



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**CrI.O.P. (MD)No.5166 of 2017**  
**and**  
**CrI.M.P. (MD)No.3653 of 2017**

1. Palanivel @ K.Maruthiah  
2. G.Shobana

... Petitioners/Accused No.6 & 8  
versus

1. The Inspector of Police,  
Police Station,  
Vadipatti,  
Madurai District.  
[Crime No.268 of 2015]

2. Murugan ... Respondents/Defacto Complainant

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.75 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, Madurai District in Crime No.268 of 2015 dated 31.05.2015 on the file of the respondent No.1 and quash the same as illegal.

For Petitioners: Mr.T.Lajapathi Roy

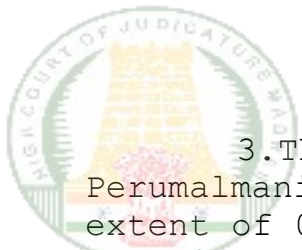
For R1 : Mr.R.Anandharaj,  
Additional Public Prosecutor

For R2 : No appearance

**ORDER**

The petitioners, who are accused Nos.6 and 8 in C.C.No.75 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Vadipatti, filed this petition to quash the proceedings pending against them in the above said complaint.

2.On the complaint of the second respondent/ defacto complainant, the respondent Police registered a case against these petitioners and seven others in Cr.No.268 of 2015 and filed a final report as against these petitioners and others in C.C.No.75 of 2016.

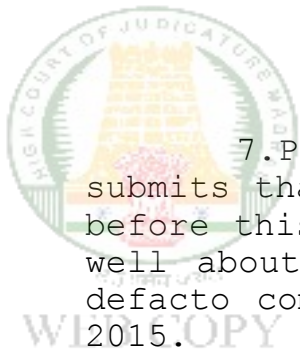


3.The case of the complainant is that his father one Perumalmaniam purchased a property in Survey No.753/A2E, to an extent of 0.08.0 ares in Thetthar Village, Vadipatti Taluk, from one Mokkaiyan, son of A.Thotthan Ambalam, the accused No.1 in C.C.No.75 of 2016, by way of a registered sale deed duly registered as document No.301/1987 in the Sub Registrar Office, Vadipatti. The said Perumalmaniyan died and thereafter, the defacto complainant was in possession of the said property. Apart from this land, the complainant has also entered into a lease with the accused with regard to the survey number in 753A/3A to an extent of 30 cents in the year 1993 by way of a registered deed in Document No.719/1993. While so, on 05.02.2015, accused No.1, Mokkaiyan, without cancelling the lease deed of Survey No.753A/3A, created a document in favour of the accused No.5, Palanisamy @ Ganesan, S/o.Karuppaiah, with regard to the properties in Survey Nos.753/A2E and 753A/3A and on 11.02.2015, accused Nos.5 to 9 entered into his land with Aruval and Crowbar and threatened him with dire consequences. Based on this complaint, the respondent Police registered a case on 31.05.2015 and filed a final report on 30.01.2016 as against accused Nos. 1 to 5 for the offence under Sections 420, 406, 120(b) IPC, 294(b) and 506 (ii) IPC. As against accused Nos.5 to 9, a final report was filed for the offence under Sections 147, 148, 420 read with 120(b) 294(b) and 506(ii) IPC.

4.Though the second respondent has entered appearance through Advocate, there is no representation for the second respondent for the past several occasions and there was no representation for the second respondent / defacto complainant. Therefore, this Court by order dated 31.01.2020 permitted the petitioner to take out private a notice to the second respondent and accordingly, the petitioner filed the proof of service, despite there is no representation on behalf of the second respondent.

5.Heard Mr.T.Lajapathi Roy, learned counsel for the petitioners and Mr.R.Anandha Raj, learned Additional Public Prosecutor for the first respondent.

6.The learned counsel for the petitioners submits that even according to the complainant, accused No.1 was the owner of the property and it was sold to his father in the year 1987 and by suppressing the same, another deed has been created in favour of accused No.5 in the year 2015. According to the learned counsel for the petitioners, these petitioners have nothing to do with the alleged transaction said to have taken place between A1 and A5. Moreover, a Civil Suit was also filed by A5 as against the defacto complainant and his brothers in O.S.No.39 of 2015, on the file of the District Munsif cum Judicial Magistrate Court, Vadipatti. The learned counsel further submits that these petitioners neither beneficiaries nor signatories of the alleged sale deed. Since the petitioners are brother and brother's wife of A5, they have also been added as accused to harass the accused No.5.



7. Per contra, the learned Additional Public Prosecutor submits that there was a conspiracy taken place between the accused before this alleged sale deed and accused No.1, after knowing fully well about the earlier sale of the property to the father of the defacto complainant, sold the property to accused No.5 in the year 2015.

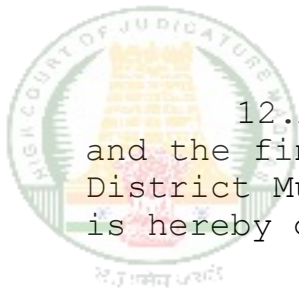
8. Admittedly, the petitioners are not the parties to the alleged sale deed. Moreover, the validity of the sale deed is the subject matter in O.S.No.39 of 2015. These petitioners are arrayed as accused Nos.6 and 7 alleging that on 11.02.2015, these petitioners entered into the land of the defacto complainant and abused him with a filthy language and also criminally intimidated him.

9. A reading of the final report discloses that it was abused by the accused that if anybody enters into the land, they would be killed. Apparently it shows that this incriminating intimidating words as well as criminal intimidation were not made as against the defacto-complainant directly. Further, this occurrence took place on 11.02.2015. But, the complaint was lodged on 31.05.2015 after a period of three months.

10. In this regard, the learned counsel relied upon the Judgment of this Court in the case of **Noble Mohandass vs. State**, reported in **1988 L.W.(Cr1.) 178**, wherein, this Court has held as follows:

"7. ... For being an offence u/s. 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually. In fact P.W.1 when she filed the complaint to the police officer, did not express any fear for her life nor asked for any protection. Therefore, the offence under Section 506(2) is not made out."

11. For attracting the offence under Section 506(ii) IPC, the intimation must be a real one and not mere words. The person, who received the intimidation must have felt it. In this case, the petitioner is said to have intimidated the defacto complainant on 11.12.2015, for which, the complaint was lodged on 31.05.2015 after three months. If really the defacto complainant had felt the intimidation, he would have lodged the complaint immediately after the occurrence. Admittedly, when there is a civil dispute existing between the parties, this belated complaint of criminal intimidation as against the petitioner cannot be sustained.



12. Accordingly, this Criminal Original Petition is allowed and the final report in C.C.No.75 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, Madurai District is hereby quashed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The learned District Munsif  
cum Judicial Magistrate,  
Vadipatti,  
Madurai.

2.The Inspector of Police,  
Police Station,  
Vadipatti,  
Madurai District.

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

+1 CC to Mr.T.LAJAPATHI ROY, Advocate ( SR-5445[F] dated  
10/02/2020 )

**Crl.O.P. (MD)No.5166 of 2017**

**07.02.2020**

VB (06.08.2020) 4P 5C