



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 27.04.2021

DATE ON WHICH PRONOUNCED : 21.05.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.3062 of 2021
and
Crl.MP(MD)Nos.1651 & 1654 of 2021

Abdulkather ... Petitioner/Sole Accused
Vs.
1.The State Represented by
The Inspector of Police,
Kadayanallur Police Station,
Kadayanallur,
Tenkasi District.
(in Crime No.207 of 2017) ... 1st Respondent/Complainant
2.Mr.S.A.Sarpudeen ... 2nd Respondents/
Defacto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records pertaining to the charge-sheet filed in C.C.No.291 of 2017 on the file of the learned Judicial Magistrate Court, Tenkasi and quash the same as illegal.

For Petitioner : Mr.R.Karunanidhi
For R1 : Mr.R.Srinivasan
Government Advocate (Crl.Side)
For R2 : None appeared even though private notice
is served on 17.04.2021. Proof of service
is also filed.

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.291 of 2017 on the file of the learned Judicial Magistrate Court, Tenkasi.

2. i) The case of the prosecution before the Trial Court is that civil dispute is pending between the petitioner's father and the defacto complainant. On 30.04.2017, the petitioner alleged to have called one Nagoor Miran and two others, who are the friends of the defacto complainant, through mobile phone and abused them in filthy language and also threatened them with dire consequences over sharing of the family properties.



ii) Based upon the complaint given by the defacto complainant, who is the second respondent herein, a case in Crime No.207 of 2017 on the file of the first respondent police was registered and after completing the investigation, final report was filed making allegations that the petitioner has committed the offence punishable under Sections 294(b) and 506 i) IPC and the same was taken on file and cognizance in C.C.No.291 of 2017.

3. Seeking quashment of the final report, this petition is filed mainly on the ground that none of the allegation mentioned in the complaint as well as in the final report attract any of the offences alleged against the petitioner and none of the ingredients are also attracted. According to the petitioner, because of civil dispute, this complaint has been given.

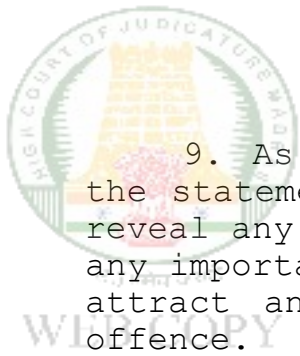
4. Heard both sides.

5. The only point, which arises for consideration is whether the ingredients of the offence under Section 294(b) and 506 (i) are attracted against this petitioner.

6. Reading of the complaint as well as the final report shows that there was a civil dispute between one Sarpudeen and his brother namely Fazuludin. Sarpudeen purchased a property from one Jalaludin, Kadayanallur, some four months prior to the date of the occurrence. But, the family members of Fazuludin prevented the Jalaludin from entering into the properties. Because of that, the case was registered against Fazuludin, on the basis of the complaint, given by the Jalaludin before the Aykudi Police Station.

7. Because of that enmity, on 30.04.2007 one Abdul Kader, who is the brother's son of the defacto complainant called the witnesses namely, Nagoor Miran, Ramjad Ali, Balakrishnan through their mobile phones and abused them in filthy language and also threatened them with dire consequence. This is the allegation that has been made in the complaint. Reading of 161 statement given by the defacto complainant namely, Sarpudeen, witnesses Nagoor Miran, Ramjad Ali and Balakrishnan shows that they have repeatedly stated the very same thing that has been mentioned in the complaint.

8. Now, according to the learned counsel for the petitioner, for the purpose of attracting the offence under Section 294(b), the following ingredients must be satisfied. The offence would have been taken place in the public place. But, where, when and how the defacto complainant was abused by the accused has been stated neither in the complainant nor in the statement recorded during the course of investigation by the witnesses. So, according to him, the offence is not attracted.



9. As mentioned earlier, reading of the complaint as well as the statement recorded during the course of investigation, does not reveal any thing about this important ingredients. In the absence of any important ingredients, the offence under Section 294(b) will not attract and so, the petitioner cannot be proceeded against this offence.

10. The next offence that has been mentioned is 506(i) IPC. It is also settled law that for the purpose of attracting the provision under Section 506 (i), the threat must be a real one. Mere use of filthy language or words is not enough. Moreover, the person against whom it was intended must be annoyed. But, nowhere in the complaint or in the statement recorded during the course of investigation, ingredient of the offence was revealed.

11. Since the ingredients of the offence have not been brought on record during the course of investigation, no purpose is going to be served by proceeding the prosecution against this petitioner. So, without going to the aspect with regard to the civil dispute between the defacto complainant and the accused, the criminal case pending on the file of the Judicial Magistrate, Tenkasi, in C.C.No.291 of 2021, is liable to be quashed.

12. In the result, this Criminal Original Petition is allowed. The proceedings in C.C.No.291 of 2017 on the file of the learned Judicial Magistrate Court, Tenkasi, is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 Court,
Tenkasi.
- 2.The Inspector of Police,
Kadayanallur Police Station,
Kadayanallur,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.3062 of 2021
and
Crl.MP (MD)Nos.1651 & 1654 of 2021
21.5.2021

PK (CO)
TR(17.06.2021) 4P 4C