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Crl.O.P.(MD)No.12924 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.12924 of 2022
and Crl.M.P(MD).No.8203 of 2022

M.Kumar

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
V.K.Puram Police Station,
Tirunelveli District.
Crime No.489/2021.

2.S.Vimala Selvin

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the Charge Sheet in C.C.No.168 of 2022 on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District and quash the same.

For petitioner

: Mr.Aayiram K.Selvakumar

For Respondents

: Mr.S.Manikandan
Government Advocate (Crl.side)
for R1
Mr.J.Barathan for R2



Crl.O.P.(MD)No.12924 of 2022

ORDER

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This Criminal Original Petition has been filed to call for the records relating to the Charge Sheet in C.C.No.168 of 2022, on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District and quash the same.

2. The case of the prosecution is that there was a previous animosity between the petitioner and the second respondent regarding civil dispute. On 03.07.2021, the petitioner shouted in front of the second respondent's house and uttered filthy language against the second respondent in order to vacate her from the house and threatened her with dire consequences. Hence, the second respondent has made a complaint before the first respondent Police, based on which, a case in Crime No.489 of 2021 for the offence punishable under Sections 294(b) and 506(1) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent Police has filed a charge sheet before the learned Judicial Magistrate, Ambasamudaram and the same was taken on file in C.C.No. 168 of 2022.



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3. The learned counsel appearing for the petitioner submits that the petitioner and the defacto complainant are neighbours and earlier, there was a dispute between the parties regarding compound wall, for which, the petitioner filed a suit before the civil suit which is pending. While so, the defacto complainant and her husband abused the petitioner's family in filthy language and therefore, the petitioner has made a complaint before the Law Enforcing Agency. As a counter blast, the present complaint was made by the second respondent against the petitioner. In fact, the occurrence took place on 03.07.2022, whereas, the complaint was made by the second respondent on 31.07.2022 and within five days, the charge sheet has been filed by the first respondent on 05.08.2022. The evidences of the defacto complainant and her husband were only recorded and except this, no other independent witnesses was examined by the Law Enforcing Agency, which is not sustainable one. Hence, he prays for allowing this Criminal Original Petition.

4. The learned Government Advocate (Criminal side) appearing for the first respondent Police submits that there are materials available to proceed with the case against the petitioner and the charges made against the petitioner have to be gone into only at the time of trial. Hence, he prays for dismissal of this petition.



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5. The allegation made against the petitioner is that owing to previous animosity regarding civil dispute, the petitioner uttered filthy language against the defacto complainant in order to vacate her from the house and threatened her with dire consequences. The occurrence is alleged to have been taken place on 03.07.2021, however, the FIR was registered on 31.07.2021. Interestingly, within five days from the date of registration of the First Information Report, the charge sheet has been filed before the learned Judicial Magistrate, Ambasamudram, Tirunelveli District, for the offence punishable under Sections 294(b), 506(1) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

6. In order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person annoyed others. In this case, it is alleged that the petitioner uttered abusive words against the defacto complainant, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC. Section 506(1) IPC speaks about the criminal intimidation. The allegation made against the petitioner that he had threatened the second respondent with dire consequences, does not



CrI.O.P.(MD)No.12924 of 2022

satisfy the requirement of ingredients of Section 506(1) IPC.

For attracting the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 also, there are no materials whatsoever available to prove that the petitioner has harassed the second respondent/ defacto complainant. Hence, this Court is inclined to quash the proceedings in C.C.No.168 of 2022 on the file of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District, and accordingly, it is quashed.

7. In the result, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

13.03.2024

Index : Yes/No
Internet : Yes/No
ssb

To

- 1.The Inspector of Police,
V.K.Puram Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P.(MD)No.12924 of 2022

M.DHANDAPANI. J.

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Crl.O.P.(MD)No.12924 of 2022

13.03.2024