

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.557 of 2015
and
M.P.No.1 of 2015

M.M.Rangaswamy

.. Petitioner

Vs.

The State represented by
The Sub-Inspector of Police,
(B3 L & O) Police Station,
Coimbatore.
(Crime No.162/2014)

.. Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate II, Coimbatore passed in Crl.M.P.No.8636 of 2014 in C.C.No.311 of 2014 on 18.05.2015.

For Petitioner : Mr.Govind Chandrasekhar

For Respondent : Mr.V.Arul,

Additional Public Prosecutor.

ORDER

This Criminal Revision Case arises against the order of learned Judicial Magistrate II, Coimbatore passed in Crl.M.P.No.8636 of 2014 in C.C.No.311 of 2014 on 18.05.2015.

2. Petitioner/A1 and A2 are accused of offences under Sections 75(1) (c) of Tamil Nadu City Police Act. Petitioner/A1 also is accused of offence u/s.506(ii) IPC. A3 is accused of offences punishable u/s.323 and 506(ii) IPC. Petitioner/A1 sought discharge in Crl.M.P.No.8636 of 2014, which was dismissed by the Court below under orders dated 18.05.2015. There against, petitioner/A1 has preferred the present revision.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondent.

4. Prosecution case is that the complainant Rajendran has approached the accused M.M.Rangasamy and Subramani on 06.12.2014 at their 'R.Gold Jeweller Shop' at Gandhipuram Cross Cut Road to

redeem his jewels pledged in some other bank with the help of the accused persons as per their advertisement made in Daily papers. They obtained ration card and voter ID and gave Rs.72,000/- to him and he redeemed the jewels and came back to the accused concern, handed over the jewels and sought return of ration card and voter ID, for which accused have demanded Rs.6,000/- and hence, he preferred a complaint on 07.02.14. Complainant and his wife along with Head Constable have gone to the accused place at about 12.45 p.m and when they enquired, A1 and A2 abused the complainant and A3 assaulted as also threatened him with dire consequences.

5. The decision of this Court reported in Periamalai Swamy Vs. Poosariambalam (1969 L.W. (CRL). 202) informs as follows:-

'In the course of a wordy quarrel, if the accused raised the spade which he was already having for the purpose of diverting water and told the witness PW-1 that he would kill him, it cannot be stated that it will amount to criminal intimidation. In such a quarrel, such things would, as a matter of course, occur without anyone intending to intimidate seriously the other. His intimidation cannot be deliberate one and an offence under Section 506 Part II of I.P.C. against the accused cannot be sustained.'

6. Apparently, the entire occurrence in the present case arose on the spur of the moment and there is nothing to indicate that the complainant suffered alarm owing thereto. Thus, offence u/s 506(ii) IPC would not stand attracted. Insofar as alleged offence u/s 75(1) of Tamil Nadu City Police Act is concerned, decision of this Court in Hahneman Vs. State [1994-1-lw (Crl.) 152) informs that unless there is either breach of public peace or likelihood thereof, no offence under Section 75(1) (c) of Tamil Nadu City Police Act would be attracted. In this case, there is no occasion for breach of public peace.

This Criminal Revision Case shall stand allowed. The judgment of learned Judicial Magistrate-II, Coimbatore passed in Crl.M.P.No.8636 of 2014 in C.C.No.311 of 2014 on 18.05.2015, shall stand set aside. Though A2 is not present before this Court, the benefit of this order shall also flow to A2. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

kmi/gm

To

1. The Judicial Magistrate-II,
Coimbatore.
2. The Sub-Inspector of Police,
(B3 L & O) Police Station,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Govind Chandrasekar, Advocate SR.No.3035

Cr1.R.C.No.557 of 2015

RK(CO)
RMP(28/09/2018)



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