



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.OP.No.16583 of 2021

and

Crl.M.P.No.9056 of 2021

1.S.Govardhanam @ Govarthnakannan

2.S.Pon Kothandam @ Kothandan

3.R.Mahadevan

4.M.Esakimuthu

... Petitioners/Accused

Vs.

1. State rep.by

Inspector of Police,

Mappedu Police Station,

Tiruvallur District,

Cr.No.557 of 2017.

... Respondent/Complainant

2. T.Murugan

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition has been filed under Section 482 Cr.P.C to call for the records relating to the Crime No.557 of 2017 on the file of the 1st respondent police and quash the same by allowing this criminal original petition.

For Petitioners : Mr.M.Mohamed Riyaz

For Respondent : Mr.A.Damodaran
No.1 Additional Public Prosecutor

Respondent No.2 : No appearance

ORDER

The petitioners, who are the accused in Crime No.557 of 2017 for offences under Sections 294(b) and 506(1)IPC, have filed this quash petition.

2.The gist of the complaint is that the second respondent/defacto complainant, who is an employee of Mercury Precision Product (P) Ltd., Mappedu, Thiruvallur District, lodged a complaint dated 02.11.2017 stating that he is working for the past 7 years in the said company, one month prior, the defacto complainant along with his colleague joined together and started a union in the name of ULF. The management was not happy



of the same. In respect of the same, the third and fourth petitioners viz., Mahadevan and Esakimuthu contacted the defacto complainant and informing that they should not form any union. Ignoring the same, union was formed. The first petitioner, who is working in the Unit No.1, was called on their behalf and threatened him. The defacto complainant continued with the union activities, the first petitioner through the second petitioner on 28.05.2017 intimidated and threatened the defacto complainant. Hence, the complaint.

3.The contention of the learned counsel for the petitioners is that the alleged occurrence is said to have taken place on 28.05.2017 and six months thereafter, the complaint was lodged on 02.11.2017. He further submitted that the first petitioner lodged a complaint against the second respondent/defacto complainant and one Sakthivel, who threatened the first petitioner on 27.06.2017 with regard to the union activities. The first petitioner is working at Head Office and the formation of union and its activities were at the branch office, for which, the first petitioner enquired about the same, and threatened. Hence, he lodged a complaint and a case in Crime No.431 of 2017 for offences under Sections 294(b) and 506(i) IPC registered. As a counter blast, this complaint was lodged. Further, the second respondent/defacto complainant and Sakthivel are accused in Crime No.431 of 2017 and the second respondent/defacto complainant was shown as complainant in Crime No.557 of 2017. Further, the occurrence in Crime No.431 of 2017 took place on 27.06.2017 and the occurrence in Crime No.557 of 2017 took place on 28.05.2017, which itself inherently shows that it is highly improbable. Such occurrence could have taken place and registration of the case in Crime No.557 of 2017 is a counter blast with malafides. Further, in support of his contention, he relied upon the judgment of this Court as well as the Apex Court, in the case of K.Jeyaramanuju V. Janakaraj reported in (1996) 1 CTC 470, wherein it is held that to prove the offence under Section 294 IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others. Likewise, in the case of Mohandass V. State reported in (1988) 2 MWN (Cri) 184, to attract offence under Sections 506(2) IPC, it is important that the threat should be a real one and not just a mere word when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually offence under Section 506 would get attracted.

4.This dictum is approved by various judgments. On a mere reading of the complaint, it could be seen that there is no furtherance to the alleged threat or intimidation. Further, he submitted that in view of the petitioners, earlier lodged a complaint and a case registered in Crime No.431 of 2017, is



highly improbable that an alleged occurrence could have taken place with regard to Crime No.557 of 2017. Further, it is only the dispute among the workers of Mercury Precision Product (P) Ltd.,. There were some issues with regard to the formation of union, which is now resolved and both the petitioners as well as the defacto complainant are all presently in harmony working together in the same factory. The occurrence said to have taken in the year 2017 and till date, final report is yet to be filed. Both on facts and law, the case is not sustainable. Further, he submitted that in the event of quashing of FIR in Crime No.557 of 2017, the second respondent / defacto complainant has no objection and the petitioners have no objection to quash the FIR in Crime No.431 of 2017 against the defacto complainant so that harmony and peace prevail. Hence, prayed for quash.

5.The learned Additional Public Prosecutor submitted that on receipt of the complaint, FIR registered. Investigation commenced in both the cases in Crime Nos.557 of 2017 and 431 of 2017, it is true that it is a dispute among the workers of Mercury Precision Product (P) Ltd., after that incident there has been no other complaint against each other. Now, after filing of this quash petition, charge sheet was made ready and after getting approval on 01.02.2022 from the concerned Addl. Public Prosecutor in connection with the Crime No.557 of 2017 filed before the Judicial Magistrate II, Thiruvallur, against which, the case is yet to be numbered. Notice to the second respondent / defacto complainant was served to the respondent police. Thereafter, he failed to appear.

6.Considering the submission and on perusal of the materials, it is seen that the case against the petitioners is that they abused and threatened the defacto complainant and others not to form union and the petitioners questioned the defacto complainant about the formation of the Union. The defacto complainant was questioned and warned not to start any union, ignoring the same, the defacto complainant and others continued with the union activities, it annoyed the petitioners, for which, they seem to be a threat initially through phone and other means. It is admitted fact that after the threat, there is no action pursuant to it. Further, there is nothing to show that there was some annoyance. The decisions referred Supra are Squarely applicable to the facts of the case. Further, the apex Court in the case of Manik Taneja V. State of Karnataka reported in (2015) 7 SCC 423, and Vikram Johar V. State of U.P., reported in (2019) 14 SCC 207 have held that further, in the case of Shrikhande V. State of Maharashtra reported in (2013) 14 SCC 44, wherein, the prosecution must prove that the accused threatened some person and such threat consisted of some injuries to his person, reputation or property, with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act



which he was legally entitled to do as a means of avoiding the execution of such threat. In this case, assuming that there was abuse and threat, it was only an empty threat, which is not followed with any action. Further, the entire dispute is among the employees and staffs of Mercury Precision Product (P) Ltd., and it is admitted that after the registration of this case, no other untoward incident had taken place in the factory between the petitioners and the defacto complainant denoting that harmony itself restored. Further, the defacto complainant was agreeable for quashing of his complaint in Crime No.557 of 2017. In view of the same, this Court quashes both the cases in Crime Nos.431 of 2017 and 551 of 2017 in the interest of justice. Accordingly, the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sms

To

1. The Inspector of Police,
Mappedu Police Station,
Tiruvallur District,
Cr.No.557 of 2017.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohamed Riyaz, Advocate, S.R.No.6734

Cr1.OP.No.16583 of 2021 and
Cr1.M.P.No.9056 of 2021

RR(CO)
CT 10/03/2022