



Crl.O.P.(MD)No.18045 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12/04/2022

Pronounced on : 11/07/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18045 of 2019

and

Crl.MP(MD)Nos.10614 and 10615 of 2019

1.Sreedhar
2.Padmavathi
3.Maharaja Pandian
4.Selvi : Petitioners/A1 to A4

Vs.

1.State rep. By
The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District,
(Crime No.337 of 2014) : R1/Complainant
2.Thangaraj : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.132 of 2017 on the file of the Judicial Magistrate Court, Sathankulam, Thoothukudi District and quash the same.

For Petitioners : Mr.K.Sivabalan
For 1st Respondent : Mr.B.Nambi Rajan
Additional Public Prosecutor
For 2nd Respondent : No appearance



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O R D E R

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This criminal original petition is filed seeking quashment of the case in CC No.132 of 2017 on the file of the Judicial Magistrate, Sathankulam.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he is having property dispute with his brother family by name Sreedhar. On 21/08/2014 at about 6.00 pm, when he was in his house, the accused persons trespassed into his house, abused him and his family members in filthy language and threatened them to vacate the house. They also tried to assault with aruval and wooden stick. So on the basis of the complaint by the de-facto complainant, a case in Crime No.337 of 2016 was registered for the offences punishable under sections 448, 294(b) and 506(ii) IPC. After completing the formalities of investigation, final report was also filed in CC No.132 of 2017 before the trial court stating that these petitioners alleged to have criminally intimidated the de-facto complainant and abused in filthy language. A1 assaulted his family members.



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3. Seeking quashment of the same, all the accused persons have filed this petition.

4. Heard both sides.

5. During the course of argument, it was brought to notice of this court that A1 namely Sreedhar and A3 Maharaja Pandian died during the pendency of the criminal proceedings. So, automatically the charge against them abated. A2 and A4 are now facing the charge.

6. Let us straightway go to the allegation that has been made in the FIR against the accused persons. As mentioned above, it is stated that all the accused persons trespassed into the house, abused the de-facto complainant in filthy language and criminally intimidated him to vacate the house. A1 and A4 with aruval and A2 and A3 with wooden stick attacked the de-facto complainant and also criminally intimidated him. So, the allegation that has been levelled against A2 is that with aruval and A4 with wooden stick criminally intimidated him.

7. The learned Government Advocate (Criminal side) would submit that the offence is of the year 2014 and final



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report has been filed in 2017. So the accused must face the criminal prosecution, since materials have been collected during the course of investigation to implicate them in the offence.

8.It is the contention on the part of the petitioners that none of the allegations mentioned, either in the FIR or in the final report attract any of the ingredients mentioned in the final report attract against the petitioners. Finding that it is a dispute between brothers, for the purpose of settlement, notice was ordered to the second respondent. But in spite of receipt of the notice, he has not chosen to appear either in person or through counsel. So his name was printed in the cause list. The possibility of settlement could not be arrived.

9.The ground on which, this petition came to be filed is that the property under dispute, which is the house property belongs to one Chelladurai Nadar and he is the grand-father of the petitioners 3 and 4 and father-in-law of A2. Utilizing the stay of the petitioners at Chennai, the de-facto complainant and the mother of A1 created, bogus settlement deed as if the property belongs to her. So, this is the root cause for the problem between the parties.



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10. According to the petitioners, since it is a common property, the allegation of trespass may not arise. When no document has been produced by the petitioners to show that it is a common property or joint family properties of the parties, but reading of the FIR as well as the final report shows that only bald allegations have been made against the petitioners without any proper particulars. The reason for the dispute between the parties has not been properly mentioned in the complaint. Similarly, filthy language that was alleged to be used by the accused persons was not mentioned, either in the FIR or in the final report. It has been simply stated that the accused used the filthy language. The offence under section 294(b) IPC will be attracted only if it takes in the public place or view or in the annoyance of the public.

11. Similarly, to attract the offence under section 506(ii) IPC, there is no specific averment to the effect that because of the threat, that was made by the petitioners, the de-facto complainant entertain fear his life. It has been simply stated that all the accused persons with aruval and wood stick try to assault him and criminally intimidated stating that the property does not belong to him. So, this allegation shows that the



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petitioners also claim right over the property. So in that event, the offence under section 448 IPC may also not be attracted.

12.In the absence of any specific particulars with regard to the criminal intimidation and using filthy language, considering the factual situation, I am of the considered view that because of the previous dispute over the property, trouble has arisen between the parties, which has been given an exaggerated version, which according to this court, should not be proceeded. Since the offences under sections 294(b), 506(2) and 448 IPC are not attracted and no materials have been collected during the course of investigation to make out the above said offences and considering the close relationship of the parties, continuation of the proceedings may not be in the interest of both parties.

13.In the result, tis criminal original petition is **allowed** in respect of petitioners 2 and 4/A2 and A4. The impugned CC No.132 of 2017 on the file of the Judicial Magistrate Court, Santhankulam, is quashed as against the petitioners 2 and 4/A2 and A4. Since, the petitioners 1 and 3/A1 and A3 are reported dead, this criminal original



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petition against them **is dismissed as abated**. Consequently,
connected Miscellaneous Petitions are closed.

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Index:Yes/No
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To,

- 1.The Judicial Magistrate,
Santhankulam,
Thoothukudi District.
- 2.The Inspector of Police,
Santhankulam Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Maudrai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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