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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11/04/2022

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

Cr1.OP (MD) No.12737 of 2018

and

Cr1.MP (MD) No.5823 of 2018

Natarajan : Petitioner/Accused/  
Accused

Vs.

1.The Inspector of Police,  
Theni Police Station,  
Theni.

(Crime No.255 of 2018)

: R1/Complainant

2.Ganesah

: R2/De-facto complainant  
Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining CC No.132 of 2018 on the file of the Judicial Magistrate, Theni and quash the same.

For Petitioners : Mr.K.R.Laxman

For 1<sup>st</sup> Respondent : Mr.SS.Madhavan  
Government Advocate  
(Criminal side)

For 2<sup>nd</sup> Respondent : Mr.M.Gururaj

**ORDER**

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This petition has been filed seeking quashment of CC No.132 of 2018 on the file of the Judicial Magistrate, Theni.

**2.The case of the prosecution in brief:-**

On 03/04/2018 at about 8.00 am, when the de-facto complainant was in the Gym, the accused came there and blocked the pathway. At that time, the de-facto complainant told him that in respect of the above said pathway, suit is pending in the civil court and he should not make any construction. But the accused namely the petitioner herein alleged to have abused him in filthy language and also criminally intimidated him. So based on the complaint given by the de-facto complainant, a case in Crime No.255 of 2018 was registered for the offences under sections 294(b) and 506(ii) IPC and after completing the formalities of investigation, final report was filed in CC No.132 of 2018 and it has taken cognizance by the Judicial Magistrate, Theni.



3. Seeking quashment of the same, this petition came to be filed by the petitioner.

4. Heard both sides.

5. It is a case of title dispute. As mentioned in the preamble portion, trouble has arisen between the parties, when the accused blocked the pathway. When that was resisted by the de-facto complainant, he was criminally intimidated and abused in filthy language.

6. The learned counsel appearing for the petitioner would submit that it is a clear case of personal vengeance and absolutely, it is a false case, which arose out of the frequent quarrel between them over the property dispute.

7. The learned counsel appearing for the second respondent would submit that in 2016 itself, an agreement was entered into over the pathway dispute and enquiry was made by the Superintendent of Police, over the allegation against the then Additional District Superintendent of Police and the Superintendent of Police has given a



finding that the Additional Superintendent of Police, is not interested in the above said issue.

8.The specific allegation of the petitioner is that only at the instance of the Additional District Superintendent of Police, this case has been foisted against him. In the grounds of petition as well as in the affidavit, elaborate fact with regard to the issue has been set out. According to the petitioner, he is not at all present in the place of occurrence and over the above said disputed property, Rent Control Proceedings were initiated and the suit was also pending between the parties. The petitioner is working as 'BT Assistant' in the Poolathoor Government Higher Secondary School, Kodaikannal, Dindigul District. Only to cause trouble to his job, such a false case has been registered.

9.The learned counsel further submit that he moved Cr1.OP(MD)No.9716 of 2018 seeking quashment. But within 23 days from the filing of the FIR, it has been taken cognizance. According to the petitioner, as mentioned above, civil dispute has been given criminal colour. He has also produced the tenancy agreement between the



10.As mentioned earlier, the date of filing of the suit is 24/01/2018. Here, the present date of occurrence is stated to be on 03/04/2018, which is much after the filing of the above said suit. The de-facto complainant is one Ganesan. Subsequent to the filing of the criminal case, Rent Control Proceedings has been initiated by the above said PL.Annamalai against the above said K.Silpha for eviction. It is also stated to be pending. In the



light of the above civil issue, the present occurrence said to have been taken place.

11. Apart from that, the complaint given on behalf of this petitioner to the District Collector by the Tamil Nadu Graduate Teacher's Associates gives a clear picture. It has been stated that the above said ADSP namely Palanikumar is the father-in-law of the above said K.Silpha. The above said K.Silpha encroached the property, which belongs to this petitioner, which was gifted by her mother. When this petitioner attempted to put up a construction by removing the gate, trouble has arisen between them. At the instance of the ADSP Palanikumar only, a false complaint has been preferred by the above said K.Silpha. So this shows that allegation has been made against the above said K.Silpha with regard to the encroachment of the property, which belonged to the petitioner. So from the facts and circumstances of this case, trouble has arisen between the parties, when this petitioner attempted to put up a construction. The above said K.Silpha seems to have made objection, since it is a pathway. So it appears that it is a civil dispute between the parties.



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12. Now whether the offences under sections 294(b) and 506(i) IPC are attracted or not is to be decided. In view of the above said factual issue, how the above said Ganesah is related to the pathway issue is not clear on record. The de-facto complainant is the friend of the above said K.Silpha. How the above said Ganesah, who is the 2<sup>nd</sup> respondent herein is aggrieved by the construction that was proposed to be made by the petitioner is not clear on record. Probably as mentioned by the petitioner, the complaint has been given on behalf of and in support of K.Silpha. K.Silpha was running a Gym centre at that time. So she ought not to have given the complaint and there is no denial to the effect that Assistant Deputy Superintendent of Police was the father-in-law of the above said K.Silpha.

13. The Superintendent of Police has found that the Additional District Superintendent of Police is not interested in that issue. We can go into this factual aspect now.

14. Now let us go back to the issue. The 2<sup>nd</sup> respondent made objection to put a construction. As



mentioned earlier, how he has agreed for the construction is not clear on record. When we peruse the statement of the second respondent, he has stated that he is a partner with the above K.Silpha. But there is no material collected during the course of evidence to show that he was a partner. He has also stated that he has also filed O.S No.16 of 2018. But that was filed by K.Silpha. Even in the plaint, K.Silpha is not stated anything that Ganesan is not a partner. In the cause of action, in the above said suit, it has been stated by K.Silpha that on 3/04/2018 at the instigation of the PL.Annamalai, this petitioner alleged to have obstructed the pathway by putting goods preventing her access to the above said street. But here, the above said Ganesan has stated that on 13/06/2018, this petitioner alleged to have damaged the sign board. Subsequent to the above said occurrence only, O.S No.6 of 2018 was filed. Again on 03/04/2018 at about 7.30 am, this occurrence said to have been taken place. So it is clear on record that in order to create the evidence for the civil dispute, this complaint has been given by the above said Ganesan on behalf of K.Silpha. For attracting the offence under section 506(ii) IPC, no ingredients are available.



15. Section 503 IPC reads as follows:-

**"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.

16. As per the provisions, the complainant must entertain death fear because of the criminal act. But there is no such allegation. Similarly 294(b) IPC also, it is not a case of the second respondent that the occurrence took place in the public place or view or in annoyance of neighbours. Nowhere it has been stated the occurrence taken place in public place. Absolutely, I find no ingredients are attracted. Even as per the materials collected during course of investigation, the



entire prosecution is tainted with *mala fide* intention.

So, the entire prosecution is liable to be quashed.

17. In the result, this criminal original petition is **allowed**. The impugned CC No.132 of 2018 on the file of the Judicial Magistrate, Theni is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

**11/04/2022**

Index:Yes/No

Internet:Yes/No

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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.



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- 1.The Judicial Magistrate,  
Theni.
- 1.The Inspector of Police,  
Theni Police Station,  
Theni.
- 3.The additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**G. ILANGO VAN, J**

**er**

**Cr1.OP (MD) No.12737 of 2018**

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