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Crl.O.P(MD).No.15951 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.15951 of 2020

and

Crl.M.P.(MD)No.7870 of 2020

1.Jafer Ali

2.Rafin Ahamed

...Petitioners

Vs

1.The State rep. by,
Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.
(Crime No.610 of 2019)

2.Veerapagu

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the FIR in Crime No.610 of 2019 on the file of the first respondent Police and quash the same as illegal.

For Petitioners	: Mr.M.Ajmal Khan, Senior Counsel For M/s.Ajmal Associates
For 1 st Respondent	: Mr.R.M.Anbunithi Additional Public Prosecutor
For 2 nd Respondent	: No Appearance

ORDER

This petition has been filed to quash the FIR in Crime No.610 of 2019,

on the file of the first respondent Police.



2. According to the petitioners, the second respondent, who is Principal of VOC College, Thoothukudi has lodged a complaint before the first respondent alleging that on 28.09.2019 at about 01.00 p.m., without getting any permission from the Management, the petitioners had trespassed into the college premises and captured photos of college building structures in their mobile phones and the said Act was noticed by the workers and they had questioned the same but the petitioners did not given any reply. At that time, the petitioners abused the workers and given life threat and narrowly escaped from the scene of occurrence and hence, the second respondent lodged a complaint before the first respondent and the first respondent registered a FIR against the petitioners in Crime No.610 of 2019 for the offences punishable under Sections 448, 294(b) and 506(i) of IPC. The petitioners have not committed any offence as alleged in the FIR. The petitioners have visited the college premises on the alleged day. On aesthetic view manner, the petitioners had taken photographs of building structure. At the time, the workers misconstrued the petitioners and intervened and treated them with disparage and rude manner. The petitioners were falsely impleaded in the case and the entire exercise done by the defacto complainant is abuse of process of law and liable to be quashed.

<https://www.mhc.tn.gov.in/judis> 3.No counter was filed on the side of the respondents.



4.The learned counsel for the petitioners would contend that the second respondent has lodged a complaint before the first respondent police alleging that the petitioners had trespassed into the college and abused in filthy language and caused life threat to the defacto complainant. No occurrence was happened as alleged in the FIR. In fact the petitioners visited the college premises to visit exhibition and they had taken photographs of the building. The same was questioned by the college staffs and the false complaint was given by the Principal and based on the said complaint, FIR has been registered and the same is liable to be quashed.

5.Further the learned counsel appearing for the petitioners contended that even according to the averments in the complaint and FIR, no offences are made out and the allegations are bald allegations and thereby, this Court can quash the FIR even under Section 95 of IPC.

6.The learned counsel appearing for the petitioners relied upon the following judgments:-

“(1)*Vikram Johan v. State of Uttar Pradesh and another* reported in *(2019) 14 Supreme Court Cases 207*.

(2)*Manik Taneja and another v. State of Karnataka and another* reported in *(2015) 7 Supreme Court Cases 423*.

<https://www.mhc.tn.gov.in/judis> (3)*Jayakumar v. State and another* reported in *(2021) 2 MWN*



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7.The learned Government Advocate appearing for the first respondent would contend that the petitioners without permission, entered into college and the same was questioned by the staffs of the college. At that time, the petitioners abused filthy language and caused criminal intimidation. Thereby, the second respondent had given complaint before the first respondent and based on the complaint, FIR was registered in Crime No.610 of 2019 for the offences under Sections 448, 294(b) and 506(i) of IPC.

8.This Court heard both sides and perused the materials available on record.

9.On perusal of the records, it is observed that the second respondent had given complaint before the first respondent alleging that the petitioners had trespassed into college and abused filthy language and caused criminal intimidation. According to the petitioners, they visited the college premises to see exhibition and at that time, they have taken photographs of the building structure and the same was questioned by the staffs of college and thereafter, the defacto complainant gave false complaint.

<https://www.mhc.tn.gov.in/judis> 10.On seeing the complaint, it reveals that there is no intention for the



petitioners to trespass into the property to commit any offence and only entered into the premises for seeing exhibition. Further as far as offence under Section 448 of IPC is concerned, at the time of entry in to college, there is no intention to commit an offence and only entered into premises for seeing exhibition and further at that time, they have taken photographs. Mere entering into college and taking photos will not constitute any offence. For other offence i.e Section 294(b) of IPC is concerned, the allegations are bald one. As far as offence under Section 506(i) of IPC is concerned, mere threat is not sufficient to constitute the offence and the allegation is also vague one. Even according to the complaint, none of the offence are made out and the allegations are bald allegations. As rightly pointed out by the learned counsel appearing for the petitioners, mere entering into college and taking photographs is not sufficient to constitute any offence.

11.The learned counsel appearing for the petitioners relied upon the judgment of the Hon'ble Supreme Court in the case of ***Vikram Johar v. State of Uttar Pradesh and another*** reported in ***(2019) 14 Supreme Court Cases 207***, wherein this Court in paragraph no.10 held as follows:-

“24. In another judgment, i.e., *Manik Taneja and Another Vs. State of Karnataka and Another*, (2015) 7 SCC 423, this Court has again occasion to examine the ingredients of **Sections 503 and 506**. In the above case also, case was registered for the offence under **Sections 353 and 506 I.P.C.** After noticing **Section**



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503, which defines criminal intimidation, this Court laid down following in paragraph Nos. 11 and 12:-

“11. XXXXXXXXXXXX A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of “criminal intimidation”. The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the



appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in [Section 503](#) IPC.”

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25. In the above case, allegation was that appellant had abused the complainant. The Court held that the mere fact that the allegation that accused had abused the complainant does not satisfy the ingredients of [Section 506](#).

*26. Now, we revert back to the allegations in the complaint against the appellant. The allegation is that appellant with two or three other unknown persons, one of whom was holding a revolver, came to the complainant's house and abused him in filthy language and attempted to assault him and when some neighbours arrived there the appellant and the other persons accompanying him fled the spot. The above allegation taking on its face value does not satisfy the ingredients of [Sections 504](#) and [506](#) as has been enumerated by this Court in the above two judgments. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The mere allegation that appellant came and abused the complainant does not satisfy the ingredients as laid down in paragraph No.13 of the judgment of this Court in *Fiona Shrikhande (supra)*.*

*27. Now, reverting back to [Section 506](#), which is offence of criminal intimidation, the principles laid down by *Fiona Shrikhande (supra)* has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under [Section 506](#) IPC, what are ingredients which have to be proved by the prosecution? Ratanlal*



& Dhirajlal on Law of Crimes, 27th Edition with regard to proof of offence states following: -

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- (i) That the accused threatened some person.
- (ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of some one in whom he was interested;
- (iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat." A plain reading of the allegations in the complaint does not satisfy all the ingredients as noticed above."

12.The learned counsel appearing for the petitioners relied upon the judgment of this Court in the case of **Jayakumar v. State and another** reported in **(2021) 2 MWN (Crl)330**, wherein this Court in paragraph no.10 held as follows:-

"10.In the considered view of this Court, the act committed by the accused persons can be brought under the general exceptions under Chapter IV of Indian Penal Code and it can be specifically brought under Section 95 of Indian Penal Code. All those acts, which fall under general exceptions is not considered to be an offence."



13.In view of the above judgments and as discussed above, this Court is inclined to quash the FIR.

14.Accordingly, the FIR registered as against these petitioners in Crime No.610 of 2019 is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

07.08.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

1.The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.

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



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P. DHANABAL,J.

Mrn

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