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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.01.2022

PRONOUNCED ON : 25 .01.2022

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NO.9370 OF 2015

AND

M.P.NO.1 OF 2015

1. Allimuthu

2. Asuvathamam

... Petitioners

Vs

1. The Deputy Superintendent of Police,
Ulunderpet Sub Division,
Villupuram District.

2. Dhanabakkiyam

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to PRC No.6 of 2009 in Crime No.12 of 2008 on the file of Judicial Magistrate-I, Ulundurpet, Villupuram District and quash the same.

For petitioner

...

Mr. S. Prabakaran,
Senior counsel,
for Mr. Ilayaraja Kandasamy.

For respondent

...

Mr. C.E.Pratap,
Government Advocate,
for R1

Mr. R.Sankarasubbu,
for R2

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in P.R.C.No.6 of 2009 on the file of the Judicial Magistrate-I, Ulundurpet, Villupuram District and quash the same.



2. The petitioners are stood charged for the offences under Sections 294(b), 323, 506(ii), 307 of IPC IPC r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998.

3. The case of the prosecution, in brief, is as follows:

The first petitioner/A1, was running a Teacher Training Institute, at Ulundurpet and the 2nd petitioner/A2 is his son. In the year 2007, the defacto complainant wants to admit her son in the Teacher Training Institute run by A1, for which, she has paid a sum of Rs.70,000/-. Thereafter, she came to know that the said institute does not have adequate facility. Hence, she requested A1 to return the money paid by her, and all certificates. For that, A1 asked her to come to the school premises on 04.01.2008. On that day, the de-facto complainant and his mother went there, at that time, A1 abused her by calling her caste name and also outraged her modesty and slapped on her face and while the de-facto complainant's mother questioned the same, A1 attacked her with wooden-log. At that time, A2, son of A1, with an intention to cause death, attacked the defacto complainant with an iron rod on her head and caused injuries. Immediately, she was taken to the Government Hospital, Ulundurpet., thereafter, she lodged a complaint before the respondent police, and based on that, a First Information Report has been registered for the offences under Sections 294(b), 354, 323, 324 & 307 IPC r/w. 2 & 3 of Tamilnadu Prohibition of Harassment of Women Act, 1998 and Section 3(2)(v) of the SC/ST Act 1989. After investigation, final report has been filed for the offences under Sections 24(b), 323, 506(ii) and 307 IPC r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998 and the matter is pending for committal in PRC No.6 of 2009 before the Judicial Magistrate, Ulundurpet. To quash the proceedings, the present petition has been filed.

4. Mr. S. Prabakaran, learned Senior counsel appearing for the petitioners submitted that the first petitioner is a retired Head Master and he is running the Teacher Training Institute for poor downtrodden people. Earlier, the defacto complainant wants to admit her son in the institute and she paid a sum of Rs.20,000/-, subsequently, since he got admission in some other institute, and she wants Transfer Certificate and also the amount paid by her. On 25.07.2007, the defacto complainant and her son received the said sum of Rs.20,000/- from the first petitioner and she has also issued acknowledgement for the same. On the very same day, she has also received all the Certificates. Thereafter, at the instigation of some political parties, the present complaint has been filed as if both the petitioners attacked the de-facto complainant and her son.



5. The learned Senior Counsel further submitted that this complaint has been lodged with a malafide intention to harass the petitioners. The de-facto complainant paid only Rs.20,000/- towards the admission fees, which was also returned in the month of July 2007 and all the certificates including the Transfer Certificate was given to her son on 25.07.2007 itself. In the said circumstances, there is no occasion for the petitioners to call the de-facto complainant and attack her. That apart, even the medical Accident Register and the Doctor's statement do not make out any case for the offence under Sections 307 and 323 of IPC. From the medical report, it is seen that both of them had suffered lacerated injuries and absolutely, there is no allegation that the petitioners attacked the defacto complainant with an intention to cause death. He further submitted that it is only a false complaint. The 2nd petitioner is a practising Advocate and a well known political leader in that area, and the present complaint has been only with an intention to harass the petitioners.

