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Crl.O.P.(MD)No.20679 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.20679 of 2023

and

Crl.MP(MD)Nos.16202 and 16203 of 2023

M.V.Radhakrishnan : Petitioner/Sole Accused

Vs.

1.State: rep. by

The Inspector of Police,
Karimedu Police Station,
Madurai District.

(Crime No.125 of 2021) : R1/Complainant

2.R.Ramesh

: R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in CC No.30 of 2022 on the file of the Judicial Magistrate No.V, Madurai and quash the same in so far as the petitioner is concerned and pass such further or other orders.

For Petitioner : Mr.S.Muthukumar

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



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This criminal original petition has been filed seeking quashment of the case in CC No.30 of 2022 on the file of the Judicial Magistrate No.V, Madurai.

2.The case of the prosecution is that the de-facto complainant is running a luxury Hotel called 'Thangam Grand' situated at No.48, Bye-Pass road, Madurai. Whenever the de-facto complainant is going to Chennai, he regularly visited his relative namely Ganesan, who is the Director of Highways Department in Chennai and they discussed their family welfare. That being so, one day, the said Ganesan had stated his grievance to the de-facto complainant that the petitioner herein, who is doing the real estate business in Madurai, unnecessarily interfering in his official duty and made a frivolous complaint against him for not approval of NOC, which the petitioner applied in Tamilnadu Housing Board for land. And in order to console him, the de-facto complainant told that he will handle this issue in the place of Ganesan. So, the de-facto complainant in order to mitigate the conflict between the petitioner and Ganesan, in the month of July 2020 invited the petitioner to his Thangam Grand Hotel. At that time, this petitioner demanded Rs.2 Crores for not to give any complaint



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against Ganesan. Later also, this petitioner frequently asked money over phone and also by visiting the de-facto complainant in his Hotel. On 02.02.2021, when the de-facto complainant was standing in the reception area of the hotel, the petitioner land up there with an criminal intention and started hurling invective words on the de-facto complainant for not giving money and threatened him. On hearing this, the hotel employees came there and told the petitioner to get out from the place, but the petitioner did not hear their words and started shouting the de-facto complainant. The de-facto complainant and his employees having no other option, made a call to the police control room. Upon receiving the phone call, the 1st respondent police rushed to the occurrence place, secured the petitioner and brought him to the police station for enquiry. Subsequently, the 2nd respondent has given information about that incident. Based on that information, a case in Crime No.125 of 2021 was registered for the offences under sections 294(b), 387, 452 and 506(ii) IPC. After completing the investigation, final report was filed and it was taken cognizance in CC No.30 of 2022 by the Judicial Magistrate No.V, Madurai.

3. Seeking quashment of the same, this petition came to be filed by this petition.



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4.Heard both sides.

5.Case of repeated attempt of extortion of money.

That is the allegation against this petitioner.

6.Reading of the complaint, as stated above, shows that the petitioner alleged to have involved in threatening, harassing the de-facto complainant demanding money for silence him from giving any complaint against the top IAS officers.

7.The learned counsel appearing for the petitioner would submit that absolutely, the ingredients of the offences under sections 294(b), 387, 452 and 506(ii) IPC are not attracted. According to him, it is unbelievable that the petitioner trespassed into the de-facto complainant's hotel, picked up quarrel, abused and criminally intimidated. He would further submit that since the hotel is not a public place, the offence under section 294(b) IPC is not attracted. Similarly, the offence under section 506(ii) IPC is also not attracted, since absolutely, there is no indication either in the complaint or in the final report that because of the alleged criminal intimation made by him, the de-facto complainant was put under fear of death.



8. With regard to the offence under section 387 IPC, he would submit that the ingredients of section 383 IPC are not attracted. Section 383 IPC reads as under:-

"Section 383. Extortion. -Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

Illustrations

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion."



So according to him, no materials were collected during the course of investigation.

9.But *prima facie* shows that he indulged in attempting to commit extortion.

10.Perusal of the statement recorded during the course of investigation, *prima facie* indicates that the petitioner has indulged in similar activities in the past also. The illegal demand was also recorded in the mobile phone, which was contemporaneous in nature. The reason for the alleged attempt of extortion is also spoken by one Ganesan. He is working as Project Director in Tamil Nadu Road Sector Project. As mentioned above, he is in the Cadre of top ranking IAS Officer. The petitioner went to the extent of threatening him also stating that he will foist complaints against him. This is the main basic reason for the present occurrence. Some of the eye witnesses also examined.

11.As mentioned above, more particularly the alleged demand, abuse and criminal intimidation was recorded by the de-facto complainant during the course of the occurrence. So this will *prima facie* indicate the materials available against the petitioner.



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12.What sort of offences are attracted to the facts and circumstances of the case can be considered only by the trial court at the time of framing of charges. Nature of the offences attracted, may not be the duty of this court while exercising the jurisdiction under section 482 Cr.P.C.

13.It is further seen that in the grounds itself, the petitioner admitted the bail that was granted to him was cancelled. It was also cancelled by the order of this court. This indicate the antecedent of the petitioner.

14.So I am of the considered view that this is not a fittest case to quash the proceedings by exercising the power under section 482 Cr.P.C. Absolutely, I find no legal ground, except the factual grounds.

15.In the result, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

07/12/2023

Index:Yes/No
Internet:Yes/No
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To,

1.The Judicial Magistrate No.V,
Madurai.

2.The Inspector of Police,
Karimedu Police Station,
Madurai.

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



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G.ILANGOVAN, J

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