



Crl.O.P(MD).No.10160 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.O.P(MD).No. 10160 of 2020 and
Crl.M.P(MD).No.4717 of 2020

Haji E.Asarab

... Petitioner

-Vs-

1. The State rep. by
the Inspector of Police,
All Women Police Station,
Ramanathapuram District,
(in Crime No.12 of 2020)

2.Abdullah

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.12 of 2020 on the file of the 1st respondent, dated 28.08.2020 and quash the same.

For Petitioner	: Mr. N.Anantha Padmanabhan
For Respondent No.1	: Mr. R.M. Anbunithi Government Advocate (Crl. Side)
For Respondent No.2	: Mr. C.Senthil Murugan

ORDER

This Criminal Original Petition has been filed to call for the records in Crime No.12 of 2020 on the file of the 1st respondent, dated



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28.08.2020 and quash the same.

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2. According to the petitioner, he is the Managing Trustee of the Jamath Velipattinam, Ramnad District. There is a family dispute between the second respondent's daughter and her in-laws, whereby, the in-laws of the second respondent's daughter, sent a letter to the Jamath. Since it is a matrimonial dispute, the petitioner asked the second respondent to answer the request made by the second respondent's daughter's in-laws through Jamath, thereby, there was a dispute arose between the parties. While so, the second respondent gave a complaint as against the petitioner alleging that the second respondent's daughter got married her husband and thereafter, there was a dowry harassment, thereby a case is pending in Crime No.12 of 2019. During the pendency of the said case, the petitioner being the Trustee of the Jamath threatened the 2nd respondent's daughter to accept Talaq previously made by her husband, thereby, based on the above said complaint, the first respondent registered a case in Crime No.12 of 2020 for the offences under Sections 384 and 506(i) IPC. In fact, the allegation made in the complaint is being singled out of the community and other villagers are prevented from speaking to



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his family members. During, night hours, he sent some goons and threatens him to resign his post as President of the minority community wing of BJP party. Further, in the complaint it is mentioned that the petitioner threatened over phone and on 25.08.2020, he received a call from Mobile No. 809813739, in which, a threat was committed on him, thereby, the Police registered a case for the offences under Sections 384 and 506(i) IPC. The petitioner has been functioning as the head of the Pasipattarai Theru Muslim Jamat, for the past 40 years. The second respondent, being a member of Jamath, his daughter's marriage came to be registered in Jamath where the petitioner herein is the President. There is a matrimonial dispute between the 2nd respondent's daughter and her husband in which her husband had pronounced triple Talaq and informed the same by sending the Talaq notice after pronouncing the same in front of the Haji, by registered post with acknowledgement due. The Town Haji had sent a copy of the fathwah to the petitioner's Jamath as well as the Jamath where the husband who pronounced Talaq as a member. As there was a request to the petitioner's Jamath to cancel the marriage certificate issued on his marriage with the second respondent's daughter, the petitioner had an obligation under the Shariat law to respond to it. After



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receipt of a letter, the petitioner required remarks from the 2nd respondent enclosing the connected documents. The second respondent on many occasions made similar verbal allegations against the petitioner in the bazaar as well in the public places where a lot of people use to gather. On another occasion, the second respondent has given an apology in writing to the Inspector of Police, Kenikarai Police Station to forgive him. Only on that background of these facts, the second respondent has lodged such a vexatious, baseless, frivolous, concocted complaint with vague allegation against the petitioner using his political influence as a leader of the minority wing of a political party. Hence, the pending First Information Report is abuse of process of law.

