

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.29460 of 2010
and
M.P.Nos.1 and 2 of 2010**

1.C.M.Ramraj

2.K.Kumarasamy

3.P.Jayakumar

... Petitioners

vs.

1.State represented by
Inspector of Police,
Kuniamuthur Police Station,
Coimbatore District,
(Cr.No.186 of 2008)

2.K.Chandrasekar
(Impleaded the 2nd respondent as per the
order of this Court dated 23.12.2010
in M.P.No.3 of 2010)

... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records in C.C.No.241 of 2010, on the file of the Judicial Magistrate No.7, Coimbatore and quash the Charge Sheet.

For Petitioners

: Mr.P.Muthu Krishnan

For Respondents

: Mr.B.Ramesh Babu (for R1)
Government Advocate (Crl.Side)

M/s.N.Kavitha (for R2)

JUDGMENT

The petitioners, who are all Secretary, Principal and Office Assistant of CBM Arts College Coimbatore respectively. They have come up, with petition to quash the proceedings in C.C.No.241 of 2010 for the offence under Section 384 of IPC, on the file of the learned Judicial Magistrate, No.VII, Coimbatore.

2.According to the learned counsel for the petitioner, the allegations as against these petitioners is that they demanded donation from the students while admission which mounted to the tune of several lakhs of rupees. Though it is an aided college they forcibly collected donation from the students in the year 2008.

3.As per the order of this Court in M.P.No.3 of 2010 dated 23.12.2010, the Defacto complainant, one Mr.Chandrasekar, who is the Students' Union Secretary of CBM Arts College is impleaded as 2nd respondent. The Counsel for the petitioners would submit that the petitioners have not collected any extra amount in the name of donation whereas, they have been implicated on the instigation of some Professors against whom proceedings was initiated for their dereliction of duty.

4.Per contra, the learned Government Advocate (Criminal Side) would submit that the prosecution has material witness to prove the charge 384 of IPC as against the petitioner. Further all the witnesses, who have no grudge over the petitioners, have categorically stated about the demand forcible collection of donation from them.

5.On the other hand the case of the Defacto complainant is also in the line of the submissions made by the Government Advocate criminal side.

6.I heard Mr.P.Muthu Krishnan, learned counsel appearing for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) appearing for the 1st respondent and M/s.N.Kavitha, learned counsel appearing for the 2nd respondent and the materials available on record are perused.

7.Before going into the facts of case, the necessary ingredients to make out an offence under section 384 of IPC are extracted hereunder:

a) The accused must put any person in fear of injury to that person or any other person;

b) The putting of a person in such fear must be intentional;

c) Thereby the accused must induced the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security;

d) Such inducement must done dishonestly.

8.As for as the instant case is concerned, it is the allegation that the accused have demanded donation from various students while their admission in their college. It is relevant to point out here that the consent College is Government aided college and there is no allegation that any irregularities taken place in the admission of the college. Moreover, it is also pointed out that in this connection the Joint Director of College Education conducted an enquiry, but he found the complaint was based on instigation. Hence he dropped the enquiry and closed the complaint. Further, on the direction of the District Collector concerned, the Revenue Divisional Officer has also conducted an enquiry and dropped the same as the allegation in the complaint are not correct. Though several witnesses have been examined, but their statements have not attracted the offence under Section 384 of IPC.

9.The careful perusal of all the statement of witnesses has not disclosed the ingredients of offence under Section 384 of IPC. Hence, in the considered opinion of the Court, once it is found that the allegations of the complainant and other witnesses have not made out any prima facie case to satisfy the ingredients of the offence, then the continuation of proceedings would be a miscarriage of justice.

10.Therefore, this Court has no option other than to quash the proceedings in C.C.No.241 of 2010 and accordingly it is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

21.04.2017

Internet : Yes/No
Index : Yes/No

vs

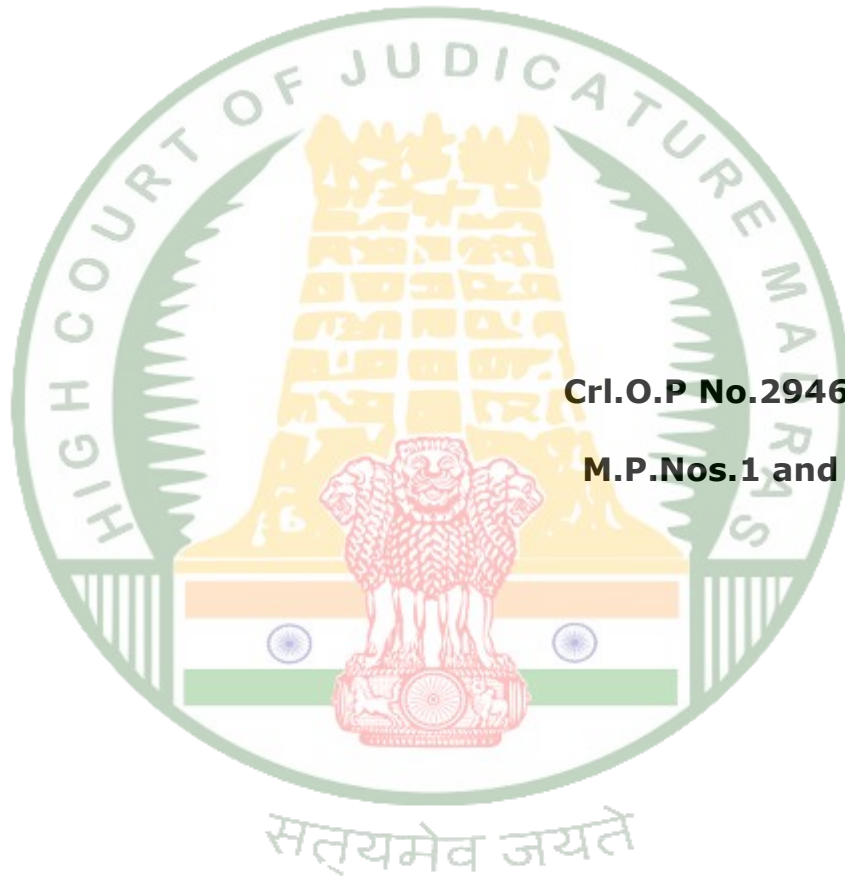
To

The Judicial Magistrate No.7,
Coimbatore.

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M.V.MURALIDARAN,J.

VS



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