



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/02/2023

CORAM

The Hon'ble Mr. Justice **G. ILANGO VAN**

Cr1.OP(MD)No.3245 of 2019

and

Cr1.MP(MD)Nos.1805 and 1806 of 2019

1.M.Padmanaban

2.V.Seetha

: Petitioners/A1 & A2

Vs.

1.The State rep. By

The Inspector of Police,

Perumalpuram Police Station,

Tirunelveli City.

(Crime No.259 of 2018)

: 1st Respondent/Complainant

2.Mariammal

: R2/De-facto Complainant

Prayer:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the case in CC No.377 of 2018 on the file of the Judicial Magistrate No.1, Tirunelveli, Tirunelveli District and quash the same as against the petitioners and pass such any other orders.



WEB COPY



2

For Petitioners : Mr.R.Anand

For 1st Respondent : Mr.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : No appearance

O R D E R

This criminal revision has been filed seeking quashment of the case in CC No.377 of 2018 on the file of the Judicial Magistrate No.1, Tirunelveli.

2.The facts in brief:-

On 24/09/2018 at about 08.30 in the morning, when the de-facto complainant was standing in the house, the accused persons came in an omni car bearing registration No.TN-07-J-1783, alighted from it, abused her in filthy language and also criminally intimidated with iron rod.

3.Based upon the complaint, a case in Crime No.259 of 2018 was registered for the offences punishable under sections 294(b), 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After



completing the investigation process, final report was filed and it was taken in CC No.377 of 2018 by the Judicial Magistrate No.1, Tirunelveli.

4. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that it is a clear case of *mala fide* and motivated exercise of right, because of the continuous trouble between the petitioners and the de-facto complainant, such a false complaint has been given, and the complaint allegation is trivial in nature. It is also submitted by the petitioner that there was a civil dispute between one Sumathi and her husband and they instigated the second respondent herein to lodge a false complaint.

5. Per contra, the learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that this is the second occurrence, over which only, the case was registered. The earlier complaint was closed by warning the petitioners not to indulge any such activity.

6. There is no appearance for the second respondent.



7. Before we go into the issue, the background facts are required.

8. One Peter and his wife were having trouble with the 2nd petitioner. They intended to grab the property belong to her. They alleged to have filed a suit in O.S. 216 of 2012 on the file of the I Additional District Munsif, Tirunelveli. It was decreed in her favour. The above said Peter lodged a complaint, over which, the case in Crime No.385 of 2011 was filed against the 1st petitioner. That case ended in acquittal in CC No.174 of 2013. The above said Sumathi filed another complaint, over which, a case in Crime No.517 of 2010 was also registered and that also ended in acquittal in CC No.364 of 2014. Another complaint was given by the above Sumathi, in Crime No.709 of 2015 and that was referred as 'Mistake of Fact', on 16/06/2015. CrI.OP(MD)No.13277 of 2012 was filed seeking direction not to harass the petitioners under the guise of enquiry by the first respondent. That was allowed and the first respondent failed to delete the main accused from the Crime No.121 of 2018. So again the 2nd petitioner filed CrI.OP(MD)No. 10712 of 2018. That was also allowed by this court.



9. Pointing out this development, it has been submitted that the second respondent instigated to foist a false complaint.

10. We need not go into all these disputes between the petitioners and the above said Peter and her wife and continuous complaints, etc, facts. We confine ourselves only with regard to the simple issue, whether the ingredients of the offences are attracted, when we accept the allegation on its own face value.

11. Section 294(b) IPC reads as follows:-

“294 (b) -sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”



WEB COPY



12. Section 503 IPC reads as follows:-

"503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that 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, as the means of avoiding the execution of such threat, commits criminal intimidation."

13. Now the allegation against the petitioners is that the de-facto complainant was abused in filthy language in the open place or in the public place, as the case may be and she was criminally intimidated. Even though some of the abusive language alleged to have been used by the petitioners has been mentioned in the final report, the motive for the occurrence, as mentioned in the final report, is relevant for consideration.

14. Though the accused and the de-facto complainant are neighbours, there was some sort of difference of opinion over the visit of A1 to A2's house.



15. Even though, the motive cannot be a ground for considering this petition, reading of the final report shows that the de-facto complainant was agitating over the conduct of the petitioners.

16. As contented by the learned counsel appearing for the petitioners, it is nothing, but trivial issue. More-over, there is no allegation to the effect that because of the criminal intimidation, that was made by the petitioners, the second respondent entertained life threat. Absolutely, as mentioned above, a trivial issue has been given exaggeration. On that sole ground, this criminal original petition is liable to be allowed.

17. In the result, this criminal original petition is **allowed** and the case in CC No.377 of 2018 on the file of the Judicial Magistrate No.1, Tirunelveli is hereby set aside. Consequently, connected Miscellaneous Petitions are closed.

23/02/2023

Index:Yes/No
Internet:Yes/No
er



WEB COPY

To,

- 1.The Judicial Magistrate No.1,
Tirunelveli.
- 2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



9

G . ILANGO VAN , J

er

Cr1.OP (MD) No.3245 of 2019

23/02/2023



WEB COPY

