



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CRL.OP.NO.31155 OF 2014

AND

M.P.NO.1 OF 2014

1. D.Thiyagarajan
2. Prema
3. Kalaiarasan
4. R.Prabhu
5. R.Ganesan
6. M.Anil

..Petitioners/  
A1, A2, A3, A6, A7 & A9

Vs.

1. M.P.Murugesan
2. State rep by the  
Inspector of Police,  
R-10, MGR Nagar Police Station,  
Chennai - 600 083.

.. Respondent/Complainant

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.1206 of 2014 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai - 600 015, quash the proceedings therein.

For Petitioners : Mr.C.S.Dhanasekaran

For Respondents : No appearance

ORDER

This petition is filed to call for the records in C.C.No.1206 of 2014 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.



2. The first respondent filed a complaint under Section 200 Cr.P.C against the petitioners and three more accused. The allegations made against the petitioners and other accused are that the petitioners are relatives. There are 642 residential establishments in Bharathidasan Colony. The first respondent owns a Plot L-40B. An enmity started between the first respondent and the accused 1 and 4 with regard to parking of ALTO car of the first respondent.

3. The 1<sup>st</sup> accused D.Thiyagarajan assumed the office of the Director of "The Bharathidasan Colony 642 Flats Welfare Association" for two tenures and the 3<sup>rd</sup> accused Kalaiarasan was also holding office posts in the Association. The accused are owning 4 flats in the Colony and they formed a group among themselves. The accused regularly spit on the grill gate of the house, tear the car cover and make scratches on the glass doors of the first respondent's car. They also criminally intimidated him. A complaint was lodged against the accused on 14.11.2012. Only after the arrival of patrol police, he came out of his house. On the eve of Deepavali, all the 9 accused stood around his car, fired crackers and damaged his car cover and seat cover. Again the first respondent informed the police and police solved it. On 30.12.2012 at about 9.00 p.m., the accused surrounded the first respondent. Then A4 and A8 ran into the house, came back with kitchen knives and tried to stab him. They shouted that they are 20 persons and he cannot do anything singly. Even if he complains to the police, nothing can be done. The 3<sup>rd</sup> accused criticised his wife as to whether she is Cleopatra. A complaint was given in this regard and CSR was given. The police has not registered the First Information Report against the accused. Therefore, this present complaint was filed.

4. The learned XXIII Metropolitan Magistrate recorded the sworn statement of the first respondent, examined witness Hakeem S/o.Md. Usman. Having prima facie, satisfied from the allegations made in complaint, sworn statement, the evidence of the witness and records, the case was taken cognizance under Sections 147, 148, 294 (b), 427, and 506 (ii) IPC. The summons was sent to the petitioners/accused. On receipt of summons, the petitioners have approached this court for quashing of the complaint.

5. The learned counsel for the petitioners submitted that the complaint is not properly drafted. Several incidents have been narrated in the complaint and that is not in accordance with law. Mere threat will not constitute an offence under Section 506 (ii) IPC. There must be annoyance to others to constitute an offence under Section 294(b) IPC. That is not





ground for framing charges, the accused shall be discharged under Section 245 of Cr.P.C. As of now, the allegations made in the complaint have to be taken as true. The allegations made in the complaint, coupled with the sworn statement of the complainant and witness and the documents produced make out a case against the petitioners to take cognizance of the case under Sections 147, 148, 294(b), 427 and 506 (ii) IPC. Therefore, the complaint cannot be quashed at this stage. The petitioners have to face the trial and if no case is made out for framing charges against the petitioners, undoubtedly, they are entitled for discharge under Section 245 of Cr.P.C.

9. In the result, this petition is dismissed. Connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Gv

To

1. The XXIII Metropolitan Magistrate,  
Saidapet, Chennai - 600 015.
2. The Inspector of Police,  
R-10, MGR Nagar Police Station,  
Chennai - 600 083.
3. The Public Prosecutor,  
High Court, Madras - 104.

Copy To

The Section Officer,  
Criminal Section,  
High Court, Madras - 104.

+1cc to M/s.C.S.Dhanasekaran, Advocate, S.R.No.8282

CRL.OP.No.31155 of 2014  
and  
M.P.No.1 of 2014

BS (CO)  
RLP(10/03/2022)