



Crl.O.P.(MD)No.17608 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE AA.NAKKIRAN**

Crl.O.P.(MD)No.17608 of 2022
and Crl.M.P.(MD)Nos.11949 & 11950 of 2022

1.Bright Benjamin

2.Vijila

... Petitioners

Vs.

1.The State Rep.by
The Sub Inspector of Police,
Colachel Police Station,
Kanyakumari District.
Crime No.389 of 2021

2.Ebanesar

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records in C.C.No.451 of 2022 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District and quash the same.

For Petitioners

: Mr.R.Russel Raj

For R1

: Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R2

: No Appearance



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ORDER

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This criminal original petition has been filed to quash the charge sheet in C.C.No.451 of 2022 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District.

2.The case of the prosecution is that due to civil dispute, the accused persons wrongfully restrained the second respondent and his wife, abused them in filthy language and also threatened them with dire consequences. Therefore, the second respondent lodged a complaint, based on which a case in Cr.No.389 of 2021 has been registered for the offences punishable under Sections 341, 294(b), 323, 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. Upon completion of investigation, the first respondent filed the final report, which was taken on file in C.C.No.451 of 2022 by the learned Judicial Magistrate, Eraniel, Kanyakumari District. Challenging the same, the present petition came to be filed.

3.The learned counsel appearing for the petitioners submitted that the petitioners did not commit any offence as alleged by the prosecution and there is no materials to attract the



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alleged offences. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.Heard the learned counsel on either side and perused the materials available in the records.

6.The allegation made against the petitioners is that owing to previous animosity regarding civil dispute, the petitioners uttered filthy language against the second respondent and threatened him with dire consequences. However, 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 persons annoyed others. In this case, it is alleged that the petitioners uttered abusive words against the second respondent, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under



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Section 294(b) IPC. Section 506(1) IPC speaks about the criminal intimidation. The allegation made against the petitioners that they had threatened the second respondent with dire consequences, which does not satisfy the requirement of ingredients of Section 506(1) IPC.

7.However, it is seen that there are materials as against the petitioners to attract other offences, ie., Sections 341, 323 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. Therefore, the offences punishable under Sections 294(b), 506(i) IPC are hereby quashed as against the petitioners. The learned Judicial Magistrate, Eraniel, Kanyakumari District is directed to proceed with the case in C.C.No.451 of 2022 for the remaining offences ie., Sections 341, 323 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act as against the petitioners.

8.At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court.



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9.Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with before the trial Court with the following conditions:-

i)The personal appearance of the petitioners are dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

10.In the result, this criminal original petition is partly-allowed. Consequently, connected miscellaneous petitions are closed.

23.04.2024

Index: Yes/No
Internet: Yes/No
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AA.NAKKIRAN,J

gns

To

- 1.The Sub Inspector of Police,
Colachel Police Station,
Kanyakumari District.
- 2.The Judicial Magistrate,
Eraniel, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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