



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 31.01.2022
PRONOUNCED ON : 30.03.2022
CORAM
THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

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Crl.O.P. (MD)No.15638 of 2019
and
Crl.M.P. (MD)No.9249 of 2019

G.Nambi : Petitioner/2nd Accused

Vs.

1.State Through,
The Inspector of Police,
Kalakad Police Station,
Tirunelveli District. : 1st Respondent/Complainant

2.Senthamarai Selvi : 2nd Respondent/Defacto complainant

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for records of the proceedings in C.C.No.315 of 2019 on the file of the learned Judicial Magistrate, Nanguneri and quash the same in respect of the petitioner is concerned.

For Petitioner : Mr.G.Chandrasekar

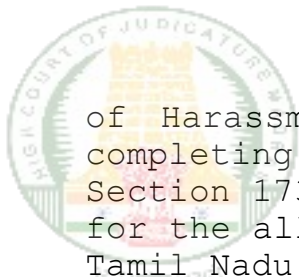
For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
for R.1

: Mr.R.Mohanasundaram for R.2

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records in C.C.No.315 of 2019 pending on the file of the learned Judicial Magistrate, Nanguneri and quash the same in respect of the petitioner/2nd accused is concerned.

2. The petitioner is the second accused in C.C.No.315 of 2019 on the file of the learned Judicial Magistrate, Nanguneri. On the basis of the complaint lodged by the second respondent, F.I.R. came to be registered in Crime No.229 of 2017, dated 03.06.2017, against two persons including the petitioner herein for the alleged offences under Section 506(1) I.P.C and Section 4 of Tamil Nadu Prohibition



of Harassment of Women Act, 2002. The first respondent, after completing the investigation, has filed the final report under Section 173 Cr.P.C., dated 12.09.2017 arraying the petitioner as A2, for the alleged offences under Section 506(1) I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

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3. Admittedly, the second respondent/de-facto complainant has been working as a Secretary in the Primary Agricultural Co-operative Society at Kalakad and that the first accused was the President and the second accused was the Assistant of the said Society at the relevant point of time.

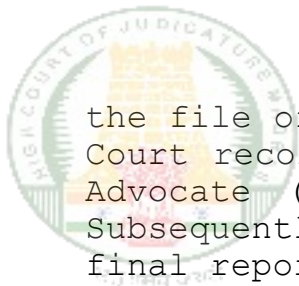
4. The case of the prosecution is that whenever the de-facto complainant had appointed somebody to help her in the work, the first accused along with the second accused used to threaten her and that due to the mental agony suffered by her, she had taken more tablets on 02.06.2017 at about 10.30 a.m., in the office of the society and attempted to commit suicide.

5. In the complaint lodged by the second respondent, she has stated that though she has been working as Secretary in the said society for the past 20 years, she was subjected to harassment from the office bearers who assumed office on 09.05.2013, that the Sankarasubbu had attained superannuation and she has prepared the cheques towards payment of retirement benefits and handover to the co-worker, Ravi to handover to the President, as she was not ill and she was returning to home earlier, that since he has not attended his retirement function, the President of the society took vengeance of the same and directed the complainant not to attend the accounts work, that when she contacted the President on the next day officially, he has not attended the call and that the President has been acting as instructed by the Assistant, Nambi/the petitioner, that whenever she used to appoint someone to help her in the work, the President used to threaten her and directed her not to appoint anyone, that the President had also directed her to attend the office by 9' 0 clock in the morning and that due to the mental torture suffered, she had attempted to commit suicide.

6. As rightly pointed out by the learned counsel for the petitioner, the respondent police has recorded the statement from the second respondent, while she was taking treatment at Tirunelveli Government Hospital and only on that basis, F.I.R. came to be registered.

7. It is not in dispute that the petitioner has earlier filed a petition in Crl.O.P.(MD)No.7913 of 2019 under Section 482 Cr.P.C., for quashing the F.I.R in Crime No.229 of 2017 on the file of the respondent police and when the said petition was taken up for hearing, the learned Government Advocate (Crl. Side) submitted that the respondent has already completed the investigation and filed the

<https://hcservices.ecourts.gov.in/hcservices/> the case was taken on file in C.C.No.315 of 2019 on



the file of the learned Judicial Magistrate, Nanguneri and that this Court recording the said submissions made by the learned Government Advocate (Crl. Side) has dismissed the petition as infructuous. Subsequently, the above petition came to be filed for quashing the final report in C.C.No.315 of 2019.

