



CrI.O.P.No.20418 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.20418 of 2022

and

CrI.M.P.Nos.13393 & 13394 of 2022

S.Manigandan

... Petitioner

Versus

1. State rep. by
The Inspector of Police,
Katpadi Police Station.
(Crime No.585 of 2019)

2. M.Venkatesan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records made in C.C.No. 47 of 2020 on the file of the Judicial Magistrate, Katpadi and quash the same as illegal.



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For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1
Mr.D.Rajagopal for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 47 of 2020 on the file of Judicial Magistrate, Katpadi.

2. Heard both sides.

3. The petitioner is arrayed as accused in the F.I.R. in Crime No.585 of 2019 registered for the offence under Sec. 294(b), 506(1) of I.P.C. based on a complaint given by 2nd respondent/defacto complainant. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.47 of 2020 on the file of Judicial Magistrate, Katpadi and the same is pending. According to the prosecution, on 29.07.2019 the



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petitioner herein through a mobile phone called him and scolded him in filthy language and also threatened him. Hence, a F.I.R. was registered for the offence under Sec.294(b) and 506(1) of I.P.C. against him. Now, the petitioner had filed this petition praying to quash the said charge sheet.

4. The learned counsel for petitioner would submit that there is no such occurrence happened and even assuming that it was happened, there is no ingredient to attract the provisions under Sec.294(b) and 506(1) I.P.C. He would submit that even assuming the case of prosecution that he has made a call through mobile phone to the 2nd respondent/defacto complainant and scolded him in filthy language, which would not attract the said offence as no public view. Hence, he prayed to quash the proceedings initiated against the petitioner.

5. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent has raised objections stating that the petitioner has called the 2nd respondent over phone, threatened him and



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also scolded him in filthy language, which requires detailed investigation. Hence, he prayed to dismiss this petition.

6. The learned counsel for 2nd respondent raised objections stating that he was called upon through mobile phone and also threatened by the petitioner.

7. Records perused. On perusal of records, it reveals that even assuming the case of prosecution that the petitioner made a call through mobile phone to the 2nd respondent/defacto complainant and scolded him in filthy language, it would not attract the offence under Sec.294(b) I.P.C. as rightly pointed out by the learned counsel for petitioner and the alleged occurrence was not happened in a public place, but admittedly, he called him over phone. Therefore, there is no ingredient to attract the offence under Sec.294(b) I.P.C. In respect of Sec.506(1) is concerned, according to prosecution, the petitioner threatened the 2nd respondent/defacto complainant, however, admittedly, wife and son of 2nd respondent/defacto complainant was shown as witnesses, but all were hearsay witnesses and they are not aware of consequence of occurrence.



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Therefore, there is no independent witness on the side of prosecution to prove the fact that this petitioner has threatened the 2nd respondent/defacto complainant over phone and the prosecution has also not obtained any call list. Therefore, there is no prima facie material submitted on the side of prosecution to implicate the petitioner as if he committed the offence under Sec.294(b) and 506(1) I.P.C. Hence, I do not find any merit in the charge sheet initiated against the petitioner and the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings initiated against the petitioner in a charge sheet in C.C.No.47 of 2020 on the file of Judicial Magistrate, Katpadi is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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Index: Yes/No

Internet: Yes/No

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To

1. The Inspector of Police,
Katpadi Police Station.



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2. The Public Prosecutor,
High Court, Madras.

T.V.THAMILSELVI, J.

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