

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

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THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.6383 of 2019

and

Crl.M.P.No.3535 of 2019

Ashok ... Petitioner/Accused

Vs.

1.The State,
Rep, by The Station House Officer,
Natrapalli Police Station,
Natrapalli,
Vellore District. ...1st Respondent/Complainant
(Crime No.210 of 2018)

2.Tamilarasan ...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.210 of 2018, on the file of the respondent and quash the same.

For Petitioner : M/s.S.Paul Gnanamuthu

For Respondents : Mr.C.Raghavan
Government Advocate for R1

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.210 of 2018, pending investigation before the first respondent police.

2. The second respondent, who claims herself to be a Office bearer of a political party, has filed a complaint before the respondent police to the effect that he saw a whats up message on 26.06.2018 sent by the petitioner, which had the effect of defaming the political party and its symbol. He therefore, called the petitioner on his mobile and the petitioner is said to have abused the second respondent and also threatened the second respondent over phone.

3. The learned Government Advocate, on instructions, submitted that the respondent police has completed the investigation and has also filed a final report before the Judicial Magistrate No.III, Tirupattur, and the same has been taken on file in C.C.No.2335 of 2019.

4. The learned counsel for the petitioner submitted that even if the complaint is taken as it is, no offence is made out against the petitioner. The learned counsel submitted that the respondent police has gone ahead and filed a final report without there being any material against the petitioner and therefore, requested this Court to quash the final report filed by the respondent police.

5. The second respondent has been served with notice and his name has also been printed in the cause list and there is no representation for the second respondent and therefore, this Court is proceeding further to deal with the case on merits.

6. In the considered view of this Court, even if the case of the prosecution is taken as it is, no offence has been made out under Sections 294 (b) and 506(i) of IPC. Even though, the respondent police have initially registered the FIR for an offence under Section 355 of IPC, in the final report they have dropped the said offence.

7. In order to constitute an offence under Section 294 (b) of IPC, the petitioner should have abused the second respondent in or near any public place. In the present case, admittedly, the second respondent is said to have been abused only over phone and therefore, the offence under Section 294(b), has not been made out in this case.

8. Insofar as, the offence under Section 506(i) of IPC is concerned, the petitioner is said to have threatened the defacto complainant over phone. In order to constitute an offence of Criminal intimidation, empty threats does not by itself make it an offence unless there is material to show that the threat is a real one. In this case, there was no material collected by the respondent police to substantiate the offence of Criminal intimidation. Useful reliance in this regard can be made to the judgment of this Court in P.Palanivel Vs. Inspector of Police, Velur Police Station, Namakkal District, reported in 2012 2MLJ (Cr1) page 154.

9. This Court is satisfied that the entire Criminal proceedings is an abuse of process of Court and requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

10. In the result, the FIR in Crime No.210 of 2018 and the proceedings in C.C.No.2335 of 2019, on the file of the Judicial Magistrate No.III, Tirupattur, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

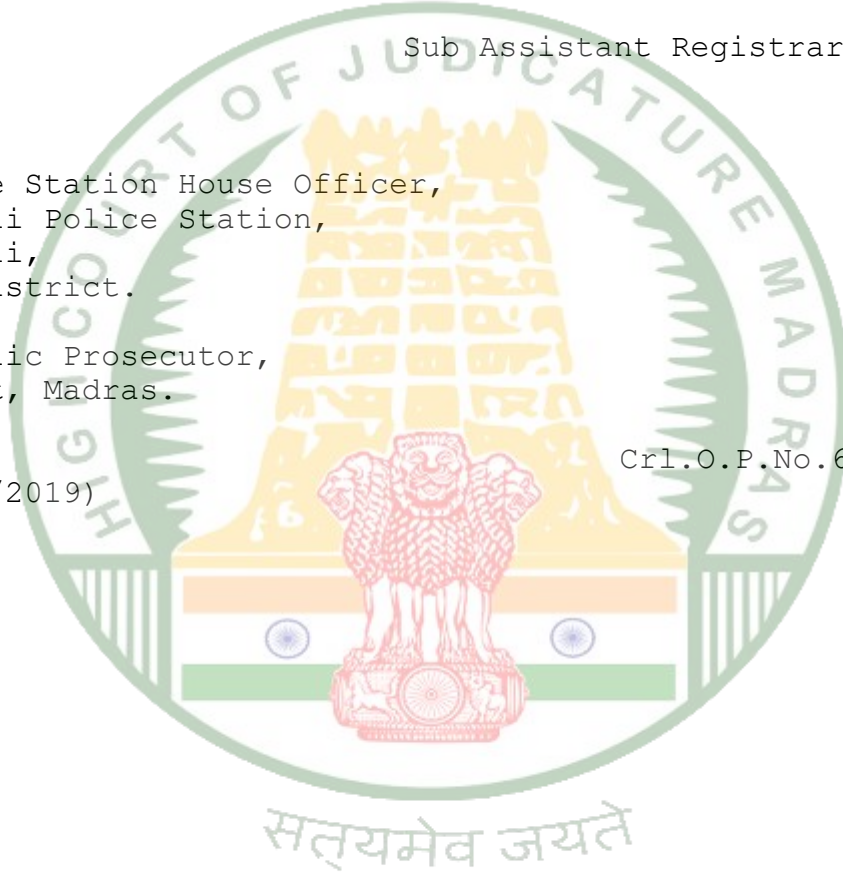
To

1.The The Station House Officer,
Natrampalli Police Station,
Natrampalli,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.

Kak(12/09/2019)

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