



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.01.2022
PRONOUNCED ON : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P(MD)No.15446 of 2021 and
CrI.M.P(MD)No.8301 of 2021

Kadambur C.Raju ... Petitioner/Sole Accused
Vs.
1.State through the Inspector of Police,
Nalatinpudur Police Station,
Thoothukudi District.
In Crime No.73/2021. ... 1st Respondent/Complainant
2.Marimuthu,
Highways Junior Engineer,
Kovilpatti,
Thoothukudi District. ... 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR in Crime No.73 of 2021, on the file of the 1st respondent Police.

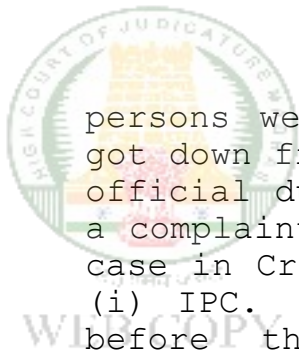
For Petitioner : Mr.M.Chandrasekaran
For R1 : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.73 of 2021, dated 13.03.2021, on the file of the 1st respondent Police.

2.The gist of the case is that the 2nd respondent, Junior Engineer, Highways Department, Kovilpatty was deputed for election duty and he was leading flying squad at the time of occurrence. On 12.03.2021, at about 10.30 p.m., near Uthupatty extension, vehicle check was conducted by the 2nd respondent along with Vengatachalapathy, Panchayat Union, Kayathur; Murugan, Special Sub Inspector of Police attached to the 1st respondent Police and other Police personnels Prabhakaran, Palaniyammal, Deepa; Videographer Mohammed Nebhil and car driver (registration No.TN 69 G 0703) Anand Krishnan. At that time, the petitioner came in a car registration No.TN 13 L 3333 along with two cars bearing registration Nos.TN 01 3344 and TN 69 BH 5549. When the cars were stopped and the

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persons were examined, the petitioner, who was the former Minister got down from his car and restrained the petitioner to discharge his official duty and also abused him. Hence, the 2nd respondent lodged a complaint to the 1st respondent Police, who initially registered a case in Crime No.73 of 2021, for offence under Sections 353 and 506 (i) IPC. On completion of investigation, charge sheet was filed before the learned Judicial Magistrate No.I, Kovilpatty on 08.10.2021 and the same was taken on file as S.T.C.No.1696 of 2021.

3.Mr.M.Chandrasekaran, learned counsel appearing for the petitioner submitted that to suit the offence under Section 353 IPC, there must be an assault on criminal force to deter the public servant from discharge of his official duty. From the statement of witnesses, there is nothing to show that the petitioner obstructed the officers to discharge their official duty by using criminal force. It is the admitted case of the 2nd respondent that when the vehicle of the petitioner was stopped, the petitioner had shown some objections about the manner in which the officers conducted search. He further submitted that to suit the offence under Section 506(i) IPC, mere expression of any words without any intention to cause alarm is not sufficient. At the time of occurrence, the petitioner was a Minister. Hence, proper respect ought to have been given to the petitioner. The petitioner obeyed the signal of the 2nd respondent and others and he stopped the vehicle and not created any obstruction. In this case, immediately after filing of the Quash Petition by the petitioner, on 21.09.2021, in a hurried manner, the investigation was completed and charge sheet filed before the learned Judicial Magistrate No.I, Kovilpatty on 08.10.2021.

4.The learned counsel for the petitioner submitted that the petitioner is falsely implicated in this case for political reason as a political vendetta. Hence, he prayed for quashing of the FIR against the petitioner. In support of his submission, the learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in the case of **"Manik Taneja & Anr. Versus State of Karnataka in Criminal Appeal No.141 of 2015, dated 20.01.2015"**.

5.The learned Additional Public Prosecutor appearing for the 1st respondent Police filed counter and submitted that on the complaint of the 2nd respondent, a case has been registered against the petitioner. The petitioner being the former Minister, is an example for the public to follow the rules and regulations. It is not in dispute that on 12.03.2021, the 2nd respondent was acted as Election Officer/Flying Squad to check the vehicles and also to ensure that the elections are held in a free and fair manner and to seize unaccounted money. The petitioner's vehicle was followed with two vehicles bearing registration Nos.TN 01 AE 3344 and TN 69 BH 5549. On interception of the 2nd respondent, the petitioner got down from the car and shouted the officers, threatened and abused them in filthy language, which was witnessed and confirmed by the other persons in their statements. On registration of FIR, the 1st



respondent Police visited the scene of occurrence, recorded the statement of other members in the flying squad, prepared Observation Mahazar and Rough Sketch. On conclusion of investigation, charge sheet was filed before the learned Judicial Magistrate No.I, Kovilpatty on 08.10.2021. The learned Magistrate finding *prima facie* case against the petitioner, had taken the case on file in S.T.C.No.1696 of 2021 and issued summons to the petitioner. The points raised by the learned counsel for the petitioner are to be decided only during the trial and not in this Quash Petition.

6.This Court considered the rival submissions and perused the materials available on record.

7.It is the case that the petitioner had questioned the 2nd respondent for stopping and checking his vehicle. The admitted case is that the 2nd respondent stopped the vehicle of the petitioner, at that time, the petitioner got down from his car and questioned the manner in which the search was conducted. The petitioner reminded the 2nd respondent that he is still a Minister and reminded the manner in which the vehicle checking to be done and nothing more. The other two cars, which were followed, were also stopped and checking was conducted.

8.During investigation 12 witnesses were examined. LW1 to LW8 are the flying squad team, in which LW3 to LW6 are Police personnels. LW7 is the photographer, LW8 is the car driver, LW9 and LW10 are witnesses to Observation Mahazar and LW12 is Investigating Officer. Other than that, no public witness was examined during investigation. It is further seen that after the incident, the flying squad continued their work. It is understandable that during election period, emotions run high.

9.The Hon'ble Apex Court in the case of "**Manik Taneja & another Versus State of Karnataka in Criminal Appeal No.141 of 2015**" had held that for criminal intimidation, 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. In this case, except questioning the rummage of his car, nothing more happened.

10.From the facts and circumstances of the case, it appears that there was no intention on the part of the petitioner to cause alarm in the mind of the 2nd respondent causing obstruction in discharge of his duty. Hence, the continuation of investigation would amount to abuse of process of law.

11.Hence, the FIR in Crime No.73 of 2021, on the file of the 1st respondent Police is hereby quashed and all the corollary issues initiated pursuant to the FIR. Consequently, the proceedings in S.T.C.No.1696 of 2021, on the file of the Judicial Magistrate Court No.1, Kovilpatty is also quashed. Accordingly, this Criminal



Original Petition is allowed. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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28/02/2022

Sub Assistant Registrar(CS)

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To

- 1.The Inspector of Police,
Nalatinpudur Police Station,
Thoothukudi District.
- 2.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Judicial Magistrate No.I,
Kovilpatty.

Crl.O.P(MD)No.15446 of 2021
21.02.2022

MGJ(28.02.2022) 4P 5C