

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.21573 of 2017

and Crl.M.P No.12668 & 12689 of 2017

1.Gandhi Kannadhasan
2.Josephine Edwin
3.Mariya RajarathinamPetitioners/Accused

vs.

1.The State Rep. by
The Inspector of Police,
S-7, Madipakkam Police Station,
Keelkattalai,
Chennai - 600 117.
(Crime No.665 of 2014)

2. Mr.SingamuthuRespondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case pending in C.C.No.73 of 2016 on the file of the learned Judicial Magistrate, Alandur and quash the same and thus render justice.

For Petitioners: Mr.C.P.Palanichamy

For Respondents: Mr.M.Mohammed Riyaz
Additional Public Prosecutor
for R1

Mr.J.R.K.Bhavanantham for R2

ORDER

This petition has been filed to quash the proceedings in C.C.No.73 of 2016 on the file of the learned Judicial Magistrate, Alandur.

2.The case of the prosecution is that there was a civil dispute between the petitioners and the 2nd respondent and the same was pending in O.S.No.752 of 2011. Initially there was an order of interim injunction in favour of the 2nd respondent and it was subsequently vacated and the injunction petition was dismissed. The further case of the prosecution is that the petitioners taking advantage of the dismissal of the injunction petition, encroached into the property and when this was questioned by the watchman, they are said to have criminally intimidated the watchman with dire consequences. This was informed by the watchman to the 2nd respondent. The 2nd respondent gave a complaint based on which the respondent police registered the FIR against the petitioners in Crime No.665 of 2014 for offence under Section 506 (i) IPC.

3.On completion of the investigation, a final report was filed before the Court below and the Court below has taken cognizance of the complaint for offence under Section 506(i) IPC. Aggrieved by the same, the present petition has been filed before this Court.

4.Heard Mr.C.P.Palanichamy, learned counsel appearing on behalf of the petitioners, Mrs.M.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf of the 1st respondent and Mr.J.R.J.Bhavanantham appearing on behalf of the 2nd respondent.

5.The only relevant statement that has to be taken into consideration by this Court is the statement of LW2 Ezhumalai who was the Watchman working for the 2nd respondent. He had given a statement to the effect that he saw the petitioners clearing the property and when the same was questioned, the petitioners seemed to have threatened him and asked him to get away from the property.

6.The statement of LW2 does not even indicate as to what words were used against him to intimidate him and the allegation is too general in nature.

7.To constitute an offence of criminal intimidation mere empty threats does not by itself make out an offence. There must be prima facie material to show that the threat is a real one with some overt act. Useful reference can be made to the judgment of this Court in the case of P.Palanivel vs. The Inspector of Police, Velur Police Station, Namakkal District reported in 2012 2 MLJ Cr1 154 and the judgment of the Hon'ble Supreme Court of India in the case of Vikram Johar vs. The State of Uttar Pradesh and Others reported in 2019 3 MLJ Cr1 295.

8.In view of the above discussion, the continuation of the proceedings against the petitioners will amount to abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7.In the result, proceedings in C.C.No.73 of 2016 on the file of the learned Judicial Magistrate, Alandur is hereby quashed and this criminal original petition is accordingly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssr
To

- 1.The Judicial Magistrate,
Alandur.
- 2.The Inspector of Police,
S-7, Madipakkam Police Station,
Keelkattalai, Chennai - 600 117.
- 3.The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.J.R.K.Bhavanantham, Advocate Sr.10949
+1cc to Mr.C.P.Palanichamy, Advocate Sr.11205

सत्यमेव जयते

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