



WEB COPY

1

CRL.O.P.(MD)NO.17948 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.17948 of 2019 and

CRL.M.P.(MD)Nos.10551 & 10553 of 2019

1. Senthil Prabhu
2. Radha
3. Usha
4. Muthurathi
5. Uthayarani

... Petitioners/Accused
Nos.1 to 5

Vs.

1. The State rep. by,
The Inspector of Police,
Pudukottai police station,
Thoothukudi District.
(Crime No.442 of 2017)

... 1st Respondent/
Respondent

2. Jeyaselvam

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the charge sheet in C.C.No.401 of 2019 pending on the file of the learned Judicial Magistrate No.III, Thoothukudi and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.D.Selvanayagam

For R-1 : Mr.A.Robinson,
Government Advocate(Cr1. Side).

O R D E R

The petitioners' counsel states that he would withdraw this criminal original petition as regards the first petitioner Senthil Prabhu.

2. The first petitioner will have to establish his innocence before the Court below. It is made clear that this Court has not gone into the merits of the matter. Leaving open all the defences and the contentions, this criminal original petition stands dismissed as withdrawn as regards the first petitioner is concerned.

3. Even though the defacto complainant has been served and her name is also printed in the cause list, there is no appearance
<https://hcservices.ecourts.gov.in/hcservices/>



on her behalf.

4. The second petitioner is the mother-in-law. Petitioners 3 to 5 are the sisters-in-law.

5. The marriage between the first petitioner Senthil Prabhu and the second respondent herein took place in the year 2014. Two children were born through the wedlock.

6. It appears that their matrimonial relationship came under strain. The defacto complainant herein filed H.M.O.P.No.1 of 2018 before the Sub Court, Thoothukudi, seeking dissolution of the marriage. The first petitioner Senthil Prabhu earlier filed a counter claim. The marriage was dissolved by order dated 16.03.2019. The same has become final.

7. The occurrence in question is alleged to have been taken place on 26.11.2017. The allegations made against petitioners 2 to 5 is that they abused the second respondent in filthy language and also criminally intimidated her. The primary allegations have been made only against the first petitioner who is said to have caused simple hurt to her.

8. As regards the charge under Section 506(ii) of I.P.C., there is nothing on record to indicate that petitioners 2 to 5 held out any real and substantial threat. The Madras High Court in the decision reported in (1988) L.W.(Crl.) 178 (Noble Mohandass V. State) held as follows:-

"7. As far as the offence under Section 506 (2) is concerned, the learned counsel for the revision petitioner contended that the threat was not a real one, that it was of the kind of words which are currently and frequently used by people when they are angry and that further the threat was not spoken to by P.W.3 and P.W.4 who by that time had already come to the scene of occurrence. It is, in fact, found from the records that the threat would have been lashed out after P.Ws.3 and 4 came to the place and separated both the husband and wife. Therefore, the evidence of P.W.1 should have been corroborated by the evidence of P.W.3 and P.W.4 who were necessary witnesses to the occurrence. Since they did not corroborate the testimony of P.W.1 in this aspect, the offence cannot be held to be proved. Further for being an offence under Section 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 not exactly mean what he



WEB COPY

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."

9. As regards the allegation of use of abusive language, I must observed Section 95 of I.P.C. Section 95 of I.P.C. reads as follows:-

"95. Act causing slight harm - Nothing is an offence by reason that it causes or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

10. The occurrence is said to have taken place way back in the year 2017. Subsequently, the defacto complainant had filed H.M.O.P. for divorce and the same has also been granted. The second respondent is now said to be employed in the State Bank of India. When the parties have already gone their separate ways and when the erstwhile husband is ready to face the trial, I am of the view that continuance of the impugned prosecution against the women folk is absolutely unwarranted and is an abuse of legal process.

11. Therefore, the impugned prosecution stands quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pmu

To:

1. The Judicial Magistrate No.III, Thoothukudi.
2. The Inspector of Police,
Pudukottai police station,
Thoothukudi District.

3. The Additional Public Prosecutor,

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-10915[F] dated 10/03/2020)

Cr1.O.P. (MD) No.17948 of 2019
10.03.2020

<https://hcservices.ecourts.gov.in/hcservices/>