



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.7743 of 2019

and

Crl.MP(MD)No.4742 of 2019

Baskar : Petitioner/Sole Accused

Vs.

1.State represented by
The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District,
(In Crime No.477 of 2017) : R1/Complainant

2.Thiyagarajan : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.42 of 2018 on the file of the Judicial Magistrate No.1, Kovilpatti and quash the same.

For Petitioner : Mr.C.Jeyaprakash

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

For 2nd Respondent : Mr.M.Prabu

O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.42 of 2018 on the file of the Judicial Magistrate No.1, Kovilpatti.

2.The case of the prosecution in brief:-

The de-facto complainant and the petitioner herein entered into an oral agreement for planting trees in the land, which belongs to the de-facto complainant. But as agreed, the accused person did not plant the trees properly and because of non-maintenance, most of the planted trees has died. On coming to know the same, the de-facto complainant enquired the accused about that on 01/08/2017 at about 2.00 pm. At that time, he was abused him in filthy language and criminally intimidated. Based upon the complaint given by the de-facto complainant, a case in Crime No.477 of 2017 was registered for the offences under sections 406, 420, 294(b) and 506(2) IPC and after completing formalities of investigation, final report has been



filed and that was taken cognizance in CC No.42 of 2018 on the file of the Judicial Magistrate No.1, Kovilpatti.

3. Seeking quashment of the same, this petition is filed.

4. Heard both sides.

5. At the outset, the learned Additional Public Prosecutor would submit that eight witnesses have been examined before the trial court.

6. The learned counsel appearing for the petitioner would submit that absolutely, the offences under sections 406, 420, 294(b) and 506(ii) IPC are not attracted, since the ingredients are not available. According to him, it is out and out contractual obligation between the parties.

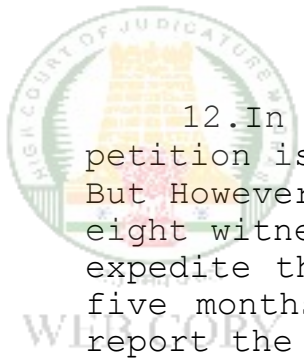
7. The learned counsel appearing for the petitioner would submit that if any contractual obligation, that ought to have been resorted through civil remedy for damages. But without resorting to such a remedy, the complainant filed the complaint. It is also investigated and final report is also filed.

8. Now no doubt that this is contractual obligation between the parties. It is to be seen that whether the offences under sections 406, 420, 294(b) and 506(ii) IPC are attracted or not. Since the case is also in the part heard stage, it may not be proper on the part of this court to go into the factual aspects.

9. Now the charges have been framed and the petitioner also denied the charges. No one has filed any application before the concerned court seeking discharge or approached this court for quashment. Having participated in the trial process, without cross examining the witnesses, the petitioner approached this court on the ground that criminal proceedings is a clearly abuse of process of court and law and the contractual obligation has been given criminal colour.

10. It is settled law that only in rare and rarest cases, when any manifest injustice or illegality is noticed, the criminal proceedings, which are half way can be quashed. As mentioned earlier, the reason for the delay in approaching this court is not clearly explained. Similarly, the failure on the part of the petitioner to seek discharge, during the charge framing stage also dis-entitles him to claim any relief in this proceedings.

11. So in the facts and circumstances of this case, the petitioner has not made out any ground to quash the criminal proceedings, which are in the half way stage.



12.In the light of the above facts, this criminal original petition is liable to be dismissed and accordingly, it is **dismissed**. But However, considering the fact that the case of the year 2018 and eight witnesses were examined so far, the trial court is directed to expedite the trial process and complete the same within a period of five months from the date of receipt of a copy of this order and report the same to the Registry.

13.With the above said observation, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

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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.Judicial Magistrate No.1,
Kovilpatti.
- 2.The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section officer,
Criminal Section,
Madurai Bench Of Madras High Court, Madurai. (2 COPIES)

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RD(20.04.2022) 3P 6C