



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.01.2022

Delivered on : 24.03.2022

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CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P. (MD)Nos.12338 and 13148 of 2019

and

Crl.M.P. (MD)Nos.7750, 7751, 8085 and 8087 of 2019

1.Senthilmaran ... Petitioner/A1
in Crl.O.P. (MD)No.12338 of 2019

2.Kattakudi Thirupathi @ Thirupathi
... Petitioner/A2
in Crl.O.P. (MD)No.13148 of 2019
vs.

A.K.Mohammed Ibrahim ... Respondent/Complainant
in both petitions

COMMON PRAYER : Criminal Original PetitionS filed under Section 482 Cr.P.C, to call for the entire records relating to C.C.No.118 of 2019, pending on the file of the learned Judicial Magistrate, Keeranur and quash the proceedings as against the petitioners.

In both petitions:

For Petitioner : Mr.M.Jeyakumar
in Crl.OP. (MD).No.12338 of 2019 for Mr.M.Karunanithi

For Petitioner : Mrs.S.Prabha
in Crl.OP. (MD).No.13148 of 2019

For Respondent : Mr.S.M.Sekar

COMMON O R D E R

These Criminal Original Petitions have been filed, invoking Section 482 of Cr.P.C. seeking orders to call for the records relating to C.C.No.118 of 2019 pending on the file of the learned Judicial Magistrate, Keeranur and quash the same.

2.The petitioners are the accused 1 and 2 in C.C.No.118 of 2019 on the file of the learned Judicial Magistrate, Keeranur. The respondent has lodged a private complaint under Section 200 Cr.P.C against the petitioners and the learned Judicial Magistrate has



taken cognizance of the case against the petitioners herein for the offences under Section 294(b) and 506(ii) of IPC.

3.The case of the prosecution is that on 23.08.2018 at about 12.00 noon, when the de-facto complainant was riding his two wheeler bearing Registration No.TN-55-W-4123 with his brother, Muhammad Appas as pillion rider from Viralimalai to their place of Valanadu and at the place near Viralur in Trichy-Madurai National Highway, the petitioners had intercepted them and the first petitioner had abused him in filthy language and both the petitioners had threatened him that they would kill him and that they had further threatened that they would lodge false cases against him.

4.Admittedly, the first petitioner was working as Inspector of Police, Viralimalai, Pudukottai District at the time of the alleged occurrence and was working as Inspector of Police, Idol Wing, Subramaniapuram, Trichy District at the time of filing of the above petition.

5.The learned counsel for the petitioners would submit that the first petitioner has laid a charge sheet against the complainant in Crime No.110 of 2015 for the offences under Sections 285, 338 and 326(A) of IPC, that the first petitioner has also lodged a complaint in Crime No.336 of 2015 for the offences under Sections 294(b), 341 and 506(ii) IPC r/w Section 4 of Women Harassment Act against one Murali, who is shown as the witness for the alleged occurrence and that though the above cases were ordered to be disposed of, the respondent/complainant to take vengeance, has lodged the above complaint falsely implicating the petitioners.

6.The learned counsel for the petitioners would further submit that though the alleged incident was occurred on 23.08.2018, a letter was addressed on 08.09.2018 and the present complaint was filed on 06.12.2018 and that the complainant has not offered any reason or explanation for the said delay. The learned counsel would further submit that no sanction was obtained to prosecute the first petitioner before taking cognizance and that therefore, the very cognizance taken by the learned Magistrate which is illegal, is liable to be set aside. The learned counsel for the respondent would submit that since the first petitioner was only working as Inspector of Police, the question of getting sanction from the State Government does not arise. The learned counsel for the petitioners would submit that the learned Magistrate has failed to conduct an enquiry as contemplated under Section 202 of Cr.P.C. Though the de-facto complainant has entered appearance, they have not stated anything about the nature of the enquiry conducted by the learned Magistrate.

