



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	24.08.2021
Date of Order	26.10.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.9915 of 2021

and

Crl.MP(MD)No.5045 of 2021

Mr.R.Balakrishnan

: Petitioner/1st Accused

Vs.

1.The State rep. by
Inspector of Police,
Pativeeranpatti Police Station,
Dindigul District.
(Crime No.325 of 2019)

: 1st Respondent/Complainant

2.P.Ravichandran (dead)
(R2 is recorded as dead
as per the order of this court,
dated 26.07.2021 made in
Crl.OP(MD)No.9915 of 2021)

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to quash the FIR in Crime No.325 of 2019 on the file of the 1st respondent police, in so far as the petitioner is concerned.

For Petitioner : Mr.K.Krishna

For 1st Respondent : Mr.R.M.Anbunithi

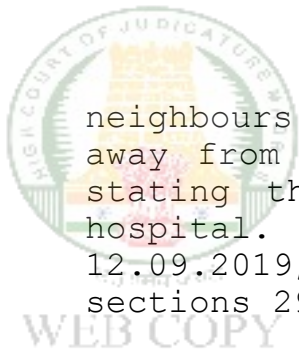
Additional Public Prosecutor

O R D E R

This petition is filed seeking quashment of the FIR in Crime No.325 of 2019 on the file of the 1st respondent as against the petitioner.

2.The case of the prosecution in brief is that the 2nd respondent who is the de-facto complainant lodged a complaint with the 1st respondent police with the following allegations:-

A land dispute is pending between him and the accused. On 06.09.2019 at about 10.00 am, the accused pulled his survey stone and removed the boundary stones put up in the property. When that was questioned, he was abused in filthy language and the accused assaulted him with hands and also assaulted him with legs. He was also assaulted with wooden logs. He sustained injuries. When the



neighbours gathered in the place of occurrence, the accused fled away from the place of occurrence by making criminal intimidation stating that they will kill him. So, he was admitted in the hospital. With the above said allegations, he made a complaint on 12.09.2019, which was registered in Crime No.325 of 2019 under sections 294(b), 323, 326 and 506(i) IPC.

3. Seeking quashment of the above said FIR, this petition came to be filed by the petitioner mainly on the ground that because of the above said land dispute between himself and the de-facto complainant, this false case has been foisted. On 06.09.2019, he requested the de-facto complainant to remove the boundary stones, which were planted by them and when that was refused, he was criminally intimidated. On the occurrence date and occurrence place, the son of the petitioner by name Navin was not at all present. At the time of occurrence, he was in Chennai, attending his job. Only after a week, the complaint has been lodged. So during the course of argument, it was submitted that the 2nd respondent is reported to be dead, who is the injured person.

4. For the purpose of showing that the said Navin was not in the place of occurrence on the particular date and was attending his job as contract employee, as Data Entry Operator in the office of the Assistant Executive Engineer, MGW General Workshop, M.E Department Corporation of Chennai, a certificate was obtained from M.E Department, Corporation of Chennai. When it was stated that on 06.09.2019, the said Navin was attending his duty from 8.30 am till 4.30- pm, he has not filed any petition to quash the same. But however, the presence of this petitioner has stated in FIR.

5. The learned Additional Public Prosecutor would submit that the investigation was completed and the final report was also made ready on 17.02.2019, but it was not presented before the concerned court. It is also submitted that during the course of investigation, it was found that the 2nd accused Navin was not present in the place of occurrence. So while preparing the final report, his name was deleted. On the other hand, the learned counsel for the petitioner would submit that no allegation has been made against this petitioner in the FIR. But there is a clear allegation to the effect that this petitioner assaulted the de-facto complainant with hands. So the offence under section 323 IPC will be attracted as against this petitioner. But however, it is seen that the final report has not been presented before the concerned court till date. So for attracting the section 506(i) IPC, the complainant had entertained fear, because of the threat made by the petitioner.

6. It is seen that it is only a verbal altercation, that has taken place. So it cannot be construed as criminal intimidation upon the de-facto complainant. So, the offence under sections 294(b) and 323 IPC will be attracted. But even though the above said offence



7.Since the final report has not been filed before the concerned court, even after completion of the investigation, the cognizance of the offence is barred by limitation. There is no evidence on record to show that extension petition has been filed before the concerned Court for filing the final report. In the absence of any such material, seeking extension under section 468 Cr.PC, in so far the offence under section 506(i) IPC is concerned, the ingredients are not available to the allegation, that has been made in the FIR.

8.It appears that because of long standing land dispute between the parties, over the boundary of the land, several efforts have been taken place. Further, there is an inordinate delay of 5 days in lodging the complaint. Taking into totality of circumstances of this case and for the reasons stated above, the FIR is liable to be quashed.

9.In fine, this Criminal Original Petition stands **allowed**. The FIR in Crime No.325 of 2019 on the file of the 1st respondent is hereby quashed as against this petitioner. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The Inspector of Police,
Pativeeranpatti Police Station, Dindigul District.

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

+2 CC to M/s.K. KRISHNA, Advocate (SR-32933[F] dated 27/10/2021)

Cr1.OP (MD)No.9915 of 2021

26.10.2021

TSK (CO)

GC/NS(25.11.2021) 3P 5C

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