



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

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Reserved on : 26.08.2020
Pronounced on : 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. (MD)No.18017 of 2019

and

Crl.M.P. (MD)No.4123 of 2020

and

Crl.M.P. (MD)Nos.10601 and 10602 of 2019

Ramakrishnan,
S/o.R.Venkatasubramanian ... Petitioner / Sole Accused

versus

1. State through,
The Sub Inspector of Police,
Tallakulam Police Station,
Madurai.
(Crime No.175 of 2018) ... 1st respondent /complainant

2.S.Arun Pothiraj,
S/o.Soundararajan ... 2ndrespondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the records in S.T.C.No.1924 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai and quash the same.

For Petitioner : Mr.N.Ananda Padmanaban
for M/s.APN Law Associates

For Respondent No.1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

For Respondent No.2 : Mr.Veerakathiravan
Senior Counsel
for Mr.R.Maheswaran

O R D E R

This Criminal Original Petition has been filed to call for the records in respect to S.T.C.No.1924 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai and quash the same as illegal.



2. The case of the prosecution is that the petitioner / sole accused is a school teacher working in a private school getting aid from the Government, in which, the *de facto* complainant was functioning as Secretary. During the course of employment, the petitioner is having a habit of bickering with the fellow teachers and also involved in scolding the headmistress. In view of the above attitude, departmental action was initiated against the petitioner and ultimately, the petitioner was placed under suspension. Due to the same, the petitioner developed enmity with the *de facto* complainant. Further, the petitioner had been spreading the wrong information about the school by saying that he had audio-graphed the Correspondent in action while he was unnecessarily using abusive language against the petitioner and was keeping Compact Disc with him.

3. On 03.01.2018, when the *de facto* complainant, after completing his office work travelled in a car and at that time when the car reached in Menendhal Road, the petitioner waylaid the said car and prevented the same from moving further. During such time, the *de facto* complainant / second respondent instructed his driver Vijay to get out of the car and to enquire the petitioner as to the reason for restraining him. The petitioner threatened the second respondent saying that he is having the CD depicting the *de facto* complainant in action with that he will take necessary steps to close the school.

4. When the *de facto* complainant asked the petitioner to handover the CD, the petitioner replied stating that he will take appropriate steps with the help of the CD to change the administration of the School. When the driver and the persons standing nearby started to shout at him, the petitioner fled away stating that either now or later the death of the *de facto* complainant will be in his hands.

5. In the said occurrence, the second respondent herein preferred a complaint in Thallakulam Police Station on the very same day i.e. on 03.01.2018. Since there was no action taken on the petition by the said Police Officer, he preferred a complaint before the learned Judicial Magistrate and upon which a case has been registered against the petitioner in Crime No.175 of 2018. Further, after completing investigation, Final Report has been filed against the petitioner alleging that he has committed the offences under Sections 294(b), 341 and 506(i) IPC. Only in the said circumstances for the prayer stated supra, the petitioner is before this Court with the present Petition.



6. Heard the learned counsel for the petitioner, the learned Senior Counsel for the second respondent and the learned Government Advocate (Crl. Side) for the first respondent.

7. The first and foremost contention raised by the learned counsel for the petitioner is that for the alleged occurrence dated 03.01.2018, a case has been registered on 11.01.2018 and therefore, that itself sufficient to quash the Charge Sheet.

8. Now, considering the said submission with the entries made in the relevant records, it has been stated in the complaint that immediately on the next day the *de facto* complainant has preferred a complaint before the Inspector of Police, Tallakulam Police Station, but the same was not considered and therefore, after sending the complaint to the Commissioner of Police, Madurai, he preferred the complaint before the learned Judicial Magistrate under Section 156(3) Cr.P.C. Therefore, the averments found in the First Information Report categorically reveals the fact that on the next day itself the complaint has been preferred by the second respondent. The genuineness of the said averment has to be decided only at the time of trial and therefore, the same cannot be said as filing of Final Report would amount to abuse of process of law.

