



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) No.18268 of 2019
and
Crl.M.P. (MD) Nos.911 and 908 of 2020
and
Crl.M.P. (MD) Nos.10769 and 10759 of 2019

1.C.Rajasundar

2.Prabhakar

... Petitioners / Accused 1 & 2

-vs-

S.Selvaganapathy

... Respondent / Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the C.C.No.979 of 2019 on the file of the learned Judicial Magistrate Court No.VI, Madurai and quash the same.

For Petitioners : Mr.J.Senthil Kumaraiah

For Respondent : Mr.A.Mu.Sharavanan

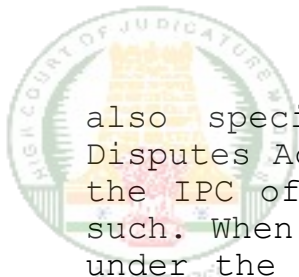
O R D E R

The petitioners are facing trial in C.C.No.979 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai. The respondent herein is the complainant. The respondent herein had filed a private complaint under Section 200 of Cr.P.C for punishing the petitioner's herein for having committed offences under Sections 294(b), 211, 504, 505(b), 506(i) of IPC and Section 25 T and U of Industrial Disputes Act, 1947. The learned Judicial Magistrate No.VI, Madurai, had taken cognizance of the offences and issued summons to the petitioners herein. Challenging the same, this Criminal Original Petition has been filed.

2.Heard the learned counsel on either side.

3.Eventhough the complaint filed by the respondent herein alleges commission of offences under the Indian Penal Code, it is

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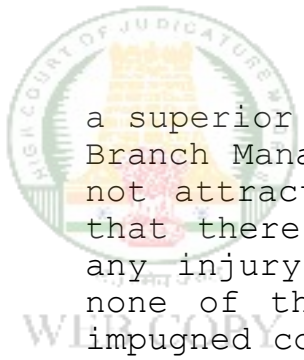
also specifically refers to Section 25 T and U of Industrial Disputes Act, 1947. If the respondent had confined his complaint to the IPC offences alone, then there may not be any threshold bar as such. When the complainant alleges commission of offences punishable under the Industrial Disputes Act, then Section 34 of the said Act will come into play. Section 34 of Industrial Disputes Act categorically states that no Court shall take cognizance of any offences punishable under the Industrial Disputes Act, unless it is by a complaint made by or under the authority of the appropriate Government. In this case, the complaint is not by or under the authority of the appropriate Government. A private individual has filed the complaint. The court ought to have applied its mind as to the threshold bar laid down in Section 34 of Industrial Disputes Act.

4.I therefore hold that the the order taking cognizance is vitiated. In any event, the Court below could not have taken cognizance of the offences punishable under the Industrial Disputes Act because of the aforesaid bar.

5.Next comes the question as to whether the offences under the IPC have been made out. Paragraph No.8 of the complaint alone contains the cause of action. The case of the complainant is that on 26.05.2019, the complainant reported for duty. But then, the second petitioner herein summoned him and told him to meet the Branch Manager and the he was not assigned with any duty. This appears to have given rise to a wordy quarrel between the two. The complainant alleges that the second petitioner would refer to him in singular and in a disrespectful manner and also threatened him with disciplinary consequences.

6.I am of the view that such a petty quarrel between the employee and his immediate superior ought not be given a criminal colour. Section 294 (b) of IPC will be attracted only if obscene words have been employed in a public place. Even assuming that such words were uttered by the second petitioner herein, still that can only show a lack of culture and courtesy on the part of the second petitioner herein. I went through the contents of the complaint. No obscene words said to have been employed by the second petitioner herein, have been set out in the complaint. Therefore, I hold that the elementary ingredients of the offences under Section 294(b) of IPC are not present in this case.

7.Likewise, the offence under Section 211 is also not attracted. It is not the case of the complainant that the petitioners herein gave any false complaint to the police. A complaint to a departmental superior will not attract Section 211 of IPC., even it turns out to be false. Likewise, none of the offences under Sections 504 and 506 of IPC are also present in this case. It has been consistently held that only if a real or substantial threat is made to the accused, these offences will be attracted. Here,



a superior officer had instructed the complainant to go and meet the Branch Manager and that no duty has been assigned to him. This will not attract any of the IPC offences. There is nothing to suggest that there was conspiracy between the petitioners herein to cause any injury to the complainant herein. Looked at from any angle, none of the offences are made out. The very institution of the impugned complaint is an abuse of legal process.

8. Accordingly, the proceedings in C.C.No.979 of 2019 on the file of the learned Judicial Magistrate Court No.VI, Madurai, stand quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate Court No.VI, Madurai.

2.Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.SENTHIL KUMARIAH, Advocate (SR-8368[F] dated 26/02/2020)

+1 CC to M/s.J.SENTHIL KUMARIAH, Advocate (SR-11699[F] dated 13/03/2020)

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