



Crl.O.P(MD).No.13245 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 29.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.13245 of 2020

and

Crl.M.P.(MD)No.6083 of 2020

1.V.Thillaikarasi

2.Thirupathi

...Petitioners

Vs

1.The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
(Crime No.300 of 2020)

2.V.Kalyankumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in Crime No.300 of 2020 on the file of the Devakottai Town Police Station, Sivaganga District and to quash the same as against the petitioners.

For Petitioners	: Mr.S.C.Herold Singh
For 1 st Respondent	: Mr.R.M.Anbunithi
	Additional Public Prosecutor
For 2 nd Respondent	: Mr.G.Thalaimutharasu

ORDER

This petition is filed to quash the Crime No.300 of 2020 on the file of the

Devakottai Town Police Station, Sivaganga District.



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2. Based on the complaint given by the second respondent, the first respondent registered FIR in Crime No.300 of 2020 for the offence under Sections 341, 294(b) and 506(i) of IPC.

3. The prosecution case is that the second respondent is practicing advocate and there is a civil dispute pending between the second respondent as well as his sisters and brothers. While so on 18.09.2020, at about 09.30 a.m., while the second respondent along with his friend one Nellaiappan returning from MEDPLUS medical store, the petitioners waylaid the vehicle of the second respondent. When the same was questioned, the petitioner threatened the second respondent and abused in filthy language asking as if the second respondent needs property and also said that nobody would question the petitioners, if the second respondent is done away. While so, the first petitioner threatened that if the same was informed to Dr. Bharat Mohan, he would do away the second respondent and would bury him. It is also alleged that the second respondent demanded any property, he and his family members would be killed. It is further alleged that the petitioner's threatened to withdraw the complaint given by the second respondent.



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4. In fact the first petitioner is innocent person and practicing advocate before this Court. She is also a Part Time Lecturer at the School of Excellence in Law Dr.Ambedkar Law University. The second petitioner is the first petitioner's father's sister's husband and he is aged about 75 years old. The petitioners were not involved in any crime. There is civil dispute pending between the parties. While so on 12.08.2020, the first petitioner received a call claiming to be the writer of Aravayal Police station to appear for enquiry on 13.08.2020 and again she was directed to appear on 05.09.2020 and thereafter, she filed Crl.O.P.(MD)No.8972 of 2020 before this Court and the same was ordered with some conditions on 27.08.2020. The second respondent approached the Revenue Divisional Officer, Devakottai challenging the legal heir certificate issued to the petitioners and three others and the same was rejected. After rejection order, the aforesaid complaint was given. Thereafter, the first petitioner informed the police and an undertaking was given by the first petitioner that she would abide by the action taken by the police after satisfying with regard to that occurrence on verification of the CCTV footage. But the police failed to collect the CCTV footages.

5. On reading of the FIR it reveals that there is civil dispute pending between the petitioners and others. In fact the police without enquiring the case, registered this FIR. The second petitioner who is aged about 75 years,



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waylaid the second respondent who is karate master is unbelievable. Even according to the FIR, there is no specific allegation and the allegations are not specific and the same are vague. Therefore, FIR pending against the petitioners is liable to be quashed.

6.No counter was filed on the side of the respondents.

7.The learned counsel appearing for the petitioners would contend that the second respondent has given complaint as against these petitioners alleging that they waylaid and abused obscene words and threatened him with dire consequences. In fact no occurrence was happened as alleged by the second respondent. The second respondent claiming that he is son of one Sornalingam and making attempt to grab the properties of the first petitioner. No such occurrence was occurred as alleged in the FIR. The second respondent is claiming that he is karate master and he was waylaid by 75 years old second petitioner and it is highly improbable. The criminal color is given to civil case. As far as the offence under Section 341 of IPC is concerned, it is unbelievable that the first petitioner is lady aged 40 years and the second petitioner is 75 years and a heart patient waylaid the second respondent who is trained in karate. Further the allegation is also vague and not specific.

Therefore, the offence under Section 341 of IPC would not attract. As far as



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Section 294(b) of IPC is concerned, these petitioners have not abused any filthy language in a public place and as far as Section 506(i) of IPC is concerned, at no point of time these petitioners intimidated the second respondent therefore, as already submitted the question of intimidation does not arise. Therefore, the pending FIR is abuse of process of law and the same is liable to be quashed.

8.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent has registered FIR in Crime No.300 of 2020 for the offence under Sections 341, 294(b) and 506(i) of IPC. Thereafter, investigated the case and filed final report. Based on final report, the learned Judicial Magistrate, Devakottai has taken cognizance and the same is pending in C.C.No.13 of 2021. There are *prima facie* materials available as against these petitioners. At this stage, the petitioners have to face the trial. Thereby, the petition is liable to be dismissed.

9.The learned counsel appearing for the second respondent would contend that on 18.09.2020 at about 09.30 a.m., he along with his friend Nellaippan were near MEDPLUS medical store, at that time, the petitioners came there in a two wheeler and waylaid him and abused in obscene words



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and thereafter, they threatened him with dire consequences. Thereby, he has given complaint and based on the complaint, FIR was registered and then investigation was completed and now final report has been filed. At this stage, the petitioners have to challenge the final report proceedings. Further the petitioners have come to this Court with unclean hands and they know very well about the second respondent but they not even mentioned the father name of the second respondent in this petition and further they suppressed the material facts. Thereby, this petition is liable to be dismissed.

10.This Court heard both sides and perused the materials available on records.

11.On perusal of the records, it is observed that already there is civil dispute pending between the parties with regard to legal heirship. While so, complaint was lodged alleging that on 18.09.2020, both the accused waylaid the second respondent and abused in obscene words and threatened with dire consequences and thereby, he lodged a complaint.

12.According to the petitioners, they have not committed any offence. They have already appeared before the police for enquiry and they also requested to verify the footage of CCTV camera. The footage of CCTV



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camera was not seized by the respondent police. Even according to the FIR, no offence was made out. The second respondent is aged about 40 years and the second petitioner is aged about 75 years and the first petitioner being a lady alleged to have waylaid the second respondent is highly improbable. This Court also perused the contents of the FIR and the allegations are vague, bald and general and not specific. It is admitted that there is a dispute between the parties regarding the legal heirship certificate.

13. According to the complaint, the allegations are that both the accused waylaid the second respondent and abused obscene words and also threatened with dire consequences. There is no allegation with regard to creation of fear on the minds of the second respondent and other allegations are bald allegations and both the second respondent and the first petitioner are claiming to be advocates and there is dispute pending between them. While so, the allegations in the FIR are not specific and are vague, bald one. These petitioners based on the vague allegations, need not face trial and continuation of the proceedings is abuse of process of Court. Though the first respondent has filed final report, this Court has power to quash the FIR even after filing of the final report prevent the abuse of process of Court. Therefore, this Court is inclined to quash the FIR in Crime No.300 of 2020 and the pending charge sheet in C.C.No.13 of 2021 on the file of the learned Judicial Magistrate,



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P. DHANABAL,J.

Mrn

Devakottai.

14.In view of the above discussion, this Criminal Original Petition is allowed and the pending charge sheet in C.C.No.13 of 2021 on the file of the learned Judicial Magistrate, Devakottai is quashed. Consequently, connected miscellaneous petition is closed.

29.09.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Judicial Magistrate, Devakottai.

2.The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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