



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.04.2022

PRONOUNCED ON : 12.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.8275 of 2021

and

Crl.M.P(MD)No.4241 of 2021

Murugan

... Petitioner/Sole Accused

Vs.

1.The State represented by,
The Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.

(In Crime No.12 of 2021).

... 1st Respondent/Complainant

2.Helan Mary

... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case registered in FIR in Crime No.12 of 2021 on the file of the first respondent and quash the same.

For Petitioner : Mr.J.Lawrance

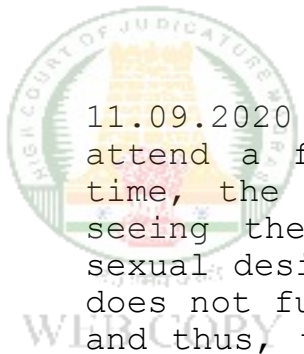
For R - 1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

For R - 2 : Mr.S.Krishnan

ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.12 of 2021 for the offences under Section 506 (i) of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 on the file of the first respondent.

2.The case of the prosecution is that the second respondent has been employed as a Supervisor in one Private agency which has been awarded contract by Madurai City Corporation and the second respondent has been entrusted to supervise the works of contractual labour involving Domestic Breeding Checking and the petitioner herein was working as a Sanitary Inspector in Madurai Corporation. Taking advantage of his position as superior to that of the second respondent, he used to approach the defacto complainant and started making sexual appeals and started behaving indifferently and she was avoiding for which, the petitioner got annoyed. While so, on



11.09.2020 at about 12 p.m., when the defacto complainant went to attend a funeral ceremony of one Corporation Contractor, at that time, the petitioner also came to attend the said funeral and on seeing the defacto complainant, the petitioner approached making sexual desires and at that time, he also threatened her that if she does not fulfil his sexual desire, she would be sacked from her post and thus, the petitioner harassed the defacto complainant again and again by words and deeds. The petitioner has threatened to tarnish her image in the family circle and unable to bear the torture meted out to her, she had lodged a complaint before the first respondent.

3. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent and perused the entire materials available on record.

4. When the petitioner was working in the Health Department of Madurai Municipal Corporation as a Sanitary Inspector, the second respondent was working as a Supervisor under one contract of Corporation in connection with Domestic Breeding Checker (DBC). The petitioner used to monitor the works that are being carried out by the workers of the contractors. While being so, some misunderstanding were developed between the contractor, his staff members and the petitioner, since the said workers and staff of the contractors were indulged in several malpractices and irregularities and were not discharging their works as per the schedule given by the contractor.

5. While so, when the petitioner's name was in the panel for promotion to the post of sanitary supervisor, the second respondent colluded with the others lodged complaint and also sent representation to initiate departmental proceedings as against the petitioner. The said complaint was enquired by the Inspector of Police, S.S Colony Police Station for the allegation that on 11.09.2020, the second respondent along with her co-worker where proceeded to attend funeral and when she was about to park her two-wheeler, the petitioner alleged to have suddenly appeared there and started to make sexual desires which caused her mental agony. She was harassed time and again and thereby outraged her modesty even though she has been avoiding on knowing his improper behaviour and his making of unwelcome sexual advances. He also used to utter so many words for sexual appeals. On receipt of the said complaint, she was issued with C.S.R and on 06.10.2020, conducted detailed enquiry by the Inspector of Police, S.S Colony Police Station. In fact, 10 witnesses were examined and they are none other than the employees of the Madurai Corporation, who accompanied the second respondent, were not supported the case of the defacto complainant. In fact, during the enquiry, the Inspector of Police found that the alleged occurrence said to have been taken place on 11.09.2020, that too, in the main road and during the relevant period, several police services were not available. The petitioner was also deputed for escort duty as on that date one political



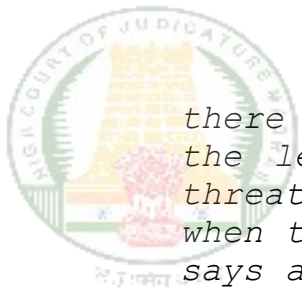
leader's birth anniversary celebrations were taking place. Therefore, the Inspector of Police, S.S Colony Police Station concluded that the complaint is false one and foisted against the petitioner. It is also seen that the occurrence took place on 11.09.2020, whereas the second respondent lodged complaint only on 05.10.2020 ie., after a lapse of 25 days. Again the second respondent lodged another complaint suppressing the earlier complaint and enquiry report before the first respondent with the very same set of allegations. The first respondent immediately after receipt of the complaint registered the F.I.R. When the second respondent lodged complaint belatedly that too on 23.04.2021, for the occurrence took place on 11.09.2020, the first respondent ought to have conducted preliminary enquiry, it would be brought to the notice of the first respondent about the earlier complaint lodged by the second respondent and the same was enquired in detail and closed as false one.

6.That apart, the impugned F.I.R does not disclose any offence as against the petitioner and it is gross abuse of process of law. The basic ingredients to attract the offence under Section 506(i) of I.P.C and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 are not at all made out. If the F.I.R allowed to continue it is nothing but clear abuse of process of law. The present F.I.R is nothing but lodged only to wreak vengeance as against the petitioner.

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. Whereas in the case on hand, even according to the case of the prosecution, the second respondent has lodged the complaint only to disrepute the image of the petitioner in the Society as well as in his official circles.

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.It is relevant to rely upon the land mark Judgment of the Honourable Supreme Court of India in the case of **State of Haryana and others Vs. Bhajanlal and others** reported in **1992 Supp (1) SCC 335**, in which, the Honourable Supreme Court of India has laid down the following categories of instances wherein inherent powers can be exercised in order to secure the ends of justice as follows:-

"(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

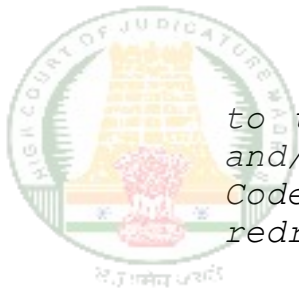
(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted)



to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. In view of the above, the F.I.R cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the FIR in Crime No.12 of 2021 on the file of the first respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /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 Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.

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

+1 CC to M/s.J. LAWRENCE, Advocate (SR-18430[F] dated 13/04/2022)

Order made in

Crl.O.P(MD)No.8275 of 2021

12.04.2022

ma (CO)

TR(27.04.2022) 5P 4C