



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
CRL.O.P.[MD].No.1756 of 2020

and

CRL.M.P.[MD]Nos.838 and 840 of 2020

1.Anees Fathima
2.A.Sharifa
3.A.Mohammed Rafi
4.A.Kamal
5.A.Ahmad Ibrahim
6.Sirajuddin
7.Mumtaj

... Petitioners / Accused Nos.1 to 7

Vs.

J.Jaffir Ahamed

... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.1431 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as the petitioners as devoid of merits.

For Petitioners : Mr.A.Haja Mohideen

For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the private complaint, which is taken on file in C.C.No. 1431 of 2019 by the learned Judicial Magistrate No.VI, Madurai for the offences punishable under Sections 147, 148, 294(b), 323, 341 and 506(ii) IPC.

2.The private complaint was lodged by the husband of the first petitioner herein against his in-laws and brother-in-laws.

3.The crux of the allegation in the private complaint indicates that there is a matrimonial dispute between the husband and wife and therefore, the husband has filed a suit for restitution of conjugal rights in O.S.No.314 of 2017 on the file of the Sub Court, Melur. When the matter stood thus, on 14.08.2018, he tried to visit his child, at that time the accused have abused the respondent and also made a threat. Again 17.09.2018, the accused 3 to 6 abused and threatened the respondent herein. Therefore, he made a complaint before K.Pudhur Police Station. Since no action



was taken on the complaint given by the respondent, he has filed the private complaint before the learned Judicial Magistrate No.VI, Madurai.

4.The learned counsel appearing for the petitioners submitted that the private complaint has been filed in order to avoid maintenance payable to the wife and minor child. The allegation in the private complaint itself indicates that it is general in nature, no specific overt act has been made. He further submitted that the entire case is nothing but abuse of process of law.

5.Despite the name of the learned counsel for the respondent is printed in the cause list, he did not come forward to argue the matter today (04.03.2022).

6.I have perused the entire private complaint, which indicates that from 2017 onwards there is a matrimonial dispute, which lead to the filing of the suit for restitution of conjugal rights. The main allegations culled out from the private complaint are that when the defacto complainant tried to meet his child and contacted the first accused herein, she has brought the child to one A.M. Stores. At that time, the accused abused him. Similarly, on 17.09.2018, they also used abusive words, also made threat. Except the general allegations, there is no other specific overt act made in the complaint.

7.It is further to be noted that mere general allegations in a family dispute without any real threat to the entire family, would not constitute the offence under Section 506 of IPC. Merely the family members joining together in the matrimonial dispute, such assembly also could have considered as unlawful assembly. Similarly, there is no other materials to be seen from the complaint that the accused sustained any injury. Therefore, the entire allegation itself indicates that this is only the result of matrimonial dispute and to avoid maintenance, the private complaint is filed against all the family members, which is nothing but abuse of process of law. Therefore, the private complaint in C.C.No.1431 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai, is quashed as against the petitioners herein.

8.Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate No.VI,
Madurai.

2.Do through The Chief Judicial Magistrate,
Madurai.

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04.03.2022

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