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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.20170 of 2021
and
Crl.M.P.(MD) No.11393 of 2021

Lakshmipathy ... Petitioner

Vs.

1.The State rep. by
Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
Crime No.1197 of 2020

2.Kannan ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to C.C.No.339 of 2021 on the file of the Judicial Magistrate Court No.II, Kovilpatti and quash the same.

For Petitioner : Mr.T.Antony Arul Raj

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

For R2 : Mr.D.Nallathambi

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O R D E R

Seeking to quash the final report in C.C.No.339 of 2021 on the file of the Judicial Magistrate Court No.II, Kovilpatti, the present Criminal Original Petition is filed.

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

(i) The second respondent/*de facto* complainant owns a shop in the name and style of 'Sun Battery'. The petitioner/accused is his own brother. The accused borrowed money from his brother, the *de facto* complainant. When the *de facto* complainant requested the accused to re-pay the amount, he evaded him. Therefore, the *de facto* complainant lodged a complaint with the District Superintendent of Police, Thoothukudi against the accused on 28.10.2020.

(ii) Aggrieved over the same, on 05.12.2020 at about 09.05 a.m., the accused came down to the shop of the *de facto* complainant in his white colour Swift car and enquired one Meenakshi Sundaram, a workman of the *de facto* complainant, the whereabouts his owner. When the said Meenakshi Sundaram informed the accused that the owner would be coming by 10.00 a.m., he abused the *de facto* complainant in filthy language and also threatened that he would kill his brother, the *de facto* complainant. The said

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Meenakshi Sundaram immediately informed the same to the *de facto* complainant.

(iii) Based on the complaint given by the *de facto* complainant, FIR in Crime No.1197 of 2020 was registered by the Head Constable of Police, Kovilpatti West Police Station, against the petitioner for the alleged offences punishable under Sections 294(b) and 506 Part (ii) of IPC. The Sub Inspector of Police after concluding investigation laid a final report in C.C.No.339 of 2021 before the Judicial Magistrate No.II, Kovilpatti against the accused for the aforesaid offences.

3. Mr.T.Antony Arul Raj, learned counsel for the petitioner/accused would contend that the second respondent (*de facto* complainant) is no more and that there was a dispute between the petitioner and the *de facto* complainant with regard to partition of certain properties belonging to their family. His further contention is that though in the FIR there is a mention about the payment of money by the *de facto* complainant to the petitioner, there was actually no money transaction between them. It is also his contention that subsequent to the filing of the FIR, the *de facto* complainant filed a private complaint under Section 200 of Cr.P.C. before the Fast Track Court, Kovilpatti in C.C.No.55 of 2021 against the

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petitioner for an offence punishable under Section 138 of Negotiable Instruments Act which is pending. The specific contention of the learned counsel for the petitioner is that the petitioner never handed over any cheque in favour of the *de facto* complainant and all the allegations in the present C.C.No.339 of 2021 on the file of the Judicial Magistrate Court No.II, Kovilpatti are also totally false.

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

5. It is seen from the records that the present petitioner had abused the *de facto* complainant when he was not present in the shop on 05.12.2020 at about 09.05 a.m. According to the workman of the *de facto* complainant, the accused had not only abused the *de facto* complainant but also threatened that he would kill the *de facto* complainant. When the petitioner/accused and the *de facto* complainant are brothers, the petitioner/accused would have very well gone to the house of the *de facto*

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complainant if at all he wanted to threaten the *de facto* complainant with dire consequences.

6. It is settled law that empty threats without any intention of causing any bodily injury would not attract the offence punishable under Section 506 IPC. The dispute between the brothers seems to be with regard to the money transaction and with regard to the partition of their family properties which is purely civil in nature.

7. In the circumstances, the final report in C.C.No.339 of 2021 on the file of the Judicial Magistrate Court No.II, Kovilpatti is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

18.03.2024

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

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Copy To:

1.The Judicial Magistrate No.II,
Kovilpatti, Thoothukudi District.

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2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

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

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R.HEMALATHA, J.

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