



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated:12/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP (MD) Nos.17183 and 18584 of 2019
and
Crl.MP (MD) Nos.10161 and 10919 of 2019

Jeyakumar : Petitioner/A1 in
Crl.OP (MD) No.17183/2019

Karnan : Petitioner/A2 in
Crl.OP (MD) No.17183/2019
Vs.

1.The State represented by
Inspector of Police,
Kabishtalam Police Station,
Kabishtalam,
Thanjavur District.
(Crime No.126 of 2017) : R1/Complainant

2.Ramesh : R2/De-facto Complainant

Common Prayer: Criminal Original Petitions have been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to CC No.52 of 2018 on the file of the Judicial Magistrate, Papanasam, Thanjavur District and quash the same against the petitioners, respectively.

For Petitioner : Mr.R.Narayanan
(In both cases)

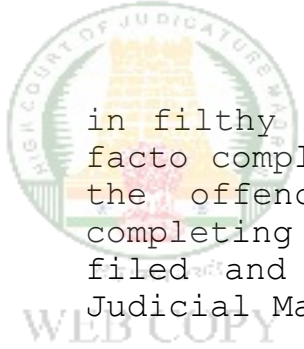
For 1st Respondent : Mr.P.Kottai Chamy
(In both cases) Government Advocate
(Criminal side)

For 2nd Respondent : Mr.N.Tamil Mani
(In both cases)

C O M M O N O R D E R

These petitions have been filed seeking quashment of CC No.52 of 2018 on the file of the Judicial Magistrate, Papanasam, Thanjavur District, respectively.

2.The case of the prosecution is that due to previous enmity, on 18/04/2017, the accused persons at the instance of A1, called the de-facto complainant through mobile phone No.9787873861 and criminally intimidated to withdraw the complaint and also abused him



in filthy language. On the basis of the complaint given by the de-facto complainant, a case in Crime No.126 of 2017 was registered for the offences under sections 294(b) and 506(i) IPC and after completing the formalities of investigation, final report has been filed and it was taken cognizance in CC No.52 of 2018 by the Judicial Magistrate, Papanasam, Thanjavur District.

3. Seeking quashment of the same, these petitions have been filed by the petitioners/A1 and A2 mainly on the ground that the allegation mentioned, either in the FIR or in the final report attract any of the ingredients of the offences under sections 294(b) and 506(i) IPC. At the time argument, the learned counsel appearing for the petitioners was brief in his submission. According to him, the allegation against the petitioners is that they have threatened the de-facto complainant to withdraw the complaint, which was given by him over the opening of TASMAL shop on the previous occasion through phone. According to him, section 294(b) IPC may not be attracted in such circumstances, since phone was used for the purpose of making abuse. No doubt the offence under section 294(b) IPC may not be attracted in such circumstances.

4. Section 294(b) IPC defines as follows:-

"(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."

5. As per the above proposition of law, it must be happened in the public place. But nowhere in the complaint or in the final report, it has been stated that A2 at the instance of A1 abused the de-facto complainant was in the public or in the hearing of the public or annoyance to others. Absolutely, this ingredient is lacking. So in the factual circumstances, the offence under section 294(b) IPC cannot be made attracted.

6. Similarly as far as section 506(i) IPC, there must be clear indication, either in the complaint or during the course of investigation that because of the threat, that has been made by the petitioners, the de-facto complainant entertained or apprehending danger to his life. Absolutely, there is no such indication or allegation, either in the FIR or in the final report. So it appears that the complaint has been given with vague particulars. The circumstance clearly shows that there was some wordy quarrel between the parties over closure of the TASMAL, the subsequently complaint has been given by the de-facto complainant.

7. Here, absolutely all the ingredients are lacking. Even though the petitioners cited number of judgments, these are settled issues and there is no need to refer all these judgments and extract the observations.



8. In the result, these criminal original petitions **are allowed**. The impugned CC No.52 of 2018 pending on the file of the Judicial Magistrate, Papanasam, Thanjavur District is hereby quashed against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writs)

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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,
Papanasam,
Thanjavur District.
2. The Inspector of Police,
Kabistharam Police Station,
Kabishalam,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N. TAMILMANI, Advocate (SR-18218[F] dated 12/04/2022)

+1 CC to M/s.R. Narayanan, Advocate (SR-18182[F] dated 12/04/2022)

Cr1.OP(MD)Nos.17183 and 18584 of 2019

12.04.2022

MGJ(17.05.2022) 3P 6C