



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 29097 of 2017 and  
CrI.M.P.No. 16433 of 2017

1.Vivek

2.Vigneshvaran @ Vikky

...Petitioners/Accused 9 & 10

Versus

State rep.by  
The Inspector of Police,  
S-7, Madippakkam Police Station,  
Chennai-117.  
Crime No.918 of 2017

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.942 of 2017, dated 22.08.2017, on the file of the Judicial Magistrate, Alandur and quash the same.

For Petitioners : Mr.R.Sankara Subbu

For Respondent : Mr.R.Kishore Kumar  
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

2. This Criminal Original Petition has been filed to quash the proceedings in C.C.No.942 of 2017, filed against the accused for the offence under Sections 294(b), 341, 324, 506 (ii), 147, 148, r/w 149 IPC, on the file of the learned Judicial Magistrate, Alandur.

3. The crux of the prosecution is that while the witnesses were playing cricket in the area, the petitioners/accused attacked witness No.1 and caused simple injury and all other accused also made a threat. The present petitioners are arraigned as A9 and A10.



4. It is submitted by the learned counsel appearing for the petitioners that the petitioners are not implicated in the First Information Report. Only in the final report except the allegation that they have made the alleged oral threat, no other allegations are made against these petitioners, therefore, the entire prosecution against these petitioners, is nothing but an abuse of process of law.

5. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that while the witnesses were playing cricket, the petitioners have assembled unlawfully and attacked the witnesses and hence he opposed for quashment of the proceedings.

6. Heard the learned counsel appearing on both sides and perused the entire materials available on record.

7. On perusal of the entire materials, as rightly pointed by the learned counsel appearing for the petitioners, it is seen that the petitioners were not implicated at the earlier point of time and the only allegation against these petitioners is that they made a threat to the witnesses, who were playing cricket. Even, assuming that such statements are made, mere empty threat itself will not constitute any offence under Section 506 (ii) IPC, unless such a threat caused is endanger to the life and liberty of a person. Therefore, the mere allegations that these petitioners made a threat itself is not sufficient to constitute an offence. In such view of the matter, mere presence of the petitioners while the witnesses were playing cricket, the offence under Section 149 IPC of unlawful assembly, cannot be attracted. Hence, considering the nature of the case. the continuance of the prosecution is nothing but an abuse of process of law.

8. Accordingly, this Criminal Original Petition is allowed. The proceedings in C.C.No.942 of 2017, on the file of the Judicial Magistrate, Alandur is quashed as against these petitioners/A9 and A10. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

psa/asr



To

1. The Judicial Magistrate,  
Alandur.

2. -do- through The Chief Judicial Magistrate,  
Egmore, Chennai.

3. The Inspector of Police,  
S-7, Madippakkam Police Station,  
Chennai-117.

4. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.R.Sankara Subbu, Advocate SR. No.557

Cr1. O.P. No. 29097 of 2017

NMI (CO)  
PR (21/01/2022)