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Crl.O.P.No.4559 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.4559 of 2021

and

CRL.M.P.Nos.2920 of 2021

1.V.Sakthivel

2.Kadar Sherif

3.Mushjhafa

... Petitioners

Vs

1.The State represented by
The Inspector of Police,
Erode Taluk Police Station,
Erode District.
(Crime No.491 of 2018)

2.M.Thirunavukkarasu

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in C.C.No.534 of 2020 on the file of the Judicial Magistrate No.1, Erode and quash the same.

For Petitioner : Mr.N.Manokaran

For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R2 : No Appearance



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.534 of 2020 on the file of the Judicial Magistrate No.I, Erode.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

3. The case of the prosecution is that on 09.08.2018 at about 7.00 p.m, the accused persons went to the house of the defacto complainant and scolded him in filthy language and also threatened him with dire consequences. They compelled him to pay a sum of Rs.2,00,000/- in view his brother-in-law gives to pay the said amount. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.491 of 2018 for the offences under Sections 294(b), 341, 387 and 506(ii) of IPC. After completion of investigation, the first



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respondent filed final report and the same has been taken cognizance in

C.C.No.534 of 2020 on the file of the Judicial Magistrate No.I, Erode.

5. A perusal of the records reveals that all the verbatim recorded in the FIR are all recorded in the statement under Section 161 Cr.P.C. Even single word has not changed and the same verbatim is mentioned in the statement of all the witnesses. Further, there was already a dispute between the first petitioner and one P. Neethi Mohan with regard to their business. In fact, the first petitioner already filed a suit as against the said P.Neethi Mohan, who is none other than the brother-in-law of the second respondent, in O.S.No.28 of 2018 on the file of the I Additional District Munsif, Erode, for permanent injunction. As a counter to the suit, in order to threaten the petitioners, a false complaint has been foisted as against the petitioners that too by the brother-in-law of the said P.Neethi Mohan, viz., the second respondent herein. All the allegations are civil in nature. There was absolutely no possibility for the said occurrence.

6. Even according to the second respondent, the accused had entered into the house of the second respondent and A2 & A3 caught



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hold of his hand and no one attacked him. They only threatened him with dire consequences. Further on perusal of the Advocate Commissioner's Report dated 29.01.2018 filed in O.S.No.28 of 2018 on the file of the I Additional District Munsif, Erode, revealed that the first petitioner herein is in possession and enjoyment of the subject property. Therefore, the entire proceeding is nothing but a clear abuse of process of law and it cannot be sustained as against the petitioners.

7. In this regard, it is relevant to extract the judgement reported in ***(1992) SCC CrL. 426*** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on



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*the accused and with a view to spite him due
to private and personal grudge."*

11. In view of the above discussions, the proceeding in C.C.No.534 of 2020 on the file of the Judicial Magistrate No.I, Erode, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

17.10.2023

Lpp
Index: Yes/No
Internet: Yes/No

To

1. The Judicial Magistrate No.I,
Erode.

2. The Inspector of Police,
Erode Taluk Police Station,
Erode District.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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