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8.As rightly contended by the learned counsel for the petitioner, in the complaint, the second respondent has specifically alleged that the first accused/President of the society has been acting, as per the instruction of the petitioner/2nd accused and except the above allegations, the second respondent has not averred any other allegations against the present petitioner. Moreover, the de-facto complainant has nowhere whispered that the petitioner herein had caused harassment and criminally intimidated her.

9.As rightly pointed out by the learned counsel for the petitioner, the allegations are levelled only against the first accused/President of the said society. The de-facto complainant has alleged that the petitioner has also caused harassment and threatened her. It has to be seen whether the ingredients for the offences alleged against the petitioner are made out.

10.Regarding the offence under Section 506(1) of IPC, it is necessary to refer the Judgment of Hon'ble Supreme Court in **Manik Taneja and another Vs. State of Karnataka and another** reported in **2015 7 SCC 423**.

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

"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."

11.As rightly pointed out by the learned counsel for the petitioner, though the de-facto complainant has alleged that she was threatened, she has not elaborated anything further. As already pointed out, according to the second respondent, the President has threatened her not to appoint any person to help her in the work and that the petitioner has also threatened the second respondent. It is pertinent to note that the prosecution has not shown that the intention of the petitioner was to cause alarm. Moreover to attract the offence under Section 506 IPC, the threaten should be a real one. It is not the case of the prosecution that the de-facto complainant was criminally intimidated.

12.Regarding the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, it is necessary that the offence must have been taken place at a place covered by that section, i.e., in or within the precincts of any educational institution, temple or other places of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place.

13.At this juncture, it is necessary to refer the Judgment of this Court made in **Crl.R.C.No.1301 of 2016, dated 07.11.2016** (**Vijayakumar Vs. State by the Sub-Inspector of Police, All Women**

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Police Station, Attur), wherein this Court held as follows:

"6. Learned counsel for petitioner submits that as against Ex.P.1- complaint informing that the petitioner/accused on 15.07.2014 at about 4 p.m challenged the defacto complainant/P.W.1 raising the question if the victim was a girl of great beauty and informing that he would abduct her, the petitioner has been charged of having teased the victim girl questioning her beauty.

7. It is not in dispute that both petitioner/accused and P.W.1 and the victim girl/P.W.2 are immediate relatives. The prosecution case is of the occurrence having taken place in an open field. Following the dictum of this Court in CDJ 2012 MHC 2168, ANBAZHAGAN Vs. STATE REP. BY INSPECTOR OF POLICE, PALLIKARANAI POLICE STATION, KANCHEEPURAM DISTRICT, where it has been held as follows:-

"To attract the offence under Section 4 of Tamil Nadu Prohibition of Harassment Women Act, 1998 offence must have taken place at a place particularly covered by the Section. A private dwelling house is not one of such places Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 reads as follows:

"4. penalty for (harassment or women) whoever commits or participates in or abets (harassment of women) in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema thereto, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than thousand rupees."

This Court by its order dated 25.10.2010 in Crl.O.P.No.13501 of 2010 in Gouresh Mehra v. The State Rep. By Tr has held as follows:

"This Court is of the considered opinion that the words 'any other place' found in Section 4 are to be read 'ejusdem generis'. The Tamil Nadu Prohibition of Harassment of Women Act, 1998 when originally enacted consisted of 10 Sections and came into force on 30.07.1998. The offences under Section 4-A Harassment death, 4-B been included under subsequent amendments of the year 2002. Confining ourselves to the offence contemplated under Section 4 and looking into the objects and reasons of the enactment not towards informing ourselves of the amplitude of the Act but towards understanding the idea behind it, we find that the enactment was intended as a measure to eradicate eve teasing in public places. The Act while prescribing a penalty for harassment under Section 4 restricts the same to harassment committed at particular places. Proceeding further, we find, that under Section 5 and 6,