9. The second submission of the learned counsel for the petitioner would be that the averments found in the First Information Report and the statements recorded under Section 161(3) Cr.P.C., do not constitute *prima facie* case for the offences under Sections 294(b), 341 and 506(i) IPC and therefore, filing of Final Report against the petitioner is nothing but abuse of process of law. More than that as far as the averment found in the First Information Report, during the time of occurrence the second respondent had instructed his driver to enquire the petitioner. But in the Final Report filed by the first respondent police, the said driver named as Vijay has not been examined and therefore, the Final Report filed against the petitioner is liable to be quashed. Accordingly, he prayed to quash this petition.

10. In response to the submission made by the learned counsel for the petitioner, the learned Government Advocate (Crl. Side) for the first respondent police, on instructions, would submit that the averments found in the First Information Report and Section 161 Cr.P.C. statement recorded by the Investigating Officer, is sufficient to hold that the petitioner herein committed the offence during the course of occurrence as alleged by the prosecution.

11. On considering the rival submissions made by the learned counsel appearing on either side, in the First Information

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Report, it was averred that during the time of occurrence, the second respondent only instructed his driver Vijay to stop the car. The said averment disclose the fact that the petitioner herein did not restrain the second respondent by locking the car, in which the second respondent was travelling. Further, nothing was mentioned in the First Information Report as well as Section 161 Cr.P.C. statement as during the time of occurrence the petitioner herein used abusive words.

12. At this juncture, it is relevant and useful to see the judgment of this Court in **R.ELANGO VAN vs. STATE BY. THE INSPECTOR OF POLICE, EDAPADDI POLICE STATION, SALEM DISTRICT** reported in **2018-1-L.W. (Crl.) 106**, wherein it was held as follows:

"8. In order to constitute the commission of an offence under Section 294(b), two ingredients needs to be established namely, 1) the accused ought to have uttered the bad words in a public place and 2) by such an utterance, the accused should have caused annoyance to others."

13. Applying the ratio laid down by this Court with the present case in our hand, in the complaint itself, the second respondent did not say anything about the abusive / bad words used by the petitioner at the time of occurrence. By saying the word that 'CD is with me' is not an offence. The said word had not caused any annoyance to others. The averments found in 161 Cr.P.C. statement is of the same nature.

14. Accordingly, in the said circumstances, we cannot come to the conclusion that during the time of occurrence, the petitioner by using the uttering obscene words caused annoyance to the public. Accordingly, the offences under Sections 341 and 294(b) IPC are not attracted.

15. In respect to the offence under Section 506(i) IPC, during the time of occurrence, the petitioner after using the word "உன்னை கொல்லாமல் விடமாட்டேன்" ran away from the said place. In this regard in a judgment in **MANIK TANEJA AND ANOTHER vs. STATE OF KARNATAKA & ANOTHER** reported in **(2015) 3 SCC (Cri) 132**, our Hon'ble Apex Court has held as follows:

"Under Section 506 IPC, there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested, and the threat must be with the intent to cause alarm to the person threatened, or it must be to do



any act which he is not legally bound to do or omit to do
an act which he is legally entitled to do."

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16. Applying the said ratio with the words used by the petitioner at the time of occurrence, herein also the said words is in the form of threatening others. Further, it cannot be said that due to the said word, the petitioner herein caused an injury to the second respondent's reputation. Further, the said insult did not break the public peace.

17. Therefore, at any event, filing of Final Report against the petitioner is an abusive process of law and therefore, the Final Report which has been filed by the first respondent police, is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.II, Madurai.

2.The Sub Inspector of Police,
Tallakulam Police Station,
Madurai.

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

order in
Crl.O.P.(MD)No.18017 of 2019 &
Crl.M.P.(MD)No.4123 of 2020 &
Crl.M.P.(MD)Nos.10601 and 10602 of 2019
16.10.2020

VB (23.10.2020) 5P 4C