3. No counter was filed by the respondent.

4. The learned counsel appearing for the petitioner would contend that due to the matrimonial dispute between the second respondent's daughter and her husband, her husband made Talaq and the same was sent through Haji to the Jamath of the petitioner and the petitioner Jamath, who in turn had tried to convey the same to the second



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respondent, due to that reason the petitioner Haji approached the second respondent. For that he abused him in filthy language and gave a complaint as against the petitioner before the 1st respondent Police. The first respondent police enquired into the same and at that time, the second respondent apologize the same and he was advised by the police officials. While so, the second respondent gave another complaint as against this petitioner for the offence under Sections 384 and 506(i) IPC and a case has been registered in Crime No.12 of 2020. As per the First Information Report, the petitioner threatened over phone and also compelled to accept the Talaq. The said allegations are vague allegations as against the petitioner and the same would not attract for commission of offence. Hence, the pending First Information Report is an abuse of process of law and the same is liable to be quashed.

5. The learned counsel appearing for the second respondent would contend that the petitioner had abused the second respondent in filthy language and also threatened to accept the Triple Talaq made by the husband of the second respondent's daughter. Further, he has also threatened over phone and also came with rowdy elements and thereby,



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lodge the complaint before the first respondent and the case has also been registered against the petitioner. He would further submit that now the case is pending for investigation and there are so many allegations against the petitioner and the matter has to be investigated elaborately and at this stage, this Criminal Original Petition is not maintainable and the same is liable to be dismissed.

6. The learned Additional Public Prosecutor appearing for the first respondent would submit that based on the complaint given by the second respondent, a case has been registered and thereafter, the case is pending for investigation. Since the case is at the initial stage of investigation, this Criminal Original Petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On perusal of records it is seen that according to the petitioner there is a family dispute between the second respondent's daughter and her husband. Due to family dispute, the son-in-law of the 2nd



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respondent made a Talaq and the same was sent by letter through Haji to the petitioner Jamath and that the petitioner, who is the Haji had approached the second respondent. At that time, the second respondent on earlier occasion abused him in filthy language and gave a complaint as against the petitioner before the 1st respondent Police. Thereafter, the second respondent realized the mistake, and the case was not proceeded further. In the meantime, in order to defame the name of the petitioner, the second respondent lodged a second false complaint. According to the second respondent, the petitioner threatened him to accept the Talaq made by the husband of the second respondent's daughter and to settle the matter. Based on the complaint, the first respondent has registered First Information Report under Sections 384 and 506(i) IPC as against the petitioner. As per the First Information Report, the allegation against the petitioner is that he threatened over phone and also sent some rowdy elements.

9. Further, it is seen from the records that earlier the second respondent has given a compliant and thereafter, he realized the mistake and apologize and hence, the same was closed. Further, it is admitted fact



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that the petitioner is Haji and the petitioner being the Haji of Jamath, attempted to serve a copy of the notice to the second respondent's daughter, in respect of the second respondent's husband pronounced Talaq. Thereby, mis-understanding arose between the parties and therefore, being aggrieved by the above said notice, the second respondent has given this complaint. On careful perusal of complaint it reveals that there is no any specific over tact against this petitioner and the allegations are that over phone tortured with goons and the same are vague, and general. Therefore, the petitioner need not face the trial based on the vague allegations given against him. The learned counsel appearing for the petitioner has relied on the Judgment reported in **2023 0 AIR (SC) 688** in the case of ***Usha Chakraborty and another Vs. State of West Bengal and another***. On careful perusal of the said Judgment it is clear that jurisdiction under Section 482 Cr.P.C., is to be exercised with care and caution and sparingly. Exercise of said power must be for securing ends of justice and only in cases where refusal to exercise that power may result in abuse of process of law and Section 482 is designed to achieve purpose of ensuring that criminal proceedings are not permitted to generate into weapons of harassment. In the case on hand also this petitioner being a President of



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Jamath attempted to convey the letter received from another Jamath to the 2nd respondent, regarding his daughter's Talaq, thereby, this complaint was lodged with vague allegations. Therefore, as discussed above this Court is of the opinion that in order to serve the ends of justice the First Information Report pending against the petitioner is liable to be quashed and accordingly, the First Information Report pending against the petitioner in Crime No. 12 of 2020, on the file of the first respondent police is hereby quashed.

10. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

26.09.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Inspector of Police,
All Women Police Station,
Ramanathapuram District,
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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