



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN**

Crl.O.P.No.24748 of 2018

and

Crl.M.P.No.13971 of 2018

Jains Pebble Brook Flat Owners Association-Phase 1,
Represented by its Secretary, Premila Ashokraj aged about 49 years,
Having registered office at Jains Pebble Brook,
Sakthi Garden, 1st Cross Street, Okkiyam Pettai,
Thoraipakkam, Chennai – 600 097. ... Petitioner

Vs.

1.The Sub-Inspector of Police,
Kannagi Nagar Police Station,
Chennai – 600 097.

2.M/s. Jain Housing ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, calling for the records and quash the FIR in Crime No. 819 of 2018 dated 29.09.2018 on the file of the respondent Police Station, Kannagi Nagar.



For Petitioner : Mr.P.V.Balasubramaniam,
Senior Counsel
for M/s.Rohini Ravikumar

For R1 : Mr.L.Baskaran,
Public Prosecutor

For R2 : Mr.S.Balasubramaniam

ORDER

This petition has been filed to quash the F.I.R registered in Crime No.819 of 2018 dated 29.09.2018 on the file of the first respondent police.

2. The second respondent/de-facto complainant lodged a complaint alleging that they were engaged in construction of apartments and selling it. The Jain Pebble Brook is one of the housing construction project situated at Okkiyam Thuraipakkam, Chennai. The said project is being developed as two phases, out of which, the Phase – I has 620 flats with Block Nos.1 to 13 and Phase – II has 392 flats with Block Nos.14 to 20. There are common facilities for Phase – I and Phase – II and guide both the phase people to use those facilities and the same were registered and approved by CMDA.



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3. The Phase – II people walk through Phase – I and there is no separate pathway for Phase – I people. In this meantime, Tmt.Pramila, Secretary of the Association and the members of the Interim Committee of the Jain Pebble Brook Owners Association had trespassed the pathway using two barricades. The workers and staff of Phase – II were facing some untoward incident to enter through Phase – II. When it was questioned by the de-facto complainant, he was abused by the accused with filthy language and also threatened him with dire consequences. On receipt of the said complaint, the respondent police had registered the F.I.R in Crime No.819 of 2018 for the offences under Sections 294(b), 341, 506(i) of IPC.

4. The petitioner / Association and its members had purchased flats, which were promoted by the second respondent. The Phase – I consists of 620 flats, out of which 423 flats were sold out and all the facilities mentioned in the brochure were exclusive only for Phase – I purchasers. The members of the petitioner/Association had entered into respective agreements while purchasing their flats and sale deeds for



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purchase of undivided shares of land, which was executed by the second respondent. As per the approval, 112 numbers of flats ad-measuring about 531, 537, 542 sq.fts in Block 1, in block super built up are for the benefit of the Economically Weaker Section and the said flats consists only of one bedroom, one hall and one Kitchen. The second respondent had obtained plan approval for 620 flats initially and most of the flats were sold out and registered the respective undivided shares.

5. In Phase – I, a portion of land ad-measuring 3373.27 sq.mtrs towards OSR area vide Gift Deed, registered vide Document No.1996 of 2008, SRO Neelankari. Subsequent to the conveyance of undivided share in favour of the purchasers, the second respondent ceased to have any right over the property. However, without any consent or prior intimation to the members of the Association, the second respondent had executed the Gift Deed for obtaining another building sanction plan for Phase – I. The lands were gifted and her members agitated before this Court in W.P.No.24147 of 2019. In fact, this Court had granted interim injunction, restraining the Police from interfering with the civil dispute exists between the petitioner and the second respondent herein.



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Even thereafter, the respondent police registered F.I.R against the petitioner/Association in Crime No.819 of 2018 for the offences under Sections 294(b), 341 and 506(1) of IPC based on the complaint given by the second respondent. That apart, the alleged offences had taken place on 06.09.2018, but the complaint was lodged only on 29.09.2018.

6. On perusal of the entire complaint, there are so many dues liable to be paid by the residents of the Jain Pebble Brook Apartment including non payment of maintenance charges, sewage disposal, water charges, operation & maintenance of sewage treatment plant. In this regard, already arbitrary proceedings were initiated and this Court had appointed Mr.K.Venkatraman, Retired Judge as an Arbitrator and an award has been passed by the arbitrator.

7. Insofar as the other allegations are concerned, all are civil in nature and the allegations are barred and no specific allegation has been made against the accused in order to attract the offences under Sections 294(b), 341 and 506(i) of IPC. Though the first respondent police had completed the investigation and filed the final report and the same has



not been taken cognizance by the learned Judicial Magistrate, Alandur.

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8. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-

"To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

The above judgment is squarely applicable to the present case and therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

9. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any 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,



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subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.

10. In this regard, It is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to



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attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

11. Therefore, there are no materials to attract the offences under Sections 294(b), 341 and 506(i) of IPC and the entire proceedings pursuant to the registered F.I.R in Crime No.819 of 2018 dated 29.09.2018 is liable to be quashed. Accordingly, the F.I.R in Crime No.819 of 2018 dated 29.09.2018 on the file of the respondent police is



quashed.

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12. Accordingly, this Criminal Original Petition stands **allowed**.

Consequently, the connected Miscellaneous Petition is closed.

11.10.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Sub-Inspector of Police,
Kannagi Nagar Police Station,
Chennai – 600 097.

2. The Public Prosecutor,
Madras High Court,
Chennai.



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