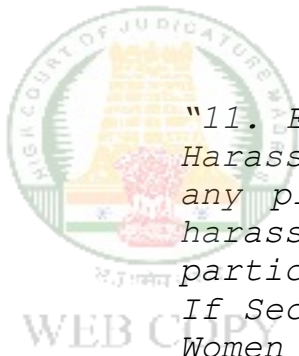
responsibilities are cast upon persons in charge of educational institutions, temple or other places of worship, cinema theatre or any other precinct and upon the crew of public service vehicle or vessel. This Court considers it reasonable to hold that Section 4 of the Act was meant to deal with offences occurring in the places informed or in places of like nature. If not so read, the mention of the particular places in Section 4 would be rendered redundant and such could not have been the legislative intent. To put it differently, if the intent was to attract punishment for harassment at any and every places, Section 4 simply could have read as follows:

"4. Penalty for harassment of women-whoever commits or participates in or abets harassment of women in any place shall be punished.....

7. In *Kochuni v. State of Madras and Kerala*, AIR 1960 SC 1080, it has been explained that the rule of 'ejusdem generis' was that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. It was further observed that it is clearly laid down by decided cases that the specific words must be form a distinct genus or category. It is not an inviolable rule or law, but it is only permissible inference in the absence of an indication to the contrary. In *Lila Vati Bai v. State of Bombay*, AIR 1957 SC 521, it is informed that the rule of 'ejusdem generis' is intended to be applied where general words have been used following particular and specific words of the same nature on the established rule of construction that the legislature presumed to use the general words in a restricted sense; that is to say, as belonging to the same genus as the particular and specific words. Such a restricted meaning has to be given to words of general import only where the context of the whole scheme of legislation requires it. But where the context and the object and mischief of the enactment do not require such restricted meaning to be attached to words of general import, it becomes necessary to give a plain and ordinary meaning."

For the above said reasons, the Criminal Revision Petition is allowed."

14. It is also necessary to refer the Judgment of this Court in ***G. Logewaran Vs. State represented by the Inspector of Police, All Women Police Station, Vellore and another, passed in Crl.O.P.No.7405 of 2017, dated 06.12.2018***, wherein this Court has held as follows:



"11. Eventhough Section 3 of the Tamil Nadu Prohibition of Harassment of Women Act states that harassment of Women at any place is prohibited, while providing the penalty for harassment of women, it is specifically restricted to particular places where the harassment has to take place. If Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act is to be read in the manner indicated by the learned counsel for the 2nd respondent, there was no need for defining the place, in the said provision and the provision itself would have said "Any Place". The whole purport of the Act is that the harassment should not happen in a public place. This Court is therefore in complete agreement with the submissions made by the learned Senior counsel in this regard."

15.The above decisions are squarely applicable to the case on hand. As rightly pointed out by the learned counsel for the petitioner, the prosecution has not even mentioned the specific place where the alleged offence was committed. It is pertinent to note that 'any other place' found in Section 4 are to be read 'ejusdem generis'. As rightly pointed out by the learned counsel for the petitioner, the second respondent has also not referred any place, where she was harassed. On perusal of the records, it is very much clear that the second respondent has made general and bald allegations.

16.Considering the above, even going by the uncontraverted allegations in the charge sheet, none of the ingredients of the offence under Section 506(1) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act are satisfied. Hence, this Court decides that continuation of the impugned prosecution against the petitioner is not warranted and as such, the impugned proceedings are quashed.

17.In the result, the Criminal Original Petition is allowed and the proceeding in C.C.No.315 of 2019, pending on the file of the learned Judicial Magistrate, Nanguneri as against the petitioner/second accused is quashed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

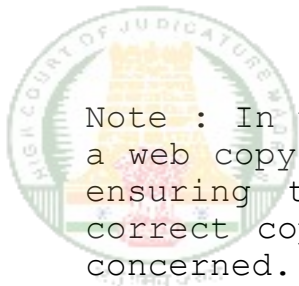
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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate, Nanguneri.
2. The Inspector of Police,
Kalakad Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.CHANDRASEKAR, Advocate (SR-15918[F] dated 01/04/2022)

Crl.O.P. (MD) No.15638 of 2019
30.03.2022

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