



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.12.2021

Pronounced on: 27.04.2021

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CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.OP.(MD)Nos.15276, 15304, 15347 and 15387 of 2020

and

Crl.M.P.(MD).No.7382,7445,7477 and 7401 of 2020

1.Rajan
2.Peter Raj ... Petitioners/accused Nos.1&3
in Crl.OP.(MD).No.15276 of 2020

Peter Raj ... Petitioner/Sole accused in
in Crl.OP.(MD).No.15304 of 2020

Rajan ... Petitioner/accused No.1
in Crl.OP.(MD).No.15347 of 2020

1.Rajan
2.Peter Raj ... Petitioners/accused Nos.1 & 3
in Crl.OP.(MD).No.15387 of 2020

Vs

1.State Represented by
The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.
... first respondent / complainant in all Crl.OPs

2.Thirumanavel
... second respondent / defacto complainant in all Crl.OPs

These Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the impugned First Information Report in Crime Nos.177 of 2020, 39 of 2020, 9 of 2020 and 179 of 2020 on the file of the first respondent police and quash the same as illegal as against the petitioners concerned.

**For all the Crl.OPs:-**

For petitioners : Mr.Hendri Tiphagne
For R.1 : Mr.V.Neelakandan
Additional Public Prosecutor

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COMMON JUDGMENT

All the Criminal Original Petitions have been filed under Section 482 of the Criminal Procedure Code to quash the Crime numbers pending against the petitioners concerned on the file of the first respondent police.

2. Since all the Criminal Original Petitions arise out of the similar facts and circumstances of the case, they are all taken up together and decided by this common Order.

3. The gist of the case, as projected by the petitioners, in their respective petitions, are narrated below:-

3.1. The petitioners in all the Criminal Original Petitions *inter alia* would aver among other things that they were engaged in agricultural activities. The petitioner's father's brothers namely one Siluvaithasan and Duraisamy sold their respective share of their property to the defacto complainant, namely, the second respondent herein. It is stated that the said land is adjacent to the petitioner's property. It is alleged that the defacto complainant forced the petitioners to part with the lands to the defacto complainant which was refused by the petitioners. As a result, the petitioners have also lodged several complainants on various occasions to the electricity department and had also filed a civil suit before the learned District Munsif Court Sathankulam in O.S.No.25 of 2020 against the second respondent herein.

3.2. It is further averred that on 19.01.2020, around 8 pm, the first petitioner herein was attacked by the defacto complainant and others and caused him injuries by using an aruval. The first petitioner was hospitalized at Medical College Hospital, Palayamkotttai as an MLC case. After receiving intimation of the first petitioner's admission in the hospital, the Inspector of Police, namely, one Hari Krishnan and another policemen came to the hospital to record his statement. After recording the statement, the first petitioner was asked to come out of the ward for signing the statement. However, it is alleged that without any information to the hospital authorities, he was forcibly taken from the hospital to Thattarmadam Police Station. The first petitioner therefore was shown as absconding from the hospital on the same day evening at 7 p.m on 19.01.2020. In this regard, the petitioner's father lodged a compliant to the Superintendent of Police, Thoothukudi on 20.01.2020. In the mean time, at the instance of Mr.Hari Krishnan, the Inspector of Police, the land belonging to the petitioners was



sold to the defacto complainant. Due to land dispute, the first petitioner was also remanded to judicial custody on 21.01.2020 and the first petitioner was also taking medical treatment at the Medical College Hospital, Thoothukudi through the permission of the jail authorities. Subsequently, the first petitioner and his family members have also sent a complaint to the State Human Rights Commission, Tamil Nadu and the same was registered as in SHRC.No.139 of 2020.

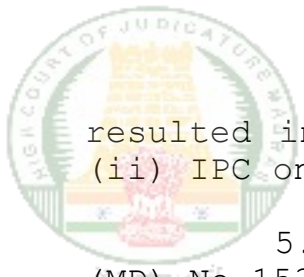
3.3. It is further averred that the said Harikrishnan, Inspector of Police, registered three more false cases against the petitioners family members in the same police station, which resulted in registering Cr.Nos.39/2020, 179/2020 and 9/2020. The first petitioner in CrI.O.P.(MD).No.15276 of 2020 had filed an anticipatory bail petition before this Court in CrI.O.P.(MD)No.9705 of 2020. The said petition came up for hearing on 14.09.2020 and the same was adjourned to 17.09.2020 to enable the first petitioner to file an affidavit about the ill-treatment and physical torture carried out by the Inspector of Police. Following this, he got enraged and instigated the defacto complainant herein, who waylaid the petitioner's brother and murdered him on the same day. Based on the petitioner's mother's complaint, a criminal case was registered against the Inspector of Police in Crime No.279 of 2020 in Thisaiyanvilai Police Station dated 18.09.2020 for the offences under Sections 302 and 364 of IPC and he was placed under suspension.

4. In the above background, these Criminal Original Petitions have been filed and the petitioners challenge the proceedings of the First Information Report against the petitioners concerned registered by the first respondent police.

5. The case of the prosecution in each of the petition is as follows:-

5.1. As far as CrI.O.P.(MD).No.15276 of 2020 is concerned, it is stated that the petitioners are having previous enmity with the second respondent herein with regard to the purchase of a land property in question. In these circumstances, on 19.08.2020, at about 8.30 am, it is alleged that the petitioners and his deceased brother namely selvam have abused the second respondent in filthy language and threatened him with dire consequences. Further, on the same day, they waylaid the defacto complainant's car and attempted to assault with aruval and other weapons which resulted in filing Crime Nos.177 of 2020 for the alleged offences under Sections 294 (b), 341, 427, 506(ii) of IPC on the file of the first respondent police.

