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CrI.O.P.(MD)No.15111 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.03.2024**

CORAM:

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

CrI.O.P.(MD) No.15111 of 2022
and
CrI.M.P(MD).Nos.9878 and 13921 of 2022

1.Kanthappan

2.Selvakumar

... Petitioners

Vs.

B.Ramayi

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.36 of 2017 under Section 294(b), 120(b), 445, 323, 506(i) of IPC pending trial on the file of the learned Judicial Magistrate.IV, Madurai and quash the same.

For petitioners : Mr.R.Aravindraj

For Respondent : M/s.Thoppammal



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ORDER

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This petition is filed to quash the charge sheet in C.C.No.36 of 2017 on the file of the learned Judicial Magistrate-IV, Madurai

2. The case of the prosecution is that on 18.07.2015 at about 07 p.m, 3rd accused, namely, Muthu Murugan alleged to have driven his auto rashly and damaged the two wheeler belongs to the defacto complainants's daughter. While the defacto complainant questioned the same, the third accused threatened the complainant with dire consequences. On 22.07.2015, at about 11 p.m., 3rd and 4th accused in a drunken mood alleged to have abused the defacto complainant in filthy language and also attacked her. Therefore, the defacto complainant lodged a complaint before the Koodal Pudur Police station and the same was not taken on file. Hence, she filed Crl.O.P(MD).No.14975 of 2015 before this Court for registration of FIR and the same was allowed on 31.07.2015 and the case in Crime No.974 of 2016 registered for the offences under Sections 294(b), 427, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 against 15 accused persons among them the petitioners herein are arrayed as accused Nos.11 and 12. Aggrieved over the same, the petitioners had moved Crl.O.P(MD).No.14736 of 2016 for quashment of FIR and the



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same was allowed on 13.02.2020. Thereafter, the respondent filed a private complaint in C.C.No.36 of 2017 on the file of Judicial Magistrate No.IV, Madurai. Challenging the same, the present petition has been filed.

3. The learned counsel for the respondent/defacto complainant submitted that without issuing notice to the respondent/defacto complainant in CrI.O.P(MD).14736 of 2016, this Court allowed the said petition on 13.02.2020, which is not sustainable one. He further submitted that without issuing land encroachment notice to the defacto complainant, the defacto complainant's front house was demolished. Therefore, the defacto complainant lodged a complaint before the Koodal Pudur Police station and the same was not taken on file. Hence, she filed CrI.O.P(MD).No.14975 of 2015 before this Court for registration of FIR and the same was allowed on 31.07.2015 and the case in Crime No.974 of 2016 registered for the offences under Sections 294(b), 427, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. Per contra, the learned counsel for the petitioners submitted that admittedly the defacto complainant's/respondent street people



encroached the major portion of the road. Therefore, they issued notice, who were encroaching the road including the respondent. The respondent/defacto complainant refused to receive the notice, therefore, concerned authorities affixed the same in the door.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on record.

6. The facts in the present case is not in dispute. Admittedly, the respondent/defacto complainant lodged a complaint before the Koodal Pudur Police station and the same was not taken on file. Hence, she filed Crl.O.P(MD).No.14975 of 2015 before this Court for registration of FIR and the same was allowed on 31.07.2015 and the case in Crime No.974 of 2016 registered for the offences under Sections 294(b), 427, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 against 15 accused persons among them the petitioners herein are arrayed as accused Nos. 11 and 12. Aggrieved over the same, the petitioners had moved Crl.O.P(MD).No.14736 of 2016 for quashment of FIR and the same was allowed on 13.02.2020. Thereafter, for the very same issue, respondent filed present private complaint in C.C.No.36 of 2017 on the file of Judicial Magistrate No.IV, Madurai. Before removing



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the encroachment, the petitioners issued the notice to the concerned persons. Since the respondent refused to receive the notice, the same was affixed in the door.

7. In view of the above, C.C.No.36 of 2017 on the file of Judicial Magistrate No-IV, Madurai is quashed. Accordingly, this Criminal Original Petition is allowed. If the respondent/defacto complainant is still aggrieved over the damage caused by the petitioners, the defacto complainant shall approach the concerned Court for claiming compensation in the manner known to law. Consequently, the connected miscellaneous petitions are closed.

20.03.2024

Index : Yes/No
Internet : Yes/No
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To

1.The learned Judicial Magistrate- IV,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J.

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