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Crl.O.P.No.22263 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.22263 of 2019 and
Crl.M.P.No.11543 & 11544 of 2019

1. Jothimani
2. Palaniswamy
3. Veluswamy
4. Krishna Swamy

... Petitioners

Vs.

Ramaswamy

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C. No.190 of 2018, pending on the file of Judicial Magistrate No.VII, Coimbatore and to quash the same as far as the petitioners are concerned.

For Petitioners : Mr.K.Balasubramaniam

For Respondent : No appearance (Notice served)

ORDER

This petition is filed to quash the complaint in C.C.No.190 of 2018 for the offence under Sections 497, 506(i) and 75(1)(c) of the Tamil Nadu City Police Act (TNCP Act) against the 2nd accused/2nd petitioner and Section



75(1)(c) of the TNCP Act and Section 506(i) of IPC as against A1, A3 and A4/1st, 3rd and 4th petitioner.

2. It is the case of the complainant that he married the 1st petitioner on 02.06.1991. They have been living separately for 23 years. The 1st petitioner is living in adultery with the second petitioner, who is her sister's husband. It is further alleged that on 29.08.2014, when the complainant came near the SIDCO area at Coimbatore, the 3rd accused/3rd petitioner stopped him and abused him in filthy language. It is further alleged that all the petitioners had been spreading false rumours against the complaint. It is further alleged that there are proceedings pending between the complainant and the 1st petitioner before the Family Court. The complaint was filed on 13.03.2015.

3. The learned counsel for the petitioner would submit that the cognizance taken by the learned Magistrate is erroneous. Learned counsel further submits that Section 497 IPC had been struck down by the Hon'ble Supreme Court in *Joseph Shine v. Union of India* by the order in *W.P.(Criminal) No.194 of 2017 dated 27.09.2018*. Hence, no prosecution can be maintained for the offence under Section 497 IPC. As regards the other



offences, namely, Section 506(i) IPC and Section 75(1)(c) of the Tamil Nadu City Police Act, the alleged occurrence took place on 29.08.2014 whereas the impugned complaint was filed after the delay of nearly six (6) months. The allegations do not suggest as to the role played by the other accused. Even as regards the 3rd accused, the allegations are vague and no offence either Section 506(i) IPC or Section 75(1)(c) of the TNCP Act is made out.

4. Though notice was served on the respondent, none has entered appearance.

5. This Court finds that the learned Magistrate has taken cognizance of the offences under Section 497, 506(i) IPC and 75(1)(c) of the TNCP Act in respect of the A2 and Section 75(1)(c) of TNCP Act and 506(i) IPC. as against A1, A3 and A4. The occurrence had taken place on 29.08.2014. There is no explanation in the complaint as to why there was a delay of six months for filing the said complaint. Further, there is no allegation as against A1, A2 and A4 in respect of the abusive language used by A3. As regards the other allegations that the complainant was defamed, the learned Magistrate has not taken cognizance for the offence of 500 IPC. Therefore, we are not going into



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those allegations.

WEB COPY 6. The allegations against A3 even if accepted to be true does not constitute the offence under Section 506(i) IPC. Mere words would not amount to criminal intimidation. The conduct of the accused must be such that there must be a real threat to the victim. There is no such allegation in the impugned complaint. As against the other accused, there is no other allegation attracting the offence of Section 506(i) or 75(1)(c) of the Act.

7. As regards the offence under Section 497 IPC, the Hon'ble Supreme Court has struck down the said provision in *Joseph Shine v. Union of India* cited *supra* and in view of the same, there cannot be any prosecution for the said offence.

8. For the aforesaid reasons, the impugned complaint deserves to be quashed and hence, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

14.03.2023

Index: Yes/No
Speaking / Non Speaking Order
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To



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The Judicial Magistrate No.VII,

Coimbatore

SUNDER MOHAN, J

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