police Station,
Kovilpatti, Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.22276 of 2016
02.11.2020

VB (01.12.2020) 3P 4C