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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
28.09.2010

Delivered on
23.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.OP.No.9789 of 2015
and Crl.MP.No.1 of 2015

R.Venkatasubramanian

... Petitioner

Vs.

1. The State of Tamil Nadu
by the Sub Inspector of Police,
Law and Order,
B-1, North Beach Police Station,
Chennai-600 001.
(Crime No.566 of 2014)

2. T.Kishore Kumar

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Crime No.566 of 2014 on the file of the first respondent police and quash the same.

For Petitioner : Mr.J.Selvarajan

For Respondents : Mr.C.Iyyappa Raj R1
Additional Public Prosecutor

Mr.Murugendiran R2
Legal Aid Counsel

ORDER

This petition has been filed by the petitioner/accused to quash the proceedings in Cr.No.566 of 2014 on the file of the first respondent police registered against the petitioner for offences under Sections 294(b) and 506(ii) IPC.

2. The case of the prosecution is that the defacto complainant/ second respondent, who is an advocate, practicing in the George Town Court, Chennai had lodged a complaint to the first respondent that on 02.05.2014, the advocates were boycotting the Court and they were not wearing the black robes.



At that time, it is stated that the petitioner abused the advocates in a filthy language calling the boycotting advocates as dogs and do not look like advocates. Further, the petitioner is said to have stated why bombs are placed in various places not here and, while coming down, he used abusive words and pushed down the de facto complainant. Hence, the de facto complainant caught hold of the petitioner, produced him before the respondent police and lodged a complaint.

3. The contention of the petitioner is that the defacto complainant, who is an advocate, is friend of one Vasanthi and her husband Uma Shankar, who are also advocates. The said Vasanthi is the sister of the petitioner, with whom there was some dispute. On 02.05.2015, the petitioner had gone to George Town Court to attend a case. At that time, advocates were boycotting the Courts. The defaco complainant and other advocates assembled as a group and threatened the petitioner and abused him with filthy language and assaulted him, stating as to that how dare he could contest the civil suit filed by his sister Vasanthi advocate and further, they forced and threatened him to settle some more property and money to the said Vasanthi. When the petitioner questioned the same, he was caught by them and produced before the respondent police and a false complaint was filed against him. The learned counsel further submitted that earlier, two other cases were filed by her sister Vasanthi and he is facing the same in C.C.No.3198 of 2013 and C.C.No.3048 of 2009. As the incident took place inside the Court campus, the petitioner had filed a Criminal Original petition before this Court for transfer of the case in CC.No.3198 of 2013 and the same was transferred to the file of the learned Judicial Magistrate, Alandhur and re-numbered as CC.No.844 of 2014. The learned counsel further submitted that since all the advocates had joined in huge numbers and exerted pressure, the respondent police had no other choice, have received the complaint. It is seen from the complaint that the incident taken place in the Court premises, no person can question advocates about their boycott, which is a known factor. This apparent a false complaint has been lodged. Hence, the learned counsel prays to allow this petition.

4. Notice served to the defacto complainant. The de facto complainant Neither appeared in person before this Court nor appointed any counsel. Keeping the criminal original petition pending from 2015 for five years without any purpose, would serve no purpose, on the other hand would only pile up on pending. Therefore, this court has appointed Mr.Murugendiran, Legal Aid Counsel to appear for the defacto complainant.

5. The learned counsel for the defacto complainant submitted that the petitioner had passed abusive comments against



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advocates and threatened the defacto complainant. The learned counsel further submitted that the petitioner had the audacity to pass such a comment that the court should be blasted. The petitioner having grudge over his sister, who is also an advocate, cannot make sweeping allegations against the advocate fraternity. Angered over the behaviour of the petitioner, the advocates caught hold of the petitioner and produced him before the first respondent police. The first respondent police have registered a case and charge sheet has also been filed. Hence, the learned counsel prays to dismiss the application filed by the petitioner.

6. The learned Additional Public Prosecutor appearing on behalf of the State submitted that the defacto complainant is an advocate and the petitioner used abusive words and threatened the advocates in the court premises. The petitioner submitted that he attended the Court proceedings on that day and he was present at the scene of occurrence. The petitioner was produced by the defacto complainant and a complaint was lodged. On receipt of the complaint, the respondent police visited the scene of occurrence, conducted investigation. It is also admitted that there is some dispute between the petitioner and his sister Vasanthi who is an advocate, on sharing family property. It is true that the defacto complainant is a friend of Vasanthi and her husband Uma Shankar. This fact alone would not make the complaint false. The respondent police have completed the investigation and filed charge sheet against the petitioner. Hence, the petitioner to face trial and opposed the quash petition.

7. Heard the learned counsel for the petitioner, the learned counsel for the second respondent and also the learned Additional Public Prosecutor.

8. Considering the rival submissions made by the learned counsel and on perusal of the materials, it is seen that there exist a dispute between the petitioner and his sister Vasanthi with regard to sharing of the family property, for which she had preferred a civil suit and the same is pending and earlier also, she had filed two cases against the petitioner. One of the case has been transferred from the file of the learned VII Metropolitan Magistrate, Chennai to the file of the learned Judicial Magistrate, Alandur. On 02.05.2015, the petitioner attended the Court and on that day, the advocates were on boycott of the Court. When the advocates boycotted the Court, it is imperative for the petitioner/litigants to attend the court in-person. Otherwise, the fear of warrant and dismissal of the case looms large. The petitioner had only attended the Court and it is a fact that no one can pass such comment or threaten the advocates in a court campus. From the averments in the complaint



if taken as a whole unrebutted, it is only an empty threat without any action. This Court, on several occasions, has held that mere uttering words not followed by any action, would not attract the offence punishable under Section 294(b) and 506(i) IPC. It is clear from the complaint that no offence is made against the petitioner. In view of the same, this Court is of view that the FIR itself is unsustainable and cannot be proceeded without any proceedings. Pursuant to the crime No.566 of 2014, are not sustainable and to be quashed.

9. Considering the facts and circumstances of the case and also the averments, the continuation of proceedings will amount to abuse of process of Court. In view of the same, the proceedings in Crime No.566 of 2014 and any proceedings pursuant to the same are hereby quashed and accordingly, this Criminal Original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Inspector of Police,
Law and Order,
B-1, North Beach Police Station,
Chennai-600 001.
2. The Judicial Magistrate, Alanthur,
Kancheepuram District
3. The Public Prosecutor
High Court of Madras
Chennai - 600 104.

Cr1.OP.No.9789 of 2015
and Cr1.MP.No.1 of 2015

PP(CO)
CT/17/08/2021