



Crl.O.P.(MD)No.20394 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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and

Crl.M.P.(MD)Nos.11600 and 11601 of 2021

- 1.Balamurugan, S/o.Shanmugam
- 2.Gandhi @ Kamatchi, S/o.Ramasamy
- 3.Ponraj, S/o.Kothalakaruppan

... Petitioners

Vs.

- 1.The State rep. by
The Inspector of Police,
Ottapidaram Police Station,
Tuticorin District.

- 2.Pandiayarajan,
Sub-Inspector of Police,
Ottapidaram Police Station,
Tuticorin District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for all the records relating to the charge sheet in S.T.C.No.558 of 2018, on the file of the Judicial Magistrate Court, Vilathikulam, Tuticorin District, and quash the same as illegal insofar as the petitioners herein are concerned.



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For Petitioners : Mr.M.Jerin Mathew

For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The petitioners, who are accused in S.T.C.No.558 of 2018, facing trial for the offences under Sections 353 and 506(i) I.P.C., have filed this quash petition, seeking to quash the proceedings.

2. The case against the petitioners is that, on 16.02.2018 at about 07.15 p.m. the second respondent/de-facto complainant, who is the Sub Inspector of Police, Ottapidaram Police Station, was on duty of vehicle check along with Mr.George Kalaiselvan, Grade-I Police Constable and Mr.Krishnamoorthy, Grade-II Police Constable [L.W.2 and L.W.3], at that time, the first petitioner/A1, who is the driver of the second petitioner/A2 and yet another person were travelling in the Scorpio vehicle of A2, bearing Registration No.TN-69-AP-3333. On seeing the Police, the vehicle stopped and A2 and others questioned the second respondent/de-facto complaint and others that how dare he can stop vehicle of the second petitioner/A2, who is the former Union Chairman,



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questioning the rider of the bike for not wearing helmet and asked for the R.C. Book and other documents of the vehicle, the petitioners claiming pride, informed that they earlier assaulted a Tahsildar and threatened the second respondent/de-facto complainant and others, they would be treated in the same manner, thereby, threatened and restrained the public servants from discharging their duties. Hence, a case registered against them and charge sheet filed. In this case, L.W.1 to L.W.6 have been listed and documents have been filed along with the charge sheet.

3. The contention of the learned counsel for the petitioners is that though initially, F.I.R. was registered for offences under Section 294(b), 353 and 506(i) I.P.C., later, Section 294(b) I.P.C. was dropped while filing the charge sheet. He further submits that in this case, the admitted case of the prosecution is that, when the second respondent/de-facto complainant and two others were conducting road check, the petitioners said to have abused, threatened and deterred the public servants from discharging their duties. Though the occurrence is said to have taken place in a public place, no public witness examined. L.W.1 to L.W.3 are the Police witnesses. L.W.4 and L.W.5 are the witnesses to the



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Observation Mahazar and Rough Sketch. L.W.6 is the Investigating Officer in this case.

4. The learned counsel further submits that even in the complaint as well as from the statement of the witnesses, it is seen that the petitioners/accused have fled from the scene of occurrence on seeing the Inspector of Police, who had come there. Such being the case, there is no question of any threat by the petitioners. Since there is no use of abusive words, Section 294(b) I.P.C. dropped. In view of the same, no offence under Section 353 of I.P.C. is made out.

5. The learned counsel further submits that Section 506(i) I.P.C. will not get attracted in the absence of mere threat followed with no action. In support of his contention, the learned counsel for the petitioners relied upon the decision of this Court in **Crl.O.P.(MD)No. 22276 of 2016, dated 02.11.2020 [Rajesh Kanna vs. The Inspector of Police, East Police Station, Kovilpatti, Tuticorin District and another]**, wherein this Court held that the alleged act should have resulted in disruption of public servants carrying out of their public duties and further, the threat should not be empty and hence, the learned



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counsel prayed for quashing of the proceedings in the present case.

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6. The learned Additional Public Prosecutor for the respondents submits that in this case, the second respondent/de-facto complainant and two other witnesses, namely, L.W.1 to L.W.3 are all public servants, which is not in dispute. When the public servants were carrying on the road check and discharging their public duties, the petitioners travelling in the Scorpio vehicle, and the second petitioner/A2, who is the former Union Chairman, stopped his vehicle, obstructed the public servants, abused and threatened them from discharging their public duties. Earlier, the first petitioner/A1 while riding two wheeler of the second petitioner/A2 without wearing helmet and without proper documents, intercepted, stopped and warned. Checking vehicle's documents during road check is part of public servants' duty. Further, the petitioners threatened the second respondent/de-facto complainant and others by stating that earlier they assaulted a Tahsildar and the same treatment will be given to L.W.1 to L.W.3, who are public servants, discharging public duties and only due to timely intervention of the Inspector of Police, they could be saved.



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7. The learned Additional Public Prosecutor further submits that the act of the petitioners would clearly attract Section 353 I.P.C. He further submits that the petitioners escaped from the scene of occurrence fearing arrest, would clearly prove the guilt of the petitioners/accused. He further submits that in this case the second petitioner/A2 claiming himself as a former Union Chairman always moves with group of persons, deterring the public servants, abused and threatened them while they were discharging their duties. If the contentions of the petitioners to be accepted, then, no public servant can discharge his/her duties, more particularly, in Ottapidaram area, where the second petitioner/A2 was an Union Chairman, who has got several cases to his credit of similar nature. The points raised by the petitioners are factual in nature, which have to be decided during trial.

8. Considering the submissions and on perusal of the materials, this Court finds that three witnesses, namely, L.W.1 to L.W.3 public servants, clearly stated the criminal force and assault exhibited by the petitioners against the second respondent/de-facto complainant and two others during vehicle check. It is also seen that the petitioners during the vehicle check, questioned and threatened the second respondent/de-facto



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complainant and two others for stopping the first petitioner/A1 while riding the two wheeler of the second petitioner/A2 without wearing helmet and vehicle documents. Further, they threatened the petitioners to face the same fate of Tahsildar, who was assaulted by them. If the first respondent/Investigating Officer had not arrived, the incident could have got further aggravated. The contention of the petitioners are disputed facts, which can be decided only during the trial.

9. In view of the same, this Court is not inclined to entertain this Criminal Original Petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

10. The observations made herein are only for the limited purpose for disposal of the present Criminal Original Petition. The Trial Court to proceed and decide the case on its own merits. Finding that the S.T.C. is of the year 2018 and there are only six witnesses, this Court directs the Trial Court to complete the trial and dispose the case on its own merits and in accordance with law, within a period of four months from the date of receipt of the copy of this order.

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

15.09.2023



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To

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- 1.The Judicial Magistrate,
Vilathikulam,
Tuticorin District.
- 2.The Inspector of Police,
Ottapidaram Police Station,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

smn2

Order made in

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