



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.12.2021

Pronounced on : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.O.P. (MD) .No.4538 of 2019

and

CRL.MP. (MD) Nos.2784 and 2785 of 2019

WEB COPY

1.Rajendran

2.Kumaran

3.Rajeswari

: Petitioners/A1 to A3

Vs.

P.Natchiappan

: Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C, to quash the private complaint in C.C.No.14 of 2019 pending on the file of the Judicial Magistrate, Devakottai and quash the same.

For Petitioners : Mr.G.Karuppasamy Pandian,
for Mr.R.Jenifer Bibin

For Respondent : No Appearance

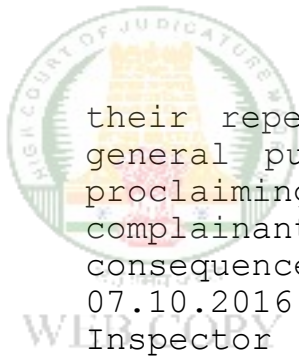
ORDER

The Criminal Original Petition has been filed invoking Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.14 of 2019 pending on the file of the Judicial Magistrate Court, Devakottai and quash the same.

2.The petitioners 1 to 3 are the accused in C.C.No.14 of 2019 pending on the file of the Judicial Magistrate, Devakottai. The respondent has filed a private complaint under Section 200 Cr.P.C., against the petitioners herein and the learned Magistrate, after conducting enquiry under Section 202 Cr.P.C, has taken the cognizance of the case in C.C.No.14 of 2019 for the alleged offence under Sections 294(b) and 506(ii) IPC.

3.It is not in dispute that the first petitioner is working as a Chief Surveyor in Karaikudi Municipality, that the third petitioner, who was the former Councillor, is the wife of the first petitioner and that the second petitioner is the son of the petitioners 1 and 3. Admittedly, the second respondent/complainant is their neighbour.

4.The case of the prosecution is that there existed a 30 feet pathway on the west of the complainant's house, that the petitioners/accused have been attempting to grab the pathway and



their repeated attempts were thwarted by the complainant and the general public, that on 29.06.2016, the petitioners 1 and 2 by proclaiming that they are going to close the pathway, abused the complainant in filthy language and threatened him with dire consequences, that the complainant has preferred a complaint on 07.10.2016 before the Devakottai Nagar Police Station, that the Sub-Inspector of Police has neither registered a case nor took any action and that therefore, the complainant was constrained to prefer the private complaint.

5.The learned counsel for the petitioner would submit that the trial Court has failed to consider the extraordinary delay of lodging the complaint, which remains unexplained, that mere utterance of obscene words is not sufficient and it is to be established that the obscene words uttered in a public place which would have caused annoyance to the others, and that therefore, the ingredients required for the offence under Section 294(b) IPC are conspicuously absent.

6.The learned counsel for the petitioners would further submit that mere threat is not enough to attract Section 506(ii) IPC and it is to be shown that the real threat would have caused fear in the mind of person actually threatened and that the version stated by the complainant in the present case has not even satisfied the ingredients as contemplated under Section 506(ii) IPC.

7.It is necessary to refer the judgment of the Hon'ble Supreme Court in **Manik Taneja and another Vs. State of Karnataka** and another reported in **2015 7 SCC 423**, wherein the Hon'ble Apex Court has specifically held that mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section and the relevant passages are extracted hereunder:-

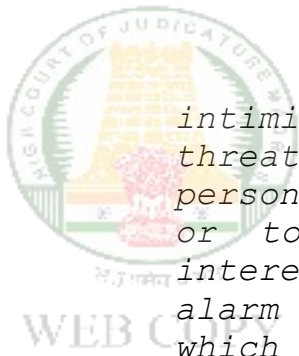
11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

A reading of the definition of "Criminal

<https://hcservices.ecourts.gov.in/hcservices/>



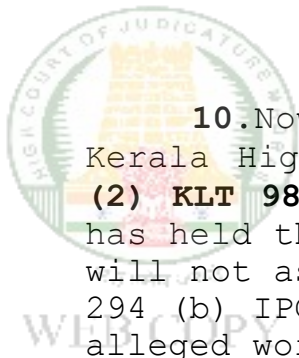
intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC."

8.A learned Single Judge of this Court in **Noble Mohandass Vs. State**, reported in **1988 (2) MWN (Cri) 184**, has held thus :

"Further for being an offence under Section 506(ii) IPC, which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually."

9.In the case on hand, as rightly contended by the learned counsel for the petitioner, the words of threatening uttered by the petitioner are not sufficient to attract the offence of criminal intimidation. It is not the specific case of the complainant that due to the threatening words, he was criminally intimidated. Moreover, as rightly contended by the learned counsel for the petitioner, the words allegedly used by the petitioner are not in the nature of causing any real life threat.



10. Now turning to the offence under Section 294(b) IPC, the Kerala High Court in **Latheef Vs. State of Kerala** reported in **2014 (2) KLT 987** relying on the earlier judgements of Kerala High Court has held that abusive words or humiliating words or defamatory words will not as such amount to obscenity as envisaged in Section 292 and 294 (b) IPC and that to make it punishable under Section 294(b), the alleged words must be in a sense lascivious, or it must be appeal to the prurient interest, or will deprave and corrupt persons.

11. A learned Judge of this Court in **K. Jayaramanuj Vs. Janakaraj and others** reported in **1996 (1) CTC 470**, has held that to prove the offence under Section 294 IPC, viz., uttering of obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance of others.

12. In the case on hand, the complainant in his complaint has nowhere whispered that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses present at that time felt annoyed.

13. Considering the above, this Court has no hesitation to hold that the ingredients for the offence under Sections 294(b) and 506 (ii) IPC are not made out and that therefore, permitting the prosecution to continue the proceedings would not serve any purpose and is unnecessary and unwarranted. Hence, this Court concludes that the proceedings in C.C.No.14 of 2019 on the file of the Judicial Magistrate, Devakottai are liable to be quashed.

14. In the result, the Criminal Original Petition is allowed and the case in C.C.No.14 of 2019 pending on the file of the Judicial Magistrate, Devakottai, is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To
The Judicial Magistrate,
Devakottai.

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+1 CC to M/s.R.JENIFAR BIBIN, Advocate (SR-2679[F] dated 27/01/2022)

order made in
CRL.O.P. (MD) .No.4538 of 2019
and
CRL.MP. (MD) Nos.2784 and 2785 of 2019
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SMV (CO)
GC (10.02.2022) 5P 3C