



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.12472 of 2020

&

Crl.M.P. (MD)Nos.5653 & 5654 of 2020

V.K.S.Velayutham

...Petitioner/Sole Accused

Vs.

1. State represented by
The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
In Crime No.493 of 2017 ... 1st Respondent/Complainant

2. Mallika ... Respondent/Defacto-Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records of the charge sheet in STC No.34 of 2020 on the file of Additional District Munsif cum Judicial Magistrate Court, Manamadurai and quash the same.

For Petitioner : Mr.P.Edin Brough

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)
for R1

: Mr.S.Siva Kumar for R2

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in STC No.34 of 2020 on the file of Additional District Munsif cum Judicial Magistrate Court, Manamadurai.

2.The case of the prosecution is that the defacto complainant/second respondent borrowed a sum of Rs.3,00,000/- from the petitioner and returned a sum of Rs.1,98,000/-. For that, the petitioner threatened her and abused with filthy language, over phone.



3.A perusal of records, reveals that the petitioner and the second respondent are having loan transaction. The second respondent already borrowed a sum of Rs.6,00,000/-. In order to to repay the said loan, the second respondent executed promissory note and her husband stood as witness. The said witness had entrusted the original sale deed, in favour of the petitioner. When the second respondent defaulted, in payment of the loan, the petitioner asked her to repay the amount. In fact, the second respondent issued a cheque, in order to repay the said loan and the same was presented for collection, it was dishonoured for the reason funds insufficient and as such the petitioner also filed a private complaint under Section 138 of Negotiable Instruments Act, as against the second respondent in C.C.No.145 of 2017, on the file of Judicial Magistrate (FTC), Karaikudi and it is pending for trial. While pending the said complaint, the petitioner abused the second respondent with filthy language, that to over phone. Hence, this case was registered in Crime No.493 of 2017, on the file first respondent police.

4.In this regard, it is relevant to extract 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."

5.Therefore, there is absolutely no ingredients to attract the offence under Section 294(b), 506(i) IPC. The entire proceedings is nothing, but, clear abuse process of law and as such it cannot be sustained as against the petitioner.

6.In view of the above, this Criminal Original Petition is allowed and the charge sheet and entire proceedings in STC No.34 of



2020 on the file of Additional District Munsif cum Judicial Magistrate Court, Manamadurai, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(crl.side)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Additional District Munsif cum Judicial Magistrate,
Manamadurai.
2. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
In Crime No.493 of 2017
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.EDIN BROUGH, Advocate (SR-11588[F] dated 11/03/2022)

ORDER IN

Crl.O.P. (MD) No.12472 of 2020
&Crl.M.P. (MD) Nos.5653 & 5654 of 2020
11.03.2022

SA(25.03.2022) 3P 5C