



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.14638 of 2020

and

Crl.M.P (MD)No.6903 of 2020

WEB COPY

Muthu @ Masanamuthu

... Petitioner/Sole Accused

Vs.

1.State represented by,
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
(Crime No.377 of 2018).

... 1st Respondent/Complainant

2.Jeyakumar

... 2nd Respondent/
Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.377 of 2018 on the file of the first respondent and quash the same as against the petitioner is concerned.

For Petitioner : Mr.C.Susi Kumar

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

For R - 2 : Mr.S.C.Herold Singh

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.377 of 2018 on the file of the first respondent registered for the offences under Sections 294(b) and 506(ii) of I.P.C.

2.The case of the prosecution is that on 11.05.2017, the petitioner's brother, who is serving as a Sub-Inspector of Police, said to have abused and made serious life threat and also damaged the second respondent's car, who is a practising advocate. In connection with the crime, the second respondent lodged a complaint against the petitioner's brother and now, he is facing trial. While being so, on 30.08.2018 at about 09.30 a.m, the second respondent received a phone call from the petitioner, in which the petitioner abused him using filthy language and also made a serious life threat stating that he should withdraw the case against his brother, else



he will kill him by engaging rowdy elements. Hence, the second respondent lodged the complaint.

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.

4. On a perusal of the entire allegations revealed that the petitioner threatened the second respondent through phone repeatedly. Therefore, there is no ingredient to make out the offence as against the petitioner with regard to the offence under Section 294(b) of I.P.C. Accordingly, it should be taken place in the public place and also mere utterance of obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance to others, which is completely lacking in this case. In this regard, it is relevant to extract the provision under Section 294(b) of IPC, which reads as under:

"294. Obscene acts and songs -Whoever, to the annoyance of others-

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

Admittedly, Section 294(b) of I.P.C is not attracted as against the petitioner.

5. It is also relevant to rely upon the judgment of this Court reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-

"To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

The above judgment is squarely applicable to the present case and the allegations are frivolous in nature and the petitioner need not go for ordeal of trial.

6. Insofar as the offence under Section 506(ii) of I.P.C is concerned, threat should be a real one and not just a mere words when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Whereas, in the case on hand, according to the second



respondent, the petitioner threatened him over phone and nowhere it is stated that the uttering does not cause annoyance to others and thereby the said offence also not made out as against the petitioner.

7. In view of the above discussions, 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.377 of 2018 on the file of the first respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// 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,
Kottar Police Station,
Kanyakumari District.

Copy to:

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

+1 CC to M/s.S.C. HEROLD SINGH, Advocate (SR-17769[F] dated 11/04/2022)

+1 CC to M/s.C. SUSIKUMAR, Advocate (SR-18296[F] dated 12/04/2022)

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MGJ(21.04.2022) 3P 5C

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