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Crl.O.P.(MD)No.21648 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	24.08.2023
Delivered on	26.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.21648 of 2022
and Crl.M.P.(MD) No.15242 of 2022

Kalantar Ashik Ahamadu

... Petitioner/
Accused No.1

Vs.

1. The Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
Crime No.113 of 2018.

... 1st Respondent/Complainant

2. Bilal Ghani

... Respondent/
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to a case in Crime No.113 of 2018 pending on the file of the first respondent police, R.S.Mangalam Police Station, Ramanathapuram and quash the same so far as the petitioner is concerned.



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For Petitioners : Mr.R.L.Dhilipan Pandian
For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)
for R1

ORDER

The petitioner has filed this petition seeking quashment of FIR in Crime No. 113 of 2018 pending on the file of the first respondent police registered against him for the offences punishable under Sections 294(b), 324 and 506(ii) of IPC.

2. The respondent police have registered a case in Crime No. 113 of 2018 on 01.08.2018 alleging that the petitioner has committed offences under Sections 294(b), 324 and 506(ii) of IPC. The respondent police on receiving information from Ramanathapuram Government Hospital rushed there and found the defacto complainant and recorded her statement who has narrated that on 27.08.2018 the marriage of his sister by name Sumaya and one Sadham Hussain was scheduled to be performed. On 31.07.2018 at about 11.45 p.m. while he was standing backside of K.S.R.Super Market, in order to prevent the said marriage, the petitioner along with one Mohammed Ghani and one Ajmal Khan



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came there and abused her in filthy language. The petitioner has hacked her head with sickle whereas Mohammed Ghani assaulted her with iron rod on her head. On which, the defacto complainant has screamed and a person by name Vigneshwaran, one Arasu rescued her and admitted her to the Government Hospital. Basing on a complaint, a case has been registered in Crime No.113 of 2018 for the offences under Sections 294(b), 324 and 506(ii) of IPC. It is submitted that another case in Crime No.112 of 2018 is also pending between the parties on in order to escape from the criminal liability and to take vengeance, a false case has been foisted against the petitioner and submitted that there are mala fide in filing the case therefore, it is required to be quashed.

3. Heard learned counsel for the parties and perused the record.

4. The FIR registered in Crime No. 113 of 2018 against the petitioner is for the offences under Sections 294(b), 324 and 506(ii) of IPC. From the date of filing of charge sheet more than five years have been lapsed. Without going into merits of which the petitioner is seeking quashment, it is required to be examined at the first place whether the



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prosecution has got limitation to file the charge sheet against the petitioner for the offences levelled against him.

5. Section 294(b) of IPC runs as under:-

"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."

The maximum punishment can be imposed if the case under Section 294(b) is proved is three months or with fine or with both whereas if the offence under Section 324 of IPC is proved, the maximum sentence that can be awarded is imprisonment for three years or fine or with both. Therefore, considering both the offences, the maximum punishment that can be imposed under Section 324 of IPC is three years of imprisonment.

6. Section 468 of Cr.P.C. runs as under:-

"468. Bar to taking cognizance after lapse of the period of limitation.—



(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be— (a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. "

The charge sheet should have been filed before five years as per Section 468(2)(a) of Cr.P.C. The charge sheet should have filed within one year for the offence under Section 294(b) of IPC and in respect of Section 324 of IPC, the charge sheet should have filed within three years as required under Section 468(2)(c) of Cr.P.C. Therefore, the FIR filed against the petitioner insofar as these two offences can be quashed.

7. Section 506(2) of IPC runs as under:-

"If threat be to cause death or grievous hurt, etc. and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or



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with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

8. It is to be examined now whether basing on the material available before the Court and whether there is a prima facie material to show that the petitioner has committed offence under Section 506(2) of IPC. According to the complaint, on 31.07.2018 at about 11.45 p.m. while the defacto complainant was standing backside of K.S.R.Super Market, in order to prevent the marriage of his sister, the petitioner has hacked his head with sickle whereas Mohammed Ghani assaulted him with iron rod on his left side of the head.

9. This is a classic case which falls under Section 506(2) of IPC, because the petitioner/A1 with the deadly weapon along with other accused with iron rod and sickle have attacked the defacto complainant in the midnight at about 11.45 p.m. In case if the passerby had not intervene and admitted the defacto complainant to the hospital, serious harm would cause to the defacto complainant. Therefore, the



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petitioner/A1 has not only intimidated the defacto complainant criminally as defined under Section 506(2) of IPC but also caused harm and thereby the offence get attract under Section 506(2) of IPC.

10. In the result, this criminal original petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

26.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PKN/mvs.

To

1. The Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

D.NAGARJUN,J

PKN/mvs.



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Pre-delivery order made in
Crl.O.P.(MD)No.21648 of 2022

Dated: 26.09.2023