

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 13.01.2020****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Cr1 OP(MD)No.6073 of 2016****and****Cr1 MP(MD)Nos.2989 & 2990 of 2016**

P.Muthu Rakku

... Petitioner / Accused No.1

Vs.

S.Palchamy

... Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned proceedings in connection with PRC No.24 of 2015 on the file of the learned Judicial Magistrate No.I, Sivagangai and quash the same insofar as the petitioner is concerned.

For Petitioner

: Mr.V.Sasi Kumar

For Respondent

: Mr.D.Shanmugaraja Sethupathi

ORDER

The petitioner is figuring as an Accused No.1 in PRC No.24 of 2015 on the file of the learned Judicial Magistrate No.1, Sivagangai. The respondent is the complainant. This private complaint has been filed for punishing the petitioner for having committed the offence under section 3(i)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 506(i) of IPC. The case of the respondent is that the petitioner Muthu Rakku was working as Traffic Officer. The respondent was working as a Driver. The occurrence had taken place on 30.10.2008. The respondent wanted leave in order to attend a labour rally to be held on 04.11.2008. When the respondent approached the petitioner with the necessary requisition letter, the petitioner has refused to deal with him. According to the respondent, the petitioner specifically alluded to the community status of the respondent as the reason for not dealing with him. It is not in dispute that the respondent belongs to a notified Scheduled Caste community. The learned Judicial Magistrate No.1, Sivagangai entertained the complaint and also examined the witnesses produced by the respondent in respect the accusation. Aggrieved by the act of the learned Judicial Magistrate in taking cognizance of the offences, this criminal original petition has been filed.

2.Even before the commencement of the argument, the learned counsel appearing for the petitioner submitted that the petitioner does not believe in untouchability. On the other hand, he has full faith and believes in the constitutional principles of social equality and justice. The petitioner realized that the respondent has been hurt by his action. Even though the petitioner strongly maintains that he has not made any offending remark, still he would write out a handwritten letter expressing his sincere apology to the respondent. Such a letter will be handed over by the petitioner's counsel to the counsel for the respondent within one week from the date of receipt of a copy of this order. The undertaking letter will be unconditional in terms and duly

notarized.

3. After making the aforesaid undertaking to the court, the learned counsel appearing for the petitioner pointed out that the offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not at all attracted. Even according to the respondent, the occurrence had taken place within the office premises. The learned counsel appearing for the respondent submitted that the parties herein were working in a public sector undertaking and that therefore, it is obviously a public place. Thiru.Navaz, had witnessed the petitioner uttering the offending expression and therefore, the respondent wanted this Court should not quash the impugned proceedings.

4. I am not unable to agree with the contentions urged by the learned counsel appearing for the respondent. It is time and again held that the offence in question can be said to be attracted only if it had been taken place at a public place. The expression "persons who are present" must be individual persons. It will not be friends, associates or neighbors of the complainant. In this case, the persons who deposed in support of the prosecution case are fellow trade unionists. The respondent wanted to attend a labour rally at Chennai. It was for that reason, the respondent approached the petitioner. Thiru.Navaz who was examined as a prosecution witness is a fellow trade unionist. Therefore, he will not fall within the expression "public". Therefore, I am of the view that the occurrence of this nature which had taken place within the office premises and which was not witnessed by the members of the general public cannot attract the offences in question.

5. Of course, the complainant has also invokes Section 506(i). I have already held that the threat and intimidation held out by the accused must be a real one to attract the offence of Section 506(i) IPC. In this case, by no stretch of imagination, the threat held out by the petitioner can be said to be attract the offence of Section 506(i) IPC. The impugned prosecution is an abuse of legal process. The same is quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Skm

To

The Judicial Magistrate, Sivagangai District

+1 CC to M/s.D.SHANMUGARAJASETHUPATHI, Advocate (SR-2037[F]

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