



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.3965 of 2020
and
Crl.M.P. (MD)No.2193 of 2020

1.M.Mariappan
2.G.Mathan
3.A.Agustin

... Petitioners/Accused No.1 to 3

Vs.

1.State rep. by
The Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.
(Crime No.204 of 2019)

... Respondent/Complainant

2.Sivasubramanian

... Respondent/Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned First Information Report in Crime No.204 of 2019, dated 29.09.2019 on the file of the respondent No.1 for the offences under Sections 294(b), 353 and 506(ii) of I.P.C. and quash the same as illegal.

For Petitioners : Mr.I.Pinaygash

For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1

O R D E R

Heard the learned counsel on either side.

2.This criminal original petition has been filed for quashing the impugned FIR registered by the first respondent for the offences under Sections 294(b), 353 and 506(ii) of I.P.C.

3.The defacto complainant is the second respondent who is the Special Sub Inspector of police attached to the first respondent police station. The case of the defacto complainant is that the petitioners herein were standing in a group near Cheranmahadevi bus



stand on 29.09.2019 at about 11.00 a.m. When the defacto complainant asked them as to why they are standing there, the petitioners are said to have used unparliamentary language against him. Based on the complaint of the second respondent, the impugned FIR was registered.

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4.The petitioners' counsel would claim that the petitioners belong to Scheduled Caste community and that they take up civic and public causes under the leadership of Kannapiran who is said to be a local political leader and that therefore, the FIR has been registered against them for malafide reasons.

5.The learned Government Advocate (Crl. Side) would strongly refute the said allegation.

6.I am in concurrence with the said submission of the learned Government Advocate (Crl. Side) because no materials have been placed before me for coming to the conclusion that the FIR has been registered for malafide reasons. But then as rightly pointed by the learned counsel appearing for the petitioners, the elementary ingredients for the offences for which FIR has been registered are wholly absent. The defacto complainant is a Special Sub Inspector of Police. Even according to the complaint, no force or assault was employed by the petitioners herein. Hence, Section 353 of I.P.C., is not attracted. Likewise, Section 506(ii) of I.P.C., is also not attracted because the second respondent being a person in uniform cannot be said to have felt any real threat. This Court has consistently held that to attract the offence under Section 506(ii) of I.P.C., the threat held out by the accused must be a real one. I am not able to believe that the petitioners who are in the age group of 20 and 22 would have dared to threaten a police man in uniform. Likewise Section 294(b) of I.P.C., is also not attracted. The Hon'ble Supreme Court in **Ch.Bhajan Lal's** case held that if the version projected by the prosecution is inherently improbable then it is a ground for quashing the same. Applying the said parameter, I am inclined to quash the impugned FIR. The impugned FIR is quashed and the criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To:

1.The Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.

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

+1 CC to M/s.I.PINAYGASH, Advocate (SR-9888[F] dated 03/03/2020)

CrI.O.P(MD)No.3965 of 2020
03.03.2020

JMN(13.03.2020) 3P : 4C