



Crl.O.P.No.17298 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.17298 of 2021
and Crl.M.P.Nos.9495 and 9496 of 2021

Vijayakumar

... Petitioner

Vs.

Seetha Lakshmi

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating in C.C.No.258 of 2020 on the file of Judicial Magistrate Court Tambaram, Chengalpattu and quash the same.

For Petitioner : Mr.G.Mohammed Aseef

For Respondent : Mr.S.Saravanakumar, Legal aid counsel

ORDER

This Criminal Original Petition has been filed calling for the records relating in C.C.No.258 of 2020 on the file of Judicial Magistrate Court Tambaram, Chengalpattu and to quash the same.



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2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. The respondent lodged a private complaint alleging that she got married with the petitioner on 29.08.2003. The petitioner had already got married with his first wife one P.Saraswathi, who died on 19.07.2002 leaving behind a son V.Harsih Kumar and a daughter V.Rohini as her legal heirs. Therefore, in order to maintain the family, the petitioner got married with the respondent. Thereafter, due to the abnormal behaviour and suppression of earlier marriage, the petitioner could not be able to live with the respondent. Therefore, the petitioner filed a divorce petition in H.M.O.P.No.77 of 2014 of the file of the Sub Court, Tambaram. Similarly, the respondent also filed a petition for Restitution of Conjugal Rights in H.M.O.P.No.601 of 2014. Both the cases were clubbed together and a joint trial was conducted by the trial Court. The divorce petition in H.M.O.P.No.77 of 2014 filed by the petitioner was allowed and the restitution of conjugal rights petition in H.M.O.P.No.601 of 2014 filed by the respondent was dismissed by the Judgment and Decree dated 12.02.2019. It was further alleged that the petitioner called the respondent through phone and threatened her with dire consequences. Though the respondent lodged a complaint for the offences under Sections 294(b), 354,



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379, 406, 420, 503, 506(1) and 509 IPC, the Trial Court had taken cognizance for the offence under Section 506(1) IPC.

4. Admittedly, the respondent had deserted the petitioner from 20.12.2007. Thereafter, the Decree of divorce was granted on 12.02.2019. Only after the respondent had fully contested the matter, divorce was granted in favour of the petitioner. The petition filed by the respondent for restitution of conjugal rights was dismissed by the Trial Court. After a period of one year from the date of decree, the respondent filed the present complaint with bald and vague allegations. In order to attract the allegations under Section 506(1) IPC, the petitioner had scolded the respondent with filthy language and also threatened her with dire consequences. Even according to the respondent, the petitioner had scolded the respondent through phone.

5. 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



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threats issued by the petitioner were only empty threats and they had no effect on the complainant.

6. In this regard, it is relevant to rely upon the judgment of this Court made in ***Crl.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.”

7. Therefore, the offence under Section 506(1) IPC is not at all attracted as against the petitioner and the impugned proceedings is nothing but a clear abuse of process of law. Therefore, the impugned proceedings cannot be



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sustained as against the petitioner and it is liable to be quashed. Accordingly, the proceedings in C.C.No.258 of 2020 on the file of Judicial Magistrate Court Tambaram, Chengalpattu is hereby quashed.

8. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous petitions are closed.

18.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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G.K.ILANTHIRAIYAN, J.

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To

The Judicial Magistrate Court Tambaram, Chengalpattu.

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