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CrI.O.P.(MD)No.2471 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.2471 of 2022
and
CrI.M.P.(MD).No.1823 & 1826 of 2022

Esakki @ Esakkiraja

... Petitioner

Vs.

1.The State through the Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
(Crime No.155 of 2018)

2.Murugaiah
Special Sub Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the chargesheet in CC No. 375/2018 dated 01.05.2018 on the file of the learned Judicial Magistrate, No.II, Kovilpatti, Thoothukudi District in Crime No.155/2018 on the file of the 1st respondent for the offences under Section 294(b), 504, 506(ii) and 153 IPC and quash the same as against the petitioner.

For petitioner : Mr.P.Senguttarasan

For R-1 & R-2 : Mr.S.S.Madhavan
Government Advocate (Criminal Side)



ORDER

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This petition has been filed seeking to quash CC No.375/2018 dated 01.05.2018 on the file of the learned Judicial Magistrate, No.II, Kovilpatti, Thoothukudi District for the offences under Section 294(b), 504, 506(ii) and 153 IPC.

2. The case of the prosecution is that the petitioner, who is Accused No.3 in Crime No.155 of 2018, is the founder of Pasumpon Muthuramalinga Thevar Trust, at the relevant point of time. It is alleged that on 05.04.2018 at about 11.00 a.m., the petitioner along with other accused persons were indulged in agitation after obtaining permission in the Kovilpatti Bus stand with regard to human rights violation committed by the police officials. Based on the complaint preferred by the second respondent, the first respondent has registered a case in Crime No.155 of 2018 for the alleged offence punishable under Sections 294(b), 504, 506(ii) and 153 IPC and on completion of investigation, chargesheet has been filed, for quashing which, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner has agitated after getting prior permission and there is no



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violation or rioting took place as alleged by the respondent police. The learned counsel for the petitioner has relied upon the orders of this Court reported in **2016 (2) T.N.L.R. 520 (Mad) (MB) [Dhanalakshmi Vs. The State]** and Crl.O.P.(MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police) and hence, prays for interference.

4. The learned Government Advocate (Crl.side) would submit that there are materials against the petitioner and at the threshold, the proceedings cannot be quashed and prays for dismissal.

5. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

6. It is seen that to attract the charge under Section 153 I.P.C., there are no ingredients and no averments and no provocation has been made as alleged by the 2nd respondent. In this regard, it is held in **2016 (2) T.N.L.R. 520 (Mad) (MB) [Dhanalakshmi Vs. The State]** as follows:-

“8. When a Government Servant is prevented from doing his public duty Section 353, I.P.C is attracted. In this case, there is no allegation that the accused has assaulted nor used criminal force as against the woman S.I. Further, the alleged act does not result in disruption



in further carrying out of her public duties. Offence under Section 353, I.P.C also will not arise. ”

7. As far as the offence under Sections 294(b) and 506(ii) of I.P.C. is concerned, no ingredients were made out as against the petitioner to prove the same. The charges does not show obscene words, which were uttered by the accused and there is not even an assault spoken by any one on the defacto complainant/respondent. Therefore, the offences under Sections 294(b) and 506(II) of I.P.C. are not at all made out as against the petitioner herein. In this regard, the learned counsel for the petitioner rightly relied upon the judgment of this Court in CrI.O.P.(MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police), wherein, it is held as under:-

“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 3/6 <http://www.judis.nic.in> CrI.O.P.(MD)No.1227 of 2019 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



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.”

8. As far as Section 504 IPC is concerned, none spoke about the intentional insult with intent to provoke breach of the peace.

9. The above judgments are squarely applicable to the facts of this case. Therefore, the entire proceeding is clear an abuse of process of law and it is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.375 of 2018 pending before the learned Judicial Magistrate, No.II, Kovilpatti, is liable to be quashed.

10. In the result, the Criminal Original Petition is allowed and the



CrI.O.P.(MD)No.2471 of 2022

C.C.No.375/2018 Judicial Magistrate, No.II, Kovilpatti, Thoothukudi

District is hereby quashed insofar as the petitioner is concerned.

Consequently, connected miscellaneous petitions are closed.

07.02.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes / No

RR

To

1. The Judicial Magistrate, No.II
Kovilpatti

2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

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



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M.DHANDAPANI. J.

RR

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