

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.1854 of 2010

and

M.P.No.1 of 2010

Sr.Lilly Augustine
Principal
Holy Innocents High School
Wellington Barracks
The Nilgiris - 643 231.

... Petitioner/Accused

Vs.

G.Manohar
S/o.George

... Respondent/Complainant

Prayer:

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in C.C.No.80 of 2009 on the file of the learned Judicial Magistrate, Coonoor.

For Petitioner : Mr.K.V.Sridharan

For Respondent : Mr.S.Panneer Selvam

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O R D E R

The petitioner has come forward with the present Criminal Original Petition to call for the records and quash the proceedings in C.C.No.80 of 2009 on the file of the learned Judicial Magistrate, Coonoor.

2. The learned counsel appearing for the petitioner would submit that the respondent's son is studying in 5th standard in the petitioner's school. As he misbehaved with other children, he was given minor punishment by the school authorities.

Provoked by the said incident, the respondent had sent a communication dated 03.02.2009 to the School authorities under the Right to Information Act. To the said communication, a detailed reply dated 19.02.2009 was issued by the petitioner herein. Further, another reply dated 19.02.2009 was alleged to have been issued by the petitioner herein, wherein it was stated as follows:

"If it is not too much to expect of you, you should be using a little more temperate language in addressing the Head of an educational institution instead of employing terms such as Rowdyism. I wish to say a concise that the Rowdyism is not very far for every one. So, First save yourself and your family itself, then you may invoking the provisions of the Right to Information Act 2005."

3. On the basis of the above reply, a private complaint was preferred by the respondent and the same was taken on the file of the learned Judicial Magistrate, Coonoor in C.C.No.80 of 2009 for the offences punishable under Section 506(ii) IPC. But it is the contention of the petitioner that the above reply was not sent by the petitioner and after coming to know about the said document, the petitioner preferred a complaint and the same was registered as Crime No.137/2009 for the offences punishable under Sections 420, 468 and 471 IPC against the respondent herein, who is the complainant in private complaint in C.C.No.80 of 2009 and the investigation is going on.

4. The learned counsel appearing for the petitioner would further contend that even the words stated in the reply based on which the respondent had preferred a private complaint does not constitute an offence under Section 506(ii) IPC. Thus, by raising the above contentions the learned counsel appearing for the petitioner prayed for quashing the proceedings.

5. Resisting the same, the learned counsel appearing for the respondent would submit that the son of the respondent was studying 5th std in the petitioner's school. Since he was found talking during class hours, he was asked to stand outside the school campus for three hours. When the said act of the school authorities was questioned by the respondent herein, he was given evasive reply. Further, the respondent had also preferred a complaint before the Human Rights Commission and the same is pending. Furthermore, since the police authorities refused to register the complaint preferred by the respondent, the respondent sought for information under the Right to Information Act. The respondent issued a reply dated 19.02.2009 and the relevant portion which was extracted above, would clearly reveal that the ingredients of Section 506(ii) IPC has been made out. Thus, the learned counsel appearing for the respondent seek for dismissal of the criminal original petition.

6. Considered the rival submissions made by both sides and perused the typed set of papers.

7. The only dispute is with regard to the alleged reply given by the petitioner dated 19.02.2009. On perusal of the two documents which was issued on the very same date and enclosed in page 17 and 20 of the typed set of papers, it is seen that except the first three paragraphs, the other contents in the letter are entirely different. It would be appropriate to incorporate the last paragraph in Ex.A5/Ex.A6 which was marked while taking the sworn statement.

"If it is not too much to expect of you, you should be using a little more temperate language in addressing the Head of an educational institution instead of employing terms such as Rowdyism. I wish to say a concise that the Rowdyism is not very far for every one. So, First save yourself and your family itself, then you may invoking the provisions of the Right to Information Act 2005. And it is not too late, I am ready to withdraw the complaint, if you handover a letter to stop all your nuisance against our school, otherwise the institution which has an illustrious history of over 35 years, will not be cowed down by such threats and any precipitate action that you may take. As already stated above the institution does not come within the purview of the RTI Act and as such I am under no compulsion to furnish the information sought by you."

At this juncture, it would be appropriate to incorporate essential ingredients of Section 506 IPC:

- "(1) Accused threatened complainant, his person, property or reputation or the person or reputation of any one in whom he is interested.
- (2) Such threat was with some injury.
- (3) Threat was with intent to (i) cause alarm to complainant, (ii) to cause complainant to do any act which he was not legally bound to do, (iii) to cause to omit to do any act which he was legally entitled to do.
- (4) Threat given was (i) to cause death, (ii) to cause grievous hurt, (iii) to cause destruction of any property, (iv) to cause an offence punishable with death, imprisonment for life, imprisonment for a term which may extend to 7 years or to impute unchastity to a woman.
- (5) Accused intended complainant so threatened or alarmed to do any act which he was not legally bound to do or to omit to do any act which the complainant was legally entitled to do as the means of avoiding the execution of such threat."

