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Crl.O.P.No.7057 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.7057 of 2022
and CRL.M.P.No.4008 of 2022

Murugesan

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by the Inspector of Police,
All Women Police Station,
Ariyalur,
Ariyalur District.
(Crime No.36 of 2021)

2.Rayappan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to quash the Final Report filed in Spl.S.C.No.66 of 2021 on the file of the Fast Track Mahila Court, Ariyalur.

For Petitioner	: Mr.P.Mani
For R1	: Mr.A.Gopinath Government Advocate (Criminal Side)
For R2	: No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.66 of 2021 on the file of the Fast Track Mahila Court, Ariyalur.



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2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) appearing for the first respondent. Though notice has been served on the second respondent, none appeared on behalf of the second respondent either in person or through pleader.

3. The case of the prosecution is that the second respondent lodged a complaint alleging that when the victim girl was grassing her cattle, the petitioner pulled her hand and asked her to marry him. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.36 of 2021 for the offences under Section 8 of POCSO Act and under Section 506(i) of IPC.

5. A perusal of the statement recorded from the second respondent and other witnesses reveals that when the victim was grassing her cattle, she was compelled to marry the petitioner. Except the said allegation, no other allegations to attract the offence under Section 8 of



POCSO Act is made out. It is relevant to extract the provision under Section 7 of the POCSO Act.

“Section 7 of the POCSO Act defines the ambit of sexual abuse against children. It states that “whoever, with sexual intent, touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such persons or any other persons, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault”.

6. Section 8 of the POCSO Act is a commitment of sexual assault. Even according to the case of the prosecution, there is no allegation for sexual assault as defined under Section 7 of the POCSO Act. That apart, on perusal of the statement recorded under Section 161 of Cr.P.C from the victim revealed the same. Therefore, the entire proceedings cannot be sustained as against the petitioner. That apart, in order to attract the offence under Section 506(i) of IPC, even according to the case of the prosecution, the petitioner never threatened the victim at any point of time.



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7. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any 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, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.

8. In this regard, It is relevant to rely upon the judgment of this Court made in ***CrI.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in



nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

9. In view of the above, the proceedings in Spl.S.C.No.66 of 2021 on the file of the Fast Track Mahila Court, Ariyalur, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No



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G.K.ILANTHIRAIYAN,J.

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To

- 1.The Fast Track Mahila Court,
Ariyalur.
- 2.The Inspector of Police,
All Women Police Station,
Ariyalur,
Ariyalur District.
- 3.The Public Prosecutor,
High Court, Madras.

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