



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL.OP(MD)No.15314 of 2018

and

CRL.MP(MD)Nos.6780 and 6781 of 2018

WEB COPY

S.Sheik shabee

... Petitioner / Accused No.2

vs.

1)State through
The Inspector of Police,
S.S.Colony Police Station,
S.S.Colony,
Madurai.
(in Crime No.454/2017)

... 1st Respondent / De-jure
Complainant

2)R.Vanchinathan

... 2nd Respondents / Defacto
Complainant

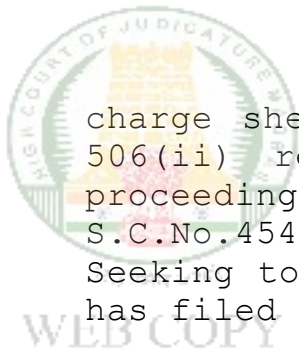
Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings in S.C.No.454/2017 on the file of the learned Chief Judicial Magistrate, Madurai, and quash the same in respect of petitioner/Accused No.2 herein.

For Petitioner	: Mr.Y.Krishnan
For R1	: Mr.S.Ravi, Standing Counsel for State
For R2	: No appearance

ORDER

This petition has been filed to call for the records pertaining to the proceedings in S.C.No.454/2017, on the file of the learned Chief Judicial Magistrate, Madurai, and quash the same in respect of petitioner/Accused No.2 herein.

2.The case of the prosecution is that on 18.09.2016, at about 03.45 p.m., while the defacto complainant was on duty as Salesman at TASMACH Shop No.5172, T.B. Road, Mehboopalayam, Madurai, the accused persons approached him and asked for 2 beer bottles. When the defacto complainant asked the accused to pay the money, they abused him in filthy language and A1 attempted to attack him on his head, but the defacto complainant moved and escaped and when he raised alarm, the accused ran away from the scene of occurrence. On the complaint of the defacto complainant, FIR has been registered in Crime No.1031 of 2016. After investigation,



charge sheet has been filed under Sections 294(b), 353, 307 and 506(ii) read with 34 IPC in PRC.No.6/2017. After committal proceedings, the charge sheet has been taken on file in S.C.No.454/2017 by the learned Chief Judicial Magistrate, Madurai. Seeking to quash the above criminal proceedings, the petitioner/A2 has filed this petition.

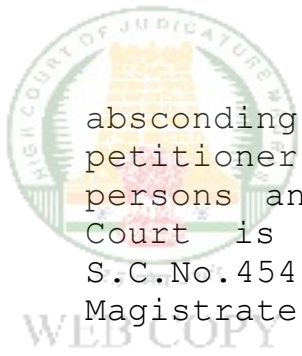
3.The learned counsel for the petitioner would state that there is no specific allegation in the FIR and 161(3) statements that the petitioner/A2 abused the defacto complainant in filthy language and even if those materials are accepted as true, it does not constitute the offences under Sections 294(b), 353 and 506(ii) read with 34 IPC, against the petitioner. He would further state that while the occurrence is said to have taken place at about 03.45 p.m., the FIR has been lodged only at 09.00 p.m and there is no specific overtact against the petitioner. Thus he would pray for quashing the criminal proceedings as against the petitioner.

4.The learned Standing Counsel appearing for the State, on instructions, would state that the petitioner is an absconding accused and therefore, the case was split up against him and trial has commenced and the evidence has also been recorded. He would further state there is a specific overtact against the petitioner and therefore, the interference of this Court is not necessary.

5.Heard the learned counsel for the petitioner as well as the 1st respondent. There is no appearance by the 2nd respondent either by himself or through counsel.

6.While invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court has also to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged, which has been echoed in the judgment of the Hon'ble Supreme Court dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another.**

7.Here in the present case, the complainant had made specific allegations against the petitioner in the complaint stating that when he was on duty in the TASMACH shop, the accused persons came to buy 2 beer bottles and when the defacto complainant asked money, they abused him in filthy language and the first accused attempted to attack on his head and since the petitioner is an



absconding accused, the case has been split up against the petitioner. Trial has commenced in respect of other accused persons and evidence has also been recorded and therefore, this Court is not inclined to interfere with the proceedings in S.C.No.454/2017, on the file of the learned Chief Judicial Magistrate, Madurai.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

bala/akv

To

1. The Chief Judicial Magistrate, Madurai

2. The Inspector of Police,
S.S.Colony Police Station,
S.S.Colony, Madurai.

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

CRL.OP(MD)No.15314 of 2018

DATED : 01.09.2021

DJ(CO)

SB(03.12.2021) 3P 4C