



Crl.O.P.(MD) No.1964 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.1964 of 2021

and

Crl.M.P.(MD) No.974 of 2021

1.Sheik Dawood

2.Najini Begum

... Petitioners

Vs.

1.State rep. by the
Inspector of Police,
Pulivalam Police Station,
Musiri Taluk, Trichy District.
(Crime No.46 of 2018)

2.Krishnan

3.Vijayalakshmi

... Respondents

[R3 impleaded *vide* order dated 07.09.2023 in
Crl.M.P.(MD) No.12571 of 2023]

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the proceedings in C.C.No.54 of 2020 on the file of the Judicial Magistrate Court, Thuraiyur and quash the same in so far as the petitioners herein are concerned.



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For Petitioners : Mr.N.Anandakumar

For R1 : Mr.K.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

Seeking to quash the final report in C.C.No.54 of 2020 on the file of the Judicial Magistrate Court, Thuraiyur, the present Criminal Original Petition is filed by A1 and A4.

2. During the course of arguments, Mr.N.Anandakumar, learned counsel for the petitioners did not press this Criminal Original Petition as far as the first petitioner (A1) Sheik Dawood is concerned. He also made an endorsement to that effect. Therefore, this Criminal Original Petition stands dismissed as far as the first petitioner (A1) is concerned.

3. The case of the prosecution in a nutshell is as follows:

(i) One Vijayalakshmi, who is the third respondent herein, is residing in the upstairs portion of Bilal Complex along with the second respondent/*de facto* complainant (her father) and her mother. The said building was purchased by the first petitioner (A1) from the Vijayalakshmi's mother-in-



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law Punithavathi during the year 2017. The third respondent Vijayalakshmi did not vacate the property stating that she and her children are entitled to a share in the said property.

(ii) On 01.07.2018 at about 06.00 a.m, according to the prosecution, all the accused were looking at the CCTV Camera installed in the said building. When it was questioned by the *de facto* complainant (father of Vijayalakshmi), all the accused abused him in filthy language and pushed him down and assaulted him. They also threatened him with dire consequences.

(iii) Based on the complaint given by the *de facto* complainant, FIR in Crime No.46/2018 was registered by the Special Sub-Inspector of Police, Pulivalam Police Station, against all the accused, for the offences punishable under Sections 147, 294(b), 323 & 506(1) of IPC. The Sub-Inspector of Police after concluding investigation laid a final report in C.C.No.54 of 2020 before the Judicial Magistrate Court, Thuraiyur against A1 for the offences punishable under Sections 294(b), 323 and 506(ii) of IPC and against the other accused for an offence punishable under Section 294(b) of IPC.



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4. Mr.N.Anandakumar, learned counsel for the petitioners would contend that the offence alleged against the second petitioner is punishable under Section 294(b) of IPC. His further contention is that the *de facto* complainant's daughter Vijayalakshmi filed a Habeas Corpus Petition in H.C.P.(MD) No.350 of 2022 before a Division Bench of this Court. The Division Bench *vide* its orders dated 11.04.2022 observed thus:

“6. The entire exercise appears to be to make illegal gains. It is seen from the records produced by the third respondent that a property belonging to the husband of the detenue devolved on the detenue and her son Raja, upon the death of the husband of the detenue. The son of the detenue, Raja had executed a release deed, relinquished his interest in the property and upon execution of such release deed, the detenue had entered into a sale agreement with the third respondent on 12.02.2017. In the said sale agreement, the petitioner herein has signed as a witness.

7. It is also seen that the sale deed has been executed by the detenue in favour of the third respondent on 03.04.2017. On 13.04.2017, the



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petitioner as a guardian of her minor children, filed a suit for partition of the property contending that the property is an ancestral property and her minor children have a share in it.

8. It is also found that the petitioner is in possession of the portion of the property sold. It is further found that the detenue has purchased certain properties from and out of the consideration received by her from the third respondent. The suit for partition filed by the petitioner as well as the suit for recovery of possession in O.S.No.50 of 2018 have been directed to be disposed of within the time frame fixed by this Court.

