



Crl.O.P.(MD)No.2779 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD)No.2779 of 2020

and

Crl.M.P.(MD)Nos.1466 and 1467 of 2020

- 1.Viajaya, W/o.Selvam
- 2.Lakshiammal, W/o.Muthukamathevar
- 3.Raja, S/o.Muthukamathevar
- 4.Poongodi, W/o.Raja

... Petitioners

vs.

Ananthi, W/o.Anbuslevam

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.1196 of 2019, on the file of the Judicial Magistrate Court No.II, Usilampatti, Madurai District and quash the same.

For Petitioners : Mr.RM.Arun Swaminathan

For Respondent : No Appearance



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ORDER

This Criminal Original Petition is filed seeking to quash the private complaint in S.T.C.No.1196 of 2019, filed by the respondent against the petitioners for the alleged offences under Sections 294(b) and 506(i) of I.P.C., pending on the file of the Judicial Magistrate Court No.II, Usilampatti, Madurai District.

2. Though notice was served on the respondent through Court as well as privately, the respondent has not chosen to appear either in person or through a counsel.

3. The allegation in the complaint is that, on 22.12.2016, due to money dispute between the first petitioner and the respondent, the petitioners went to the house of the respondent and abused her in filthy language, besides threatening her with dire consequences.

4. The learned counsel appearing for the petitioners submitted that on the very same allegations, an F.I.R. was registered in Crime No.134 of 2016 on



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the file of the Valandur Police Station, Madurai. After investigation, the Police referred the case as "Mistake of Fact" and accordingly, has filed a final report on 25.12.2016. Thereafter, on the very same set of facts, the present private complaint has been filed before the Judicial Magistrate Court No.II, Usilampatti.

5. A reading of the complaint would show that the offences are under Sections 294(b) and 506(i) of I.P.C. The offence under Section 294(b) of I.P.C. is punishable with maximum sentence of three months imprisonment and the offence under Section 506(i) of I.P.C. is punishable with maximum sentence of two years. Under Section 468 of the Code of Criminal Procedure, for taking cognizance of an offence, the limitation provided for the offence under Section 294(b) of I.P.C. is one year and the limitation provided for the offence under Section 506(i) of I.P.C. is three years. Thus, the impugned private complaint, which was filed as S.T.C.No.1196 of 2019, is barred by limitation. Further, it is seen that a civil dispute is pending between the parties in O.S.No.54 of 2017, on the file of the V Additional District Court, Madurai. That apart, it is also seen that the private complaint is not accompanied by an affidavit as mandated by the Hon'ble Supreme Court in **Priyanka Srivastava and others vs. State of U.P. and**



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"30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section



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156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR."

6. For the abovesaid reasons, the impugned private complaint deserves to be quashed. Accordingly, it is quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
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To

The Judicial Magistrate Court No.II,
Usilampatti, Madurai District.



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SUNDER MOHAN, J.

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ORDER MADE IN
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