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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23246 of 2017
and
Crl.M.P.Nos.13541 & 13542 of 2017

Victor Immanuel

... Petitioner / Accused

Versus

1. The Inspector of Police (Law & Order),
H3 Tondiarpet Police Station,
Chennai 600 081.
(Crime No.964 of 2015).

...1st Respondent / Complainant

2. Boopathy

...2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3125 of 2017 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai.-1 and quash the proceedings against him.

For Petitioner : Mr.N.Vijayaraj

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

For R2 : Mr.C.Gunasekaran,
Legal Aid Counsel

ORDER

The petitioner, who is facing trial before the learned XV Metropolitan Magistrate, George Town, Chennai (trial Court), for offence under Section 294(b), 323 and 506(i) IPC in C.C.NO.3125 of 2017, has filed this Quash Petition.



2.Despite serving of notice, no representation for the 2nd respondent either in person or by his counsel. Hence, this Court appointed Mr.C.Gunasekaran as Legal Aid Counsel for the 2nd respondent.

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3.Gist of the case is that on 26.08.2015, information was received by the 1st respondent Police from Nichani Health Centre, Multi Speciality Hospital, Royapuram, Chennai that the 2nd respondent was injured and taking treatment as inpatient. LW9, the Sub Inspector of Police attached to the 1st respondent Police Station visited the injured/2nd respondent in the hospital and received his complaint. The complaint is that the 2nd respondent after dropping his brother's daughter Jayashri in Arumugha Nadar School, while he returned back in his bike near CSI Church in J.P.Kovil Street, the petitioner in a rash and negligent manner came in a bike in opposite direction and dashed the bike of the 2nd respondent. Due to which, the 2nd respondent fell down and sustained injuries. When he got up and questioned the petitioner for negligent and rash driving, the petitioner scolded with abusive words. When the 2nd respondent informed that he is an Advocate, he further scolded him with derogative words and left the place. Seeing the commotion, two persons (LW2 & LW3) chased the petitioner and stopped him at G.A.Road junction, by the time, information was sent to the Police control room. When the petitioner was questioned by LW2 and LW3, a big wordy quarrel arose and disturbance caused to free movement of vehicles and public. On receipt of information from the Police control room, the Special Sub-Inspector of Police attached with 1st respondent Police Station, who was on the patrol duty along with another Police, reached the scene of occurrence and took the petitioner to the Police Station. Since the 2nd respondent was feeling giddy, he went to Nichani Health Centre, Multi Speciality Hospital, Royapuram, Chennai and took treatment as inpatient. After receiving the complaint of the 2nd respondent, FIR in Crime No.964 of 2015 was registered by LW9, Sub-Inspector of Police, witnesses were examined and documents were collected.

4.In this case, LW1 is the victim and LW2 & LW3 are eye witnesses to the occurrence. LW4 and LW5 are the witnesses to the Observation Mahazar and Rough Sketch. LW7 are the patrol Police, who brought the petitioner to the Police Station. LW8 is the Doctor, who gave treatment to the injured/2nd respondent. LW9 is the Sub Inspector of Police, who received the complaint and registered the FIR. LW10 is the Inspector of Police, who conducted investigation and filed the charge sheet in this case. The trial Court, on perusal of the charge sheet, took the case on file and issued summons to the petitioner. On receipt of the same, the petitioner approached this Court, by way of this Quash Petition.



5.The learned counsel for the petitioner submitted that when the petitioner was proceeding in his bike, the 2nd respondent, Advocate came in opposite direction and dashed against the petitioner. The road, where the accident took place, is narrow and congested and there was a slight mishap. While the 2nd respondent came in opposite direction, lost balance, hit the bike and fell down. But he got up and scolded the petitioner in abusive language claiming that he is an Advocate. After the incident, the petitioner pleaded apology and stated that inadvertently, the mishap was happened. Not willing to hear the same, the 2nd respondent created a big scene, called the Police and the Police took the petitioner to the Police Station. The 2nd respondent knowing that no case is made out against the petitioner, he himself went to a private hospital and got himself admitted as inpatient. The 2nd respondent projecting a small road accident into a big scene, lodged a false complaint against the petitioner. Since the 2nd respondent is an Advocate and on fearing unnecessary problems, the 1st respondent Police registered an FIR and filed the charge sheet before the trial Court, after completion of investigation.

6.The learned counsel further submitted that LW2 and LW3, who are projected as eye witnesses in this case, are friends of the 2nd respondent. The presence of LW2 and LW3 is not mentioned by the 2nd respondent in his complaint. On account of fear of the Advocates backlash and to pacify the 2nd respondent, the patrol Police took the petitioner to the Police Station and foisted a false case against him. From the statement of witnesses examined during investigation, it can be seen that there is no use of any abusive words by the petitioner against the 2nd respondent. From the evidence of Doctor (LW8) and his medical report, there is nothing to show what is the injury sustained by the 2nd respondent. Admittedly, after the alleged criminal intimidation, nothing happened. Hence, he prayed for quashing of the proceedings against the petitioner.