6. Per contra, Mr. Sankarasubbu, the learned Counsel appearing for the de-facto complainant, submitted that at the time of admission, the de-facto complainant paid a sum of Rs.70,000/- as admission fees. Out of which, only part of the amount has been paid and the remaining amount has not been paid by the petitioners. Hence, the de-facto complainant, who belongs to poor and downtrodden community, requested them to pay the amount, for which, both the petitioners attacked the defacto complainant and her mother with dangerous weapons with an intention to cause death and both of them suffered with serious injuries. Immediately, both of them were taken to the hospital and the medical evidence also support their case. Since the defacto complainant belongs to scheduled caste, originally a crime was registered under SC/ST Act and thereafter, stating that they belong to Christian religion, that offence has been dropped by the respondent police illegally. Further, the materials available on records, clearly makes out other offences and there is no reason to quash the criminal proceedings.

7. Heard the learned Government Advocate (Crl. side) appearing for the first respondent.

8. This Court considered the submissions made on either side and perused the materials available on records carefully.

9. The case of the prosecution is that the de-facto complainant paid a sum of Rs.70,000/- for her son's admission to the petitioners' Teacher Training Institute. But, for want of adequate facilities in the Institute, they want to get the Transfer Certificate and also asked for return of amount paid by them. Out of Rs.70,000/-, only a sum of Rs.20,000/- has been



paid to the de-facto complainant and the remaining sum of Rs.50,000/- was not paid. When, the de-facto complainant asked for the remaining, both the petitioners called the de-facto complainant to the Institute and attacked the de-facto complainant and her mother and caused injuries. Originally, the crime was registered for the offence under the SC/ST Act also, after investigation, the above charge has been dropped on the ground that the de-facto complainant belongs to Christian religion.

10. From the material available on record including the statement of the de-facto complainant, her mother and other independent witnesses, it could be seen that both the accused attacked the de-facto complainant and her mother in the school premises belongs to A1. A1 said to have abused her, slapped the de-facto complainant with hand and tried to pull her saree. When the same was questioned by the de-facto complainant's mother, A1 attacked her with a wooden log. At that time, A2 attacked the de-facto complainant with an iron rod on her head and caused injuries to her, and criminally intimidated them. The mother of the de-facto complainant also gave a same statement. Apart from that, 3 more independent witnesses had also given similar statements.

11. The occurrence is said to have taken place at 10.30 a.m. Immediately, both the injured persons were taken to the Government Hospital, Ulundurpet, wherein, the Doctor found a lacerated injury on the head of the de-facto complainant and a contusion on the ankle of the mother of the de-facto complainant. Both of them were admitted in the hospital and the Doctor has given an opinion that both the injuries are simple in nature, to that effect, the Doctor has also given a statement. From those materials, a prima-facie case is made out against the petitioners for the offence under Sections 294(b), 323 and 506 (ii) of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998, and this Court find no reason to quash the above offences.

12. So far as the offence under Section 307 is concerned, to bring home the offence under Section 307 of IPC, there must be some materials to show that, the accused had an intention to commit murder. The intention of the accused should be ascertained from the actual injuries caused by him as well as from the other surrounding circumstances, and the nature of the weapons used and severity of the inflicted injury. It is settled that it is not necessary that actual injury inflicted capable of causing death. In the instant case, from the materials available on record, especially, the statement of the de-facto complainant, and her mother, it cannot be inferred that both the accused have an intention to cause death of the de-facto



complainant and her mother, and they have suffered a lacerated injury on the head and ankle, according to the medical evidence, the injuries are simple in nature. In those circumstances, from the material available on record, this Court is of the considered view that no prima-facie case is made out for the offence under Section 307 IPC and the charge under Section 307 IPC is only liable to be quashed.

13. In the result, this Criminal Original Petition is partly allowed and the charge under Section 307 of IPC, alone quashed as against the petitioners. Consequently, as the other offences are only triable by the Judicial Magistrate, the concerned Judicial Magistrate is directed to proceed with the trial in respect of other offences, and the matter need not be committed to the Sessions Court. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Judicial Magistrate-I,
Ulundurpet, Villupuram District.
2. The Deputy Superintendent of Police,
Ulunderpet Sub division,
Villupuram District.
3. The Public Prosecutor,
High Court,
Madras.

+2ccs to Mr. R.Sankarasubbu, Advocate, S.R.No.4369

Cr1.O.P.No.9370 of 2015

NRL (CO)
PM/14/02/2022