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Crl.O.P.(MD)No.15603 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/12/2023

CORAM

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

Crl.OP (MD) No.15603 of 2023

and

Crl.MP (MD) No.12407 of 2023

Rameshkannan : Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Devakottai Town Police Station,
Manamadurai,
Sivagangai District.
(Crime No.335 of 2020) : R1/Complainant

2.Pradeepa : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in CC No.184 of 2023 pending on the file of the Judicial Magistrate, Devakottai and quash the same as against the petitioner and pass such further or other orders.

For Petitioner : Mr.G.Karupppasamy Pandiyan

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.P.R.Prithiviraj



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O R D E R

This criminal original petition has been filed seeking quashment of the charge sheet in CC No.184 of 2023 on the file of the Judicial Magistrate, Devakottai.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that she was married to one Tamilvel, on 11/12/2018. After marriage, they begotten a child. At that time, her husband was working in Brunei. On 30/07/2019, he died due to illness. After the death of her husband, she was living with her in-laws in Devakottai and used to visit her mother's house frequently and also used to stay there. During the life time of her husband, a car was purchased out of her own money and mother's money and kept the same in her mother's house. On 22/09/2019 at about 05.00 pm, the accused came to the house and requested the Car for one week for his own use. But she refused. In-spite of her refusal, the accused trespassed into the house and took away the vehicle. On the basis of the complaint given by the de-facto complainant, a case in Crime No.335 of 2023 was registered for the offences under sections 448, 380(NP) and 506(ii)IPC. After investigation, final report was filed charging the



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petitioner punishable under sections 448 and 506(ii) IPC and it was taken cognizance in CC No.184 of 2023 by the Judicial Magistrate, Devakottai,

3. Seeking quashment of the same, this petition has been filed by the petitioner stating that none of the allegations mentioned either in the FIR or in the final report attract any of the ingredients of the offences alleged against him.

4. Heard both sides.

5. A simple issue between the sister-in-law and the brother-in-law over the temporary use of the car, which belongs to the de-facto complainant.

6. Reading of the FIR as well as the final report does not indicate that there is no big issue between them. A small issue that too a request made by the accused has been given exaggeration. The de-facto complainant lodged a criminal complaint stating that criminal trespass was made and she was also threatened life.



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7. Reading of the complaint as well as the final report does not indicate that there was criminal intimidation on the part of the petitioner to make trespass.

8. Trespass is defined in section 448 IPC, which would run thus:-

"448. Punishment for house-trespass.—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both."

9. Reading of the ingredients of the offence under section 448 IPC with the submission made in the complaint or in the final report shows that they are not attracted.

10. With regard to the offence under section 506(ii) IPC, it has been simply threatened the de-facto complainant with dire consequences.

11. Section 503 IPC reads as follows:-

"503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or



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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."

12.It has been observed by this court in several cases that to constitute an offence under section 506(ii) IPC, a mere threat is not enough and there must be an action in pursuance to the said threat, without which an offence of criminal intimidation is not attracted.

13.Reading of the final report as well as the statement of the witnesses and the de-facto complainant, it is seen that there was only the mere oral and it was not real one. Also it is seen that it was only an outburst of words of the petitioner. So, the offence under section 506(ii) IPC cannot be said to be attracted.

14.It was also submitted by the 2nd respondent/de-facto complainant at the time of argument that the car was restored to her after the complaint. So, section 380



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(NP) IPC was deleted at the time of filing the final report.

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15.In view of the above facts, this court is of the considered view that this is the fittest case to quash the entire proceedings by exercising the power under section 482 Cr.P.C.

16.In the result, this criminal original petition stands **allowed**. The case in CC No.184 of 2023 on the file of the Judicial Magistrate, Devakottai is quashed against the petitioner. Consequently, connected Miscellaneous Petition is closed.

04/12/2023

Index:Yes/No
Internet:Yes/No

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To,

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- 1.The Judicial Magistrate,
Devakottai.
- 2.The Inspector of Police,
Devakottai Town Police Station,
Manamadurai,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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