7.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that on receipt of complaint from the 2nd respondent, a case in Crime No.964 of 2015 was registered against the petitioner. On 26.08.2015, the petitioner had driven his bike in a rash and negligent manner, dashed against the 2nd respondent, due to which, the 2nd respondent fell down and sustained injuries. Showing no remorse, the petitioner started to abuse the 2nd respondent and fled away from the scene. LW2 and LW3, who were at the scene of occurrence, chased the petitioner, caught him in G.A.Road junction, where the petitioner again picked up a quarrel showing his might. The patrol Police, who came there, enquired the petitioner and took him to the Police Station finding that there was disturbance of free movement of public and vehicles. He further submitted that



during investigation, eye witnesses (LW2 and LW3) were examined, Observation Mahazar and Rough Sketch prepared in presence of the witnesses, the Doctor (LW8) who gave treatment to the 2nd respondent was examined and medical records collected. On completion of investigation, charge sheet filed before the trial Court. The trial Court on perusal of charge sheet, issued summons to the petitioner. The points raised by the learned counsel for the petitioner are to be decided only during trial and not in this Quash Petition.

8.The learned counsel appearing for the 2nd respondent submitted that the 2nd respondent is an Advocate by profession. On the fateful day, he dropped his brother's daughter in Arumugha Nadar School and returned back to home in his bike. At that time, the petitioner came in rash and negligent manner in opposite direction, dashed against the 2nd respondent in J.P.Kovil Street near CSI Church. Due to which, the 2nd respondent fell down and sustained injuries. When he got up and questioned the petitioner, the petitioner did not show any remorse, on the other hand scolded the 2nd respondent in abusive language and also threatened him, despite the 2nd respondent disclosing that he is an Advocate. Thereafter, he fled from the scene and chased by the bystanders (LW2 and LW3) and handed over to the patrol Police. He further submitted that there is no motive against the petitioner to falsely implicate the petitioner. The sequence of events, in this case, are so proximate and connected confirming the petitioner committing the offence in a public place. If the petitioner goes unpublishable, he would get embolden and commit more serious offence. Hence, he prayed for dismissal of this Quash Petition.

9.This Court considered the rival submissions and perused the Case Diary and other materials available on record.

10.A small collusion and a slight mishap had taken place between the petitioner and the 2nd respondent on 26.08.2015. The road, where the occurrence took place, is a narrow and congested one. The collusion is only a error of judgment, it may be due to the petitioner or by the 2nd respondent. The 2nd respondent does not state anything about the presence of LW2 and LW3 in the scene of occurrence, who are projected as eye witnesses in this case. LW2 and LW3 stated that after seeing the incident, they chased and restrained the petitioner in G.A.Road junction, where the patrol Police came, enquired and took the petitioner. In this case, there is no material to show that LW2 and LW3 were present at the time of accident. Both are known to the 2nd respondent prior to the occurrence. The Doctor (LW8), who examined the 2nd respondent, in the Accident Register and Wound Certificate recorded that the 2nd respondent was assaulted by the petitioner by hands. On the other hand, the statement of LW1 to



LW3 is that there was only exchange of abusive words. The fall and injury sustained by the 2nd respondent were not recorded in the Accident Register and Wound Certificate. The medical records only stated 'Simple Injury'.

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11.It could be seen that according to the 2nd respondent, he fell down and sustained injuries on the spot. In the Accident Register and Wound Certificate, there is no mention about nature of injury sustained by the 2nd respondent. The Accident Register and Wound Certificate does not disclose anything about the injuries sustained by the 2nd respondent. In the Observation Mahazar and Rough Sketch, the width of the road, where the accident took place, was not mentioned. It is a known fact that in Royapuram area, the roads are congested. The persons present in the scene of occurrence were not examined by the prosecution. Admittedly, LW2 and LW3, the projected eye witnesses to this case, are known to the 2nd respondent/LW1.

12.This Court time and again held that mere uttering of a threatening words without any following action will not attract criminal intimidation.

13.On going through the allegations as made in the complaint, FIR and charge sheet and from the statement of witnesses, this Court does not find any material to proceed against the petitioner. Hence, the continuation proceedings against the petitioner would amount to abuse of process of law.

14.In the result, this Quash Petition is allowed and the proceedings in C.C.No.3125 of 2017, on the file of the XV Metropolitan Magistrate, George Town, Chennai is hereby quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

15.This Court places its appreciation to Mr.C.Gunasekaran, Legal Aid Counsel for the 2nd respondent, who made thorough preparation and made effective submission on behalf of the 2nd respondent in this case.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The XV Metropolitan Magistrate Court,
George Town, Chennai.
2. The Inspector of Police (Law & Order),
H3 Tondiarpet Police Station,
Chennai 600 081.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.Nos.23246 of 2017

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