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Crl.O.P.No.25087 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.25087 of 2021

&

Crl. M.P.No. 13817 of 2021

1.B.Ranganathan

2.R.Vijayalakshmi

3.R.Anuradha

... Petitioners

Vs.

1.The State

Rep. by the Inspector of Police
T-3, Korattur Police Station
Korattur.

2.T.Gajalakshmi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records to quash the proceedings in C.C.No.149 of 2021 on the file of the Judicial Magistrate, Ambattur.



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Crl.O.P.No.25087 of 2021

For Petitioners : Mr. N.Kumanan

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor

For Respondent 2 : Mr. A.Murali.

ORDER

The petition is to quash the final report for the alleged offences under Section 420, 406, 294 (b), 506 (i) IPC read with Section 34 IPC.

2. It is alleged in the final report that the petitioners had entered into a sale agreement for sale of the property with the 2nd respondent/defacto complainant and the 2nd respondent had paid an advance of a sum of Rs.10,00,000/- on 27.07.2011 and a further sum of Rs.8,00,000/- was paid on 05.03.2012, totaling Rs.18,00,000/-; that thereafter the 2nd respondent came to know that instead of selling the property to her, the petitioners had executed a sale deeds in respect of the same property to the third parties in the year 2018 and that they have committed the aforesaid offences.



Crl.O.P.No.25087 of 2021

WEB COPY

3. (a). The learned counsel for the petitioners would submit that instead of filing a suit for specific performance, the 2nd respondent has lodged the FIR, which has culminated in the impugned final report, 7 years after the agreement of sale. The allegations would not attract any of the offences alleged. The limitation provided for filing a suit for specific performance is 3 years and the respondent Police have entertained this complaint after 7 years. The offence under Section 406 is not made out and the other offences under Section 294 (b) and 506 (i) are also not made out in the facts of the case, as there is no allegation that the petitioners have uttered obscene words, or made threats which would attract the offence of criminal intimidation. The learned counsel would therefore submit that the impugned proceedings is an abuse of process of law.

3. (b). The learned counsel would further submit that the 2nd respondent had earlier filed a complaint before the Inspector of Police, Ambattur and the said complaint was closed. The learned counsel took



this Court through the opinion rendered by the Government Pleader of the District Munsif Court, Ambattur, wherein he had stated that the complaint lodged by the 2nd respondent before the Inspector of Police, Ambattur Police Station, revealed a civil dispute and no cognizable offence was made out.

3. (c). The learned counsel would also point out to the notice issued by the Inspector of Police, Ambattur on 18.07.2019 which revealed that there was an earlier complaint. However, suppressing the closure of the earlier complaint lodged by her the 2nd respondent approached the 1st respondent and got the FIR registered, which has resulted in the impugned final report.

4. The learned Additional Public Prosecutor and the learned counsel for the 2nd respondent submitted that the allegations attract the offences alleged and it has to be adjudicated only before the Trial Court.



Crl.O.P.No.25087 of 2021

WEB COPY 5. This Court on perusal of the impugned final report finds that the agreement between the 2nd respondent and the petitioners is dated 27.07.2011. The 2nd respondent had not taken any steps to enforce the said agreement before the Civil Court within a period of limitation. The FIR lodged by the 2nd respondent which seeks to get over the said bar to file a civil suit would amount to an abuse of process of law. It is the case of the petitioners that they had waited for 7 years for the 2nd respondent to pay the balance sale consideration to execute the sale deeds. Admittedly the property belongs to the petitioners. The petitioners have a right to sell the property to third party after the period of limitation provided for enforcing the contract. In such circumstances, it cannot be said that the petitioners had deceived the defacto complainant in any manner. Hence, the offence under Section 420 IPC is not made out.



WEB COPY

6. Further, there is no question of entrustment of any property to attract the offence of Section 406 IPC. As regards Section 294 (b), this Court had time and again held that in order to attract the said offence, obscene words must be uttered in a public place to the annoyance of the others. The Hon'ble Supreme Court in the Judgement reported in **2022 LiveLaw (SC) 844 – N.S.Madhanagopal and another Vs. K.Lalitha**, has held as follows:

“It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC. To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of



others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out.“

Hence, the offence under Section 294 (b) of IPC is not made out.

7. As regards Section 506 (i) the allegations do not state that there is a real threat. This Court had time and again held that in order to attract offence of criminal intimidation, there must be a real threat. The observation of this Court in ***Noble Mohandass Vs. State***, reported in ***1989 Cri.LJ 669***, is extracted below for better understanding:

“7. Further for being an offence under [Section 506\(2\)](#) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not



Crl.O.P.No.25087 of 2021

feel threatened actually.”

WEB COPY

8. Therefore, for the above reasons, this Court finds that the impugned proceedings is an abuse of the process of law and is liable to be quashed.

9. In the result, the petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

23.06.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation :Yes/No



WEB COPY



Crl.O.P.No.25087 of 2021

To

1.The Judicial Magistrate,
Ambattur.

2.The Inspector of Police
T-3, Korattur Police Station
Korattur.



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CrI.O.P.No.25087 of 2021

SUNDER MOHAN. J,

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CrI.O.P.No. 25087 of 2021

23.06.2023