9. At this juncture, the present Habeas Corpus Petition has been filed by the petitioner claiming that the third respondent is illegally detaining the detenue. Even during our interaction with the detenue, she had denied that the third respondent had a role to play in her living away from her daughter-in-law namely, the petitioner.

10. The report of the Doctor namely, the Head of Department of Psychiatry at K.A.P.Viswanatham Government Medical College and Mahatma Gandhi



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General Hospital, Tiruchirapalli, would show that she does not want to recognise the petitioner as her daughter-in-law.

11. The Bank statements of the detenue have also been produced. It also shows the transfer of at least Rs.76,00,000/- (Rupees Seventy Six Lakhs only) during the relevant period i.e., at the time of execution of the sale deed.

12. The above facts would conclusively demonstrates that this Habeas Corpus Petition is nothing but an abuse of process of Court and it has been filed with a sole intention of delaying the proceedings in the suits. We therefore, dismiss this Habeas Corpus Petition with costs of Rs.1,00,000/- (Rupees One Lakh only) payable by the petitioner by way of demand draft in favour of the District Collector, Tiruchirapalli, on or before 26.04.2022.

13. The District Collector, Tiruchirapalli, is required to utilise the costs for any of the Social Welfare Schemes implemented by the District Collector.”



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5. The specific contention of the learned counsel for the petitioners is that since the costs of Rs.1,00,000/- was imposed by this Court, the *de facto* complainant had a grudge with the present petitioners and therefore lodged a false complaint against them before the first respondent police.

6. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the first respondent police would contend that the police after conducting proper investigation filed the final report and therefore, there is no valid reason to quash the same. He therefore prayed for dismissal of this Criminal Original Petition.

7. It is seen from the records that Vijayalakshmi's mother-in-law sold Bilal Complex to A1. According to her, her son (husband of Vijayalakshmi) relinquished his right over his property in which Vijayalakshmi had signed as a witness. However, Vijayalakshmi did not vacate the premises in Bilal Complex. She had also filed H.C.P.(MD) No. 350 of 2022 before this Court, in which, this Court observed that the said Vijayalakshmi had abused the process of law and therefore directed her to pay a sum of Rs.1,00,000/- by way of demand draft to the District



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Collector of Trichy District. Subsequent to the filing of the H.C.P., the *de facto* complainant (father of Vijayalakshmi), had lodged the complaint with the first respondent police. The police after investigation laid the final report in C.C.No.54 of 2020 on the file of the Judicial Magistrate Court, Thuraiyur.

8. As rightly pointed out by the learned counsel for the petitioners, the offence punishable under Section 294(b) is trivial in nature. Moreover, the *de facto* complainant did not state as to who abused him in filthy language. When the *de facto* complainant's daughter Vijayalakshmi filed a Habeas Corpus Petition against her own mother-in-law, the *de facto* complainant lodged a police complaint after dismissal of the said HCP by a Division Bench of this Court. Vijayalakshmi and her parents did not vacate the premises which was sold in favour of A1, by her mother-in-law and on the contrary had lodged a complaint with the police. This shows the dishonest intention on the part of Vijayalakshmi and her parents.

9. In the facts and circumstances of the case, the final report in C.C.No.54 of 2020 on the file of the Judicial Magistrate Court, Thuraiyur as against the second petitioner (A4) is liable to be quashed. Accordingly,



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this Criminal Original Petition stands allowed as far as the second petitioner (A4) is concerned.

10. Considering the fact that the first petitioner (A1) is aged about 68 years, his personal appearance before the trial court is dispensed with. However, he is directed to appear before the trial court as and when his presence is required.

11. In the result, this Criminal Original Petition is partly allowed. Consequently, connected Miscellaneous Petition is closed.

21.03.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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Copy To:

- 1.The Judicial Magistrate,
Thuraiyur, Tirchy District.
- 2.The Inspector of Police,
Pulivalam Police Station,
Musiri Taluk, Trichy District.
- 3.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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