5.2. Similarly, the case of the prosecution in CrI.O.P.(MD).No.15304 of 2020 is that the petitioner/sole accused attempted to hit the defacto complainant on 05.03.2020 with his lorry which



resulted in Crime No.39 of 2020 under Section 294(b), 341 and 506 (ii) IPC on the file of the first respondent police.

5.3. Similarly, the case of the prosecution in CrI.O.P. (MD).No.15347 of 2020 is that the petitioner/ accused No.1 used filthy language against the defacto complainant and threatened him with dire consequences which resulted in registering Crime No.9 of 2020 under Section 294(b), 341, 387 and 506(ii) IPC on the file of the first respondent police.

5.4. Lastly, the case of the prosecution in CrI.O.P.(MD). No.15387 of 2020 is that the petitioners/ accused No.1 and 3 used filthy language against the defacto complainant and threatened him with dire consequences which resulted in Crime No.177 of 2020 under Section 294(b), 427 and 506(ii) IPC on the file of the first respondent police.

6. Learned Counsel for the petitioners would submit that the case on hand is purely a civil in nature and since the second respondent is politically sound, all the petitioners have been falsely implicated by the respondent police at his whims and fancies. Further, there is no whisper about attraction of Section as per the allegation of the second respondent. That mere utterance of words would not attract the provision of Section 506(2) of IPC and the allegations of the first respondent does not consist the ingredients of the said provision. Further, the threat should a real one to attract the provision under Section 506(ii) IPC and not just mere words. But in the present case, there is no such threat even as per the allegation of the second respondent. Therefore, registering a case against the petitioners for various alleged offences by the respondent police is nothing but abuse process of law. Despite giving several complaints against the second respondent, no fruitful action has been taken by the respondent police. Hence, he prays for quashing the crime numbers pending against the petitioners concerned.

6.1. In support of his contention, he relied on the following judgments of the Court:-

(a) 1992 Supp (1) SCC (335), State of Harayan and Others Vs Bhajan Lal

(b) Rajesh Kanna Vs. The Inspector of Police, CrI.O.P.(MD). Nos.22276 of 2016 dated 02.11.2020.

(c) R.Russel Raj Vs The Inspector of Police, CrI.O.P.(MD). No.6649 of 2016 dated 10.10.2018.

7. Per Contra, learned Additional Public Prosecutor would submit that the since prima facie materials available against the petitioners herein, the respondent police have registered the First Information Report against the petitioners concerned, after following due process of law, in which there could be no infirmity or illegality pointed out by the petitioners. Hence, he prays for dismissal of these petitions.



8. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor (Crl. Side) for the respondent/State and perused the materials available on record.

9. It is seen from the records that the dispute erupted between the petitioners and defacto complainant is with respect of the land owned by the petitioners/ accused. In this regard, the petitioners have also filed O.S.No.25 of 2020 before the District Munsif Court, Sathankulam against the defacto complainant. None of the many petitions filed by the petitioners and their family members to the police authorities have resulted in any action against the defacto complainant on time. Whereas, the complaint given by the defacto complainant was immediately acted upon and cases were registered one after another against the petitioners. For the reasons best known to the respondent police, the cases were registered against the petitions for frivolous reasons too. One such case can be quoted in Crl.O.P.(MD).No.15347 of 2020.

9.1. When one of the petitioners in Crl.O.P(MD).No.15276 of 2020 was injured and he had taken treatment in the hospital due to the land dispute and subsequently, he was also remanded to judicial custody on 21.01.2020 who was also taking medical treatment at the Medical College Hospital, Thoothukudi through the permission of the jail authorities. However, no action was taken by the respondent police. Subsequently, the first petitioner and his family members have also sent a complaint to the State Human Rights Commission, Tamil Nadu and the same was registered as in SHRC.No.139 of 2020. Even then, no action was forthcoming from the respondent police.

9.2. As rightly pointed out by the petitioner, registering cases against the petitioners for alleged offences under Sections 294(b) of IPC as per the allegation of the defacto complainant is nothing but abuse process of law. Similarly, the mere utterance of words would not attract the provision of Section 506(2) of IPC and the allegations of the first respondent do not consist the ingredients of the said provision. The threat should be a real one to attract the provision under Section 506(ii) IPC and not just mere words. Similarly, section 503 IPC defines the criminal intimidation. The intention must be to cause alarm to the victim and materials have to be brought on record to show that the intention was to cause alarm to the person. A mere threat is not sufficient to attract the charge of criminal intimidation. In other words, this court is of the considered view that no substantial materials could be seen to charge the petitioners as alleged in their respective FIRs.

9.3. While scanning the entire criminal cases filed against the petitioners, this Court could see that what the defacto complainant could not be achieved by way of civil forum, he tried to achieve by way of criminal complaint with active support of the



second respondent. On the facts and circumstances of the cases, this Court is able to clearly see that the criminal proceedings is manifestly attended with *mala fide* intention to satisfy the defacto complainant. A civil complainant is simply given colour in the form of criminal complainant.

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10. In the light of the foregoing reasons coupled with the facts and circumstances of the case, the first information report filed against the petitioners are illegal and it could not be sustained in the eye of law. Therefore, first information report filed in respect of the petitioners stand quashed and accordingly, all the criminal original petitions are allowed. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.

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

+3 CC to M/s.R.KARUNANIDHI, Advocate (SR-17632 to 17634[F] dated 27/04/2021)

Judgment made in
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svn(CO)

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