



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE DR.G.JAYACHANDRAN

Crl.O.P(MD)No.7897 of 2017

and

Crl.M.P(MD)Nos.5385 & 5386 of 2017

Pramu ... Petitioner/Petitioner/2nd Accused

-vs-

1.State through,
The Inspector of Police,
District Crime Branch,
Tirunelveli. ... 1st Respondent/Complainant

2.Subbiah ... 2nd Respondent/Defacto
Complainant

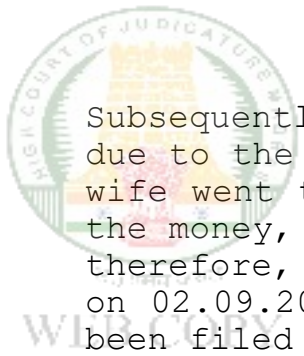
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.137 of 2014, on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same as against the petitioner herein.

For Petitioner : Mr.R.J.Karthick
For R1 : Mr.A.Thiruvadikumar
Additional Public Prosecutor
For R2 : Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Prabhu

O R D E R

The petitioner herein is the second accused in C.C.No.137 of 2014 on the file of the learned Judicial Magistrate No.I, Tirunelveli. The criminal case was registered against four persons. The first and third accused are the brothers. The second and fourth accused are their wives respectively. This petition is filed by the second accused, who is the wife of the first accused.

2. The final report reveals that there is a money transaction between the first and third accused and the defacto complainant. It appears to be an open and running account. The defacto complainant claims to have conducting private chit. In this regard, around Rs.10,25,000/- was borrowed by the first accused on various dates. Out of which, only Rs.4,75,266/- was repaid and the balance was due.



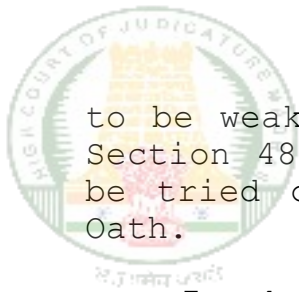
Subsequently, in the chit transaction, a sum of Rs.1,40,280/- was due to the defacto complainant. While so, the defacto complainant's wife went to the house of the accused persons and demanded to repay the money, they abused him in filthy language and threatened him and therefore, the complaint has been lodged by the defacto complainant on 02.09.2018. After completion of investigation, final report has been filed on 25.04.2010.

3. The specific allegation made in the quash petition is that even according to the statement of the defacto complainant, the transaction was only between the defacto complainant and the first accused. Just to harass the family members and she being the wife of the first accused, she has been arrayed as one of the accused and the allegation of criminal intimidation and abuse alleged to have occurred on 06.08.2007 is only an imaginary allegation just to add criminal flavour to the complaint. In the absence of any documentary evidence regarding the money transaction, this complaint has been fabricated and lodged by the defacto complainant in order to give a criminal colour to the civil transaction which arose when the defacto complainant participated in the auction conducted by the DRT in respect of the property owned by one Rathinasabapathy, who is the paternal uncle of the first accused.

4. The learned counsel appearing for the defacto complainant would submit that the petitioner's family and the defacto complainant belongs to same community and therefore, on trust, money was advanced to the family of the petitioners. When the money was advanced to the first accused, the petitioner/2nd accused being the wife of the first accused accompanied him and when the defacto complainant and his wife went to the house of the petitioner for collecting the money, she along with other accused abused and threatened. Hence, this complaint.

5. The police after recording the statement of the witnesses in the locality has filed the charge-sheet since prima facie materials available to proceed against the petitioner and others. It is also brought to the notice of this Court that this petitioner earlier filed the discharge petition before the trial Court and the same was dismissed. The revision petition filed challenging the order passed by the trial Court in the discharge application was withdrawn. Though there is no bar for the accused, who was unsuccessful in the discharge application, seeking for quash the final report invoking Section 482 of Cr.P.C., as far as this case is concerned, the statement of the witnesses recorded under Section 161(3) Cr.P.C., if read in entirety disclose there was a money transaction between the parties and pursuant to that, a quarrel erupted on 06.08.2007 leading to lodging of this complaint.

6. There is no prima facie evidence to show that the second accused has not involved in the alleged offence. Though the



to be weak, but that may not be a reason for this Court to invoke Section 482 Cr.P.C., to quash the complaint since the facts are to be tried on merits and on appreciation of evidence adduced under Oath.

7. Therefore, this Criminal Original Petition is dismissed with a direction to the trial Court to complete the trial within a period of four months from the date of receipt of a copy of this order. If any application is filed for dispensing the personal appearance of the petitioner, the same may be considered on merit, sympathetically since she is being a women and her identity not in dispute. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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. Judicial Magistrate No.I, Tirunelveli

2.The Inspector of Police,
District Crime Branch,
Tirunelveli.

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

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-38994[F] dated 16/12/2021)

+1 CC to M/s.K.PRABHU, Advocate (SR-39124[F] dated 16/12/2021)

CrI.O.P(MD)No.7897 of 2017

15.12.2021

SAR(CO)

KB(23.12.2021) 3P 7C

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