8. On perusal of the contents of the alleged reply dated 19.02.2009 in the light of the ingredients of the above provision, I am of the considered view that the ingredients of Section 506(ii) IPC has not been prima facie made out. Further, it is seen that the respondent herein had used harsh words against the principal and the other teachers working in the petitioner's school. Even in the complaint dated 03.02.2009, the respondent has only stated that the Principal refused to say any answer to his questions as a parent and instead of that she had threatened them by rowdyism.

9. Furthermore, in the reply dated 19.02.2009, the petitioner herein had stated that "If it is not too much to expect of you, you should be using a little more temperate language in addressing the Head of an educational institution instead of employing terms such as Rowdyism".

10. In such circumstances, I am of the view that the words used in the reply dated 19.02.2009 does not constitute an offence under Section 506(ii) IPC. Moreover, since a private complaint has been given by the respondent, the petitioner herein has also preferred a complaint stating that the signature in the alleged letter dated 19.02.2009 does not belong to her and on the basis of the said complaint given by the petitioner, a case in Crime No.137/2009 has been registered for the offences punishable under Sections 420, 468 and 471 IPC against the respondent herein and the same is pending investigation.

11. It is also pertinent to note that the respondent herein has filed an application in CMP.No.615/2010 seeking expert opinion and the same is also pending. In such circumstances, I am of the view that it is a fit case to quash the proceedings in C.C.No.80 of 2009 on the file of the learned Judicial Magistrate, Coonoor because even if the Court comes to the conclusion that the alleged reply dated 19.02.2009 has been sent only by the petitioner/accused, the words used in the said reply does not constitute offence under Section 506(ii) IPC.

12. Further, the son of the respondent is imposed with a minor punishment only for his misbehavior in the class and to cultivate good habits in future, keeping in mind that the children are the future of this Country. If such acts of the School is opposed, then no purpose will be served for the parents who admit their children in Schools to bring them up as good humanbeing in the society. The respondent herein who was dismissed from the Police department had preferred the complaint only with a malafide intention and hence, the proceeding in C.C.No.80 of 2009 on the file of the learned Judicial Magistrate, Coonoor is liable to be quashed and accordingly

quashed and the Criminal Original Petition is allowed.
Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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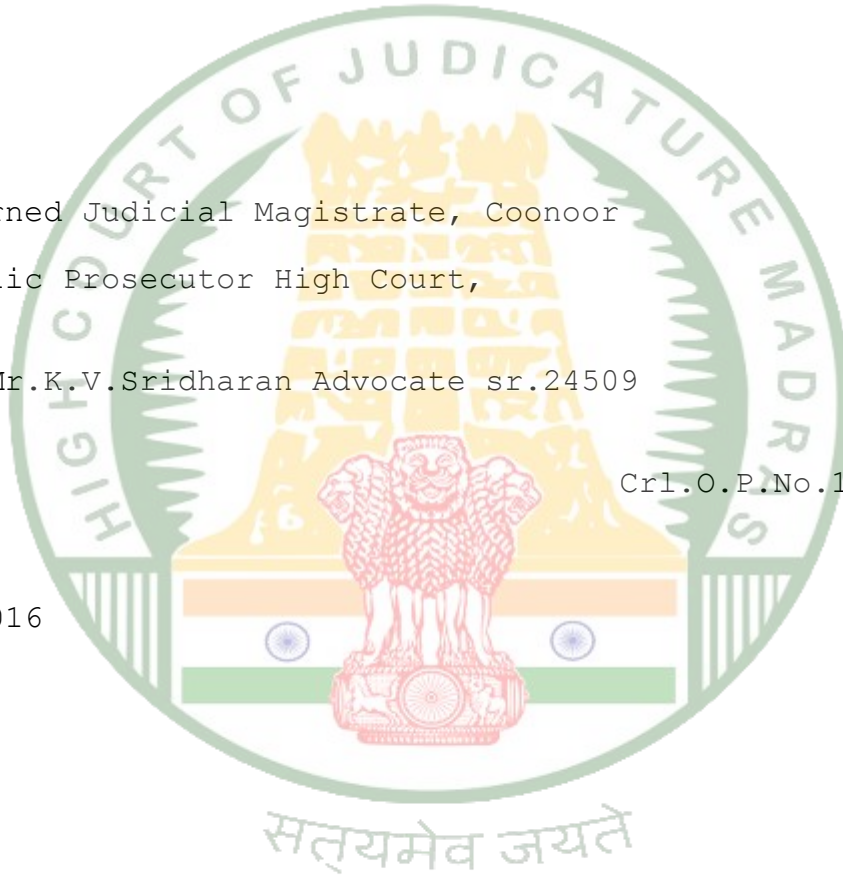
1.The learned Judicial Magistrate, Coonoor

2.The Public Prosecutor High Court,
Madras

+1 cc to Mr.K.V.Sridharan Advocate sr.24509

Cr1.O.P.No.1854 of 2010

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