



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2022

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3568 of 2022

and

Crl.M.P.No.1673 of 2022

1.K.Balasubramanian
2.Jullias @ D.Mathan

... Petitioners / Accused 1&2

Vs.

1.State Represented by
The Inspector of Police,
E2 Peelamedu Police Station,
Coimbatore
(Crime No.1265 of 2021)

2.Loganathan

... Respondents / Complainant /
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to call for the entire records pertaining to the impugned FIR in Crime No.1265 of 2021 pending investigation on the file of the Respondent Police and quash the same.

For Petitioners : Mr.K.Thilageswaran

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

Seeking to quash the FIR in Crime No.1265 of 2021 registered by the respondent/Police against the petitioners for the offences under Sections 353 & 506(ii) of IPC, this Criminal Original petition has been filed.

2. The case of the prosecution is that the petitioners, despite the warning issued by the respondent police, staged a



protest in front of the private school namely, Dharmasastha, Villangurichi, Coimbatore, by raising slogans to ban the drill conducted inside the school by RSS and when the respondent police had advised them to disperse, the petitioners had threatened the respondent Police with dire consequences and thereupon, a case in Crime No.1265 of 2021 came to be filed against them for offences punishable under Sections 353 and 506 (ii) IPC.

3. Learned counsel for the petitioners would submit that the petitioners, are are Members of a political outfit, had conducted demonstrations in respect of the counter party members conducting the drill inside the School. He would further submit that other than raising slogans, the petitioners have not indulged in any act of violence and no untoward incident had happened at the relevant point of time. He would also submit that taking into consideration of the content on its entirety, by no stretch of imagination, the offences alleged against the petitioners can be made out. The petitioners have neither assaulted any public servant nor used criminal force with an intention to prevent or deter the public servant from discharging his duty as public servant and thereby, he would submit that no offences under Section 506(ii) and 353 of IPC can be made out against the petitioners.

4. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, would submit that the petitioners have conducted demonstrations outside the school, where the political group belonging to particular organization was conducting a drill and when the police objected to it, the petitioners had threatened them with dire consequences and thereby, he would oppose for quashment of the FIR.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. The petitioners are stated to have raised slogans against a particular political group, who were conducting drill inside the school and when the police had directed them to disperse, the petitioners had threatened the police with dire consequences. The allegation against the petitioners is that they have abused the defacto complainant and obstructed him from discharging his duty as a public servant and criminally intimidated him. In order to bring the offence under Section 353 of IPC, the person accused of the offence should have assaulted the public servant or should have used criminal force, with intent to prevent or deter the public servant from discharging his duty as a public servant.



7. A perusal of the First Information Report shows that no force was used by the petitioners to commit such offence. The petitioners neither assaulted the defacto complainant nor used criminal force to prevent him from discharging his official duty. Therefore, none of the ingredients of the offence under Section 353 of IPC is made out. In order to bring the case under Section 506(ii) IPC, the intention of the accused has to be considered in deciding as to whether the act comes within the meaning of criminal intimidation. The threat must be with an intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause will not be sufficient to bring in the application of Section 506(ii) IPC.

8. From the facts of the above, it is clear that the petitioners, being Members of a political outfit, have demonstrated a protest in front of a school to a drill conducted by another party people inside the school. Apart from raising slogans and demonstrating a protest, the petitioners appears to have not indulged in any act and no untoward incident had taken place attracting any offence punishable.

9. In a similar circumstances, this court has held in CrI.O.P.No.4609 of 2021 dated 25.3.2021 as under:-

"4. It is to be pointed out that no untoward incident had taken place. The petitioner has organized the protest and the First Information Report has not disclosed any act of violence. It must be unequivocally emphasized that the Constitution of India gives its Citizens the right to freedom of speech and expression, assemble peacefully and without arms, to form Associations and Unions and to move freely throughout the Territory of India under Article 19 (1) (a), (b), (c) and (d) of the Constitution of India. But of course these rights come with terms and conditions. In the instant case, the protest was peaceful and as already observed no untoward incident took place."

10. In the case on hand also, no untoward incident is reported and the petitioners appear to have merely portrayed their protest in a peaceful and democratic way against a drill being conducted inside the school by another party people. Therefore, this court is of the opinion that the offences have not been made out against the petitioners and the criminal proceedings initiated against them are abuse of process of law.



11. This court does not see any reason to give its seal for continuation of the prosecution against the petitioners and thereby the Criminal Original Petition is allowed and the impugned FIR in Crime No.1265 of 2021 on the file of the respondent Police stands quashed and the Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Pns/mpl/ssk.

To

1. The Inspector of Police,
E2 Peelamedu Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court of Madras.

Cr1.O.P.No.3568 of 2022
&
Cr1.M.P.No.1673 of 2022

NMI[co]
NSK 14/03/2022