7.It is not in dispute that the respondent/complainant and others were charge sheeted in Crime No.110 of 2015 for the offences



under Section 285, 338 and 326(A) of IPC, that the respondent/complainant has filed a petition for Crl.O.P.(MD)No.11506 of 2015 for quashing the case on the ground that the parties have come to an amicable settlement between them and that this Court has allowed the petition and quashed the proceedings. It is also not in dispute that the first petitioner has registered a case in Crime No.336 of 2015 against the witness Murali under Section 294(b), 341 and 506(ii) of IPC r/w Section 4 of Women Harassment Act, that the case was taken on file in C.C.No.42 of 2017 and after trial, he was ordered to be acquitted and that the respondent/complainant has lodged the above complaint in order to wreck vengeance against the petitioners for the earlier cases.

8.Now coming to the main contention of the petitioners, that there is no *prima facie* against the petitioners for the alleged offences under Sections 294(b) and 506(ii) of IPC. Even in the complaint, necessary ingredients for the said offences are totally absent and the complaint, that was challenged, does not make out *prima facie* against the petitioners.

9.Regarding the offence under Section 294(b) IPC, the Kerala High Court in **Latheef Vs. State of Kerala** reported in **2014 (2) KLT 987** relying on the earlier judgements of Kerala High Court has held that abusive words or humiliating words or defamatory words will not as such amount to obscenity as envisaged in Section 292 and 294 (b) IPC and that to make it punishable under Section 294(b), the alleged words must be in a sense lascivious, or it must appeal to the prurient interest, or will deprave and corrupt persons.

10.A learned Judge of this Court in **K.Jayaramanuju Vs. Janakaraj and others** reported in **1996 (1) CTC 470**, has held that to prove the offence under Section 294 IPC, viz., uttering of obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance of others.

11.In the case on hand, as already pointed out, the first petitioner had abused him using a filthy word and the same can be considered as abusive word, but the same would not amount to obscenity as envisaged in Section 294 (b) IPC. Even assuming that the accused had uttered obscene words, the complainant in his complaint has nowhere whispered that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses present at that time felt annoyed.

12.Coming to the offence under Section 506(ii) of IPC, it is necessary to refer the judgment of the Hon'ble Supreme Court in **Manik Taneja and another Vs. State of Karnataka** and another reported in **2015 7 SCC 423**, wherein the Hon'ble Apex Court has specifically held that mere expression of any words without any intention to



cause alarm would not be sufficient to bring in the application of this section and the relevant passages are extracted hereunder:-

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

WEB COPY "503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that 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, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC."



13.A learned Single Judge of this Court in **Noble Mohandass Vs. State**, reported in **1988 (2) MWN (Cri) 184**, has held thus :

"Further for being an offence under Section 506(ii) IPC, which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually."

14.In the case on hand, the words of threatening alledgedly uttered by the petitioners are not sufficient to attract the offence of criminal intimidation. It is not the specific case of the complainant that due to the threatening words, he was criminally intimidated. Moreover, the words allegedly used by the petitioners are not in the nature of causing any real life threat.

15.Considering the above, even going by the uncontraverted allegations, none of the ingredients of the offences under Sections 294(b) and 506(ii) of IPC are satisfied. Hence, this Court is of the view that permitting the prosecution to continue the proceedings in C.C.No.118 of 2019 is not warranted and as such, the proceedings in C.C.No.118 of 2019 on the file of the Judicial Magistrate, Keeranur are liable to be quashed.

16.In the result, the Criminal Original Petitions are allowed and the case in C.C.No.118 of 2019 pending on the file of the learned Judicial Magistrate, Keeranaur is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /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 Judicial Magistrate, Keeranaur.

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

Crl.O.P.(MD)Nos.12338 and 13148 of 2019
and

Crl.M.P.(MD)Nos.7750, 7751, 8085
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MGJ(07.04.2022) 6P 3C