



*Crl.O.P.No.10465 of 2021
and Crl.MP.No.6302 of 2021*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM:

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.10465 of 2021

and

Crl.MP.No.6302 of 2021

A.Subramani

... Petitioner

-Vs-

1. State rep. by
Inspector of Police,
K-10, Koyambedu Police Station,
Anna Nagar, Chennai-600 092.
(Crime No.1163 of 2020)

2. A.Suresh

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records relating to the Crime No.1163 of 2020 on the file of the first respondent police and quash the same.

For Petitioner : Mr.M.Mohammed Riyaz
for Mr.S.Sathish

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
Mr.N.Kumar Rajan for R2



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ORDER

This Criminal Original Petition has been preferred to call for the records pertaining to the Crime No.1163 of 2020 on the file of the respondent police and quash the same as illegal.

2. The case of the prosecution is that on 30.10.2020 at about 8.26.p.m, the petitioner along with one D.Manivannan and other unknown person came to the house of the second respondent and abused him in filthy language. It is further alleged that they also threatened the second respondent with dire consequences.

3. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent.

4. The learned counsel for the petitioner submitted that on the face of the complaint even if it is taken in its entirety, it does not disclose any offence. In fact, on 30.10.2020 at about 8.26.p.m, the petitioner had given an online complaint against the second respondent for having been beaten up by him. Subsequently, the petitioner had attended the enquiry before the police officer by name Mr.S.Sudhakar and he was there till 9.04.p.m and the online



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Action Taken Report would disclose the same. However, the second respondent has stated that the petitioner came to his house at about 8.56.p.m and threatened him. So the complaint on the face of it only proves to be false and the allegations are improbable. If a proceedings is initiated against the innocent person and allowed to continue, that would amount to abuse the process of law. Since the petitioner had given a online complaint against the second respondent, the present complaint has been given as a counter blast to the same. The attention of this Court was also drawn to the following judgments of the Hon'ble Supreme Court:-

1. **Vikram Johar Vs. State of Uttar Pradesh and another [(2019) 14 SCC 207];**
2. **Manik Taneja and Another Vs. State of Karnataka and another [(2015) 7 SCC 423].**

5. The learned Additional Public Prosecutor for the State submitted that the materials available on record would prove a *prima facie* case and the investigation is still pending.

6. On perusal of the complaint, it is seen that the petitioner along with other persons came to the house of the second respondent at 8.56.p.m and threatened him with dire consequences and also abused him in filthy



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language. But the online Action Taken Report, in pursuance of the complaint given by the petitioner on the very same day at 8.26.p.m would show that both the parties were called to the police station for enquiry and they were there till 9.04.p.m. Therefore, it is not possible for the petitioner and others to go to the second respondent's house and commit the offence as alleged by him.

7. The case has been registered against the petitioner for the offence under Sections 448, 294(b) and 506(i) of IPC. In order to make out the offence under Section 294(b) IPC, the materials available would disclose that the petitioner had abused the second respondent in obscene language in public place. Even according to the second respondent, the occurrence is said to have happened inside his house and there cannot be any public view inside the house and hence, there is no *prima facie* case made out for the offence under Section 294(b) IPC. The offence under Section 448 of IPC is criminal trespass. It is stated by the petitioner that at the time of the alleged offence, he could not have gone to the house of the second respondent. In order to make out an offence under Section 448 of IPC, the material should establish that there was a criminal trespass into the house of the second respondent.



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The act of criminal trespass is defined under Section 448 of IPC and the same reads as under:-

"448. Punishment for house-trespass - *Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or which may extend to one thousand rupees, or with both."*

8. If a criminal trespass made into a dwelling house, then the said offence would fall under house-trespass. The averments in the complaint would show that the petitioner and others had gone to the house of the second respondent, but it is not alleged that they had trespassed into his house. A person simply going into someone's house cannot be considered as trespass, unless he entered into the house with an intention to commit an offence or to intimidate the person, who is in possession of the house.

9. Unless there are ingredients to make out a case for criminal intimidation under Section 506(i) of IPC, the said offence cannot be made out. In the case of ***Manik Taneja and Another Vs. State of Karnataka and another [(2015) 7 SCC 423]***, the Hon'ble Supreme Court has held that mere expression of any words without any intention to cause alarm would not be



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sufficient to make out an offence of criminal intimidation under Section 506(i) IPC. Section 506 of IPC is an under:-

"506. Punishment for criminal intimidation - *Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*
If threat be to cause death or grievous hurt, etc.: --and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

10. The mere words uttered by someone that he will kill is not sufficient to presume that it would have caused alarm in the mind of the complainant. The action of threat should be of such a degree that it should provoke or alarm or spoil peace. The allegations on the face of it does not make out a case for an offence under Section 506(i) IPC also. In view of the above discussions, I feel that it is an appropriate case where the Court can



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exercise its power under Section 482 Cr.P.C to quash the F.I.R.

11. Accordingly, this Criminal Original Petition is allowed and the proceedings in F.I.R. in Crime No.1163 of 2020 on the file of the first respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

23.09.2022

Index : Yes/No

Speaking/Non Speaking order
kmi

To

1. The Inspector of Police,
K-10, Koyambedu Police Station,
Anna Nagar, Chennai-600 092.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J,

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