



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)Nos.2489 & 2495 of 2022

&

Crl.M.P(MD)Nos.1854, 1855 & 1846 of 2022

Crl.O.P(MD)No.2489 of 2022:

1. M.Subbulakshmi
2. Muralitharan

... Petitioners/
Accused No.3 & 4

Vs.

1. The State represented by
The Inspector of Police,
AWPS Madurai Town Police Station,
Madurai.

... 1st Respondent/
Complainant

2. Vahini

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No. 513 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai and quash the same against these petitioners alone.

For Petitioners : Mr.A.Sivasubramanian

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)
for R.1

No appearance for R.2

Crl.O.P(MD)No. 2495 of 2022:

M.Sudheeshkumar

... Petitioners/
5th Accused

Vs.



WEB COPY

1. The State represented by
The Inspector of Police,
AWPS Madurai Town Police Station,
Madurai

... 1st Respondent/
Complainant

2. Vahini

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No. 513 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai and quash the same.

For Petitioner : Mr.A.Sivasubramanian

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)
for R.1

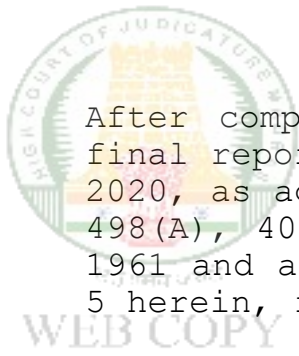
No appearance for R.2

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.513 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, as against the petitioners.

2. The case of the prosecution is that the defacto complainant and accused No.1 got married on 09.12.2010, at Madurai. During marriage, the defacto complainant's parents presented 31- ¼ sovereigns of gold ornaments, 955 gram worth silver articles, Rs.2 Lakhs worth srithana articles and Rs.3,00,000/- (Rupees Three Lakhs only) as cash. The family members of the first accused demanded huge dowry.

3. Thereafter, the first accused demanded a sum of Rs.2 Lakhs in order to purchase the property. The parents of the second respondent believed that the property will be purchased in the name of the second respondent and paid a sum of Rs.2,00,000/- (Rupees Two Lakhs only). However, the property purchased in the name of the first accused. Thereafter, on 12.01.2011, her debit card of Canara Bank was forcefully taken from her and a sum of Rs.68,300/- (Rupees Sixty Eight Thousand and Three Hundred only) was withdrawn by the first accused without her knowledge. Thereafter, accused 3 to 5 threatened her with dire consequences. On receipt of the said complaint, the first respondent registered a case in Crime No.6 of 2018 for the offences under Sections 498(A), 406 and 506(i) of IPC.



After completion of investigation, the first respondent filed the final report and the same has been taken cognizance in C.C.No.513 of 2020, as against the accused 1 and 2 for the offences under Sections 498(A), 403, 506(i) of IPC and Section 4 of Dowry Prohibition Act, 1961 and as against the petitioners herein namely, the accused 3 to 5 herein, for the offences under Section 506(i). of I.P.C.

4. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials available on record.

5. Though the name of the second respondent has been printed in the cause-list, none appeared on behalf of her either in person or through counsel.

6. On a perusal of the materials available on record revealed that the alleged incident took place in the month of May, 2018, when the second respondent had occasionally met the petitioners and the fifth accused and alleged that the when the second respondent enquired about the first and second accused, it is informed that the accused was re-married to another person and if the second respondent continues to lodge complaints, the petitioners would do away her life and they have also attacked the defacto complainant. Admittedly, the petitioners and the fifth accused are resident of Bangalore and they are no way connected with the matrimonial dispute between the first accused and the second respondent. The intention of the second respondent is only to harass the petitioners to bring them to the trial Court. Except the above said allegations, there is absolutely no ingredients to attract the offence under Section 506 (i) of I.P.C as against the petitioners herein.

7. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients.

8. In this regard, It is relevant to rely upon the judgment of this Court in ***Crl.O.P.(MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police)***, which reads as follows:-

"7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the



defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

9. In the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioners were only empty threats and they had no effect on the complainant.

10. In view of the above discussions, the impugned proceedings cannot be sustained as against the petitioners and it is liable to be quashed. Accordingly, these Criminal Original Petition are allowed and the proceedings in C.C.No.513 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai is quashed. Consequently, connected Miscellaneous Petition are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

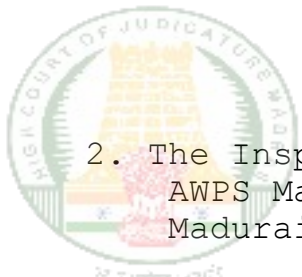
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Additional Mahila Court,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Inspector of Police,
AWPS Madurai Town Police Station,
Madurai.

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

+1 CC to M/s.A.SIVASUBRAMANIAN, Advocate (SR-15137[F] dated
29/03/2022)

Crl.O.P(MD)Nos.2489 & 2495 of 2022

&
Crl.M.P(MD)Nos.1846, 1854 & 1855 of 2022
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