



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 29030 of 2017 and  
CrI.M.P.Nos. 16385 and 16386 of 2017

1.Nirmala  
2.Nithyawathi

...Petitioners/Accused 1 & 2

Versus

1.The Inspector of Police,  
G-1, Vepery Police Station,  
Chennai. (Crime No.309/2017)

2.Henry Prem Anand

...Respondents/Complainant/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.8780 of 2017, on the file of the Second Additional Metropolitan Magistrate Court, Egmore, Allikulam, Chennai and quash the same.

For Petitioners : Mr.R.Rajkumar  
for Mr.T.Muruganantham

For Respondents : Mr.R.Kishore Kumar  
Govt. Advocate (CrI.Side) for R1

: Notice sent Service awaited for R2

ORDER

This Criminal Original Petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

2. This Criminal Original Petition has been filed to quash the proceedings in C.C.No.8780 of 2017, filed against the accused for the offence under Section 294(b) and 506(ii) of IPC, on the file of the Second Additional Metropolitan Magistrate Court, Egmore, Allikulam, Chennai.

3. The crux of the charge is that on 19.02.2017, at about 17.40 to 18.10 hours, while the de facto complainant and her husband were fetching water, the petitioners/accused, abused and told her that only on the de facto complainant vacating the premises, they will be happy. Besides that, they also made a threat.



4. It is the contention of Mr.Raj kumar, learned counsel appearing for the petitioner that the entire prosecution is a falsely motivated one only in order to coerce the landlord from evicting the tenants and that there is no such occurrence has taken place. Even the entire prosecution materials taken as proof, the same would not constitute any offence, hence sought for quashment of the proceedings.

5. The learned Government Advocate (Criminal Side) appearing on behalf of the first respondent submitted that the prosecution has filed its final report for the offence under Sections 294(b) and 506(ii) of IPC.

6. Heard the learned counsel on both sides and perused the entire materials available on record.

7. Though the Court cannot make a roving enquiry as to the veracity of the statements recorded during investigation whether they are true or not, however, if the materials indicate that the prosecution itself is a motivated one for some other reason, particularly, in a Civil dispute, the Court can very well interfere with the final report. Further, the entire prosecution materials as such filed is taken as a proof, as contended, except stating that abusive statements. There was no other materials to show that the offence under Sections 294(b) and 506(ii) of IPC is made out.

8. Admittedly the de facto complainant is a tenant under the landlord, namely the accused. It appears that there was a dispute in vacating the premises in respect of which civil disputes were already pending between the parties. In such view of the matter, if the entire final report is taken as a proof, it will not sufficient to constitute an offence under Section 294(b) and 506(ii) of IPC. Accordingly, the continuance of the prosecution is nothing but an abuse of process of law.

9. Accordingly, this Criminal Original Petition is allowed. The proceedings in C.C.No.8780 of 2017, on the file of the Second Additional Metropolitan Magistrate Court, Egmore, Allikalam, Chennai is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

psa/asr



To

1.The Second Additional Metropolitan Magistrate,  
Egmore, Allikalam,  
Chennai.

2.The Inspector of Police,  
G-1, Vepery Police Station,  
Chennai.

3.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.T.Muruganantham, Advocate SR. No.868

Cr1. O.P. No. 29030 of 2017

NMI (CO)  
PR (21/01/2022)