



Crl.O.P.(MD) No.3129 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.3129 of 2024

and

Crl.M.P.(MD) Nos.2501 and 2502 of 2024

Suresh

...Petitioner

vs

**1.The Inspector of Police,
Ponnamaravathy Police Station,
Pudukkottai District.
Crime No.335 of 2020**

2.Francis Mary

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records relating to the charge sheet in CC.No.143 of 2023 on the file of the District Munsif cum Judicial Magistrate, Ponnamaravathy, Pudukkottai District and quash the same as against the petitioner.

For Petitioner : Mr.G.Karuppasamy Pandiyan

**For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)**



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner is a sole Accused in C.C.No.143 of 2020. As per the submission of the learned Counsel for the Petitioner that the defacto complainant / second Respondent was serving as Inspector of Police, Ponnamaravathy (Traffic) Police Station, the case arose out of wordy quarrel, during COVID-19 period, wherein the defacto complainant had been controlling the traffic and she directed the Petitioner to remove the two wheeler. Instead of removing the vehicle, the Petitioner had entered wordy quarrel with the Inspector of Police (Traffic). Subsequently, the Petitioner herein is alleged to have posted in Social Media mode ie. Face Book and Whats App. As per the charge sheet, the offence attracted in this case are under Sections 294(b), 353, 506 (i) I.P.C and Section 67 of the Information of Technology Act, 2000.

2.The learned Counsel for the Petitioner relied on the Ruling of the Hon'ble Supreme Court reported in ***2015-5-L.W-355 (Manik Taneja V. State of Karnataka)***, wherein the relevant paragraphs read as follows:

"11. So far as the issue regarding the registration of FIR under Section 353 IPC is concerned, it has to be seen



whether by posting a comment on the Facebook of the traffic police, the conviction under that Section could be maintainable. Before considering the materials on record, we may usefully refer to Section 353 IPC which reads as follows:-

"353. Assault or criminal force to deter public servant from discharge of his duty.- Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

12. A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to



prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, that the ingredients of the offence under Section 353 IPC are not made out.

13. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

14. 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."

3.The learned Government Advocate (CrI.side) for the first Respondent would submit that there is no material to incriminate the petitioner in the case. The 2nd Respondent was engaged in the routine of checking of the vehicle. While so, on 09.06.2020 at about 18.30 hrs on the course of her duty she tried to stop the vehicles bearing Reg.Nos: TN55 AR0203 and TN55 AD7565 at valayapatti 5th road unction and then she sent all the vehicles on her custody to the Police Station to report the incidents.

4.While so, the 2nd Respondent asked PC 300 to clear the obstacle and proceed further. When PC300 tried to stop Suresh and his friend, one Balachandar used obscene words and refused to clear and created ruckus on the road. When the 2nd Respondent arrived at the scene and found that the two vehicles evaded her supervision earlier and the vehicles obstructing her due course of duty were the same and the persons riding the vehicle were under the influence of alcohol. So she took action. The said Balachandar admitted his fault and paid the appropriate penalty and took his vehicle and



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the said Suresh did not comply with any due course of law and kept calling the 2nd Respondent and harassing her with obscene words and irrelevant consequences due to her execution of her duty and this case came to be registered.

5. On consideration of the rival submissions, the submission of the learned Counsel for the Petitioner is found acceptable, since in the reported ruling relied on by him, the facts are same. It was a case, where the traffic police was prevented from discharging his duties as per the prosecution case. In the said judgment, the Hon'ble Supreme Court had held as follows:-

“15. 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 minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in [Section 503](#) IPC.

16. Of course, in exercise of its jurisdiction under [Section 482](#) Cr.P.C., the court should be extremely cautious to interfere with the investigation or trial of a criminal case and should not stall the investigation, save except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of offence and that continuance of the criminal prosecution would amount to abuse of process of the court. As noted earlier, the page created by the traffic police on the Facebook was a forum for the public to put forth their grievances. In our considered view, the appellants might have posted the comment online under the bona fide belief that it was within the permissible limits. As discussed earlier, even going by the uncontroverted allegations in the FIR, in our view, none of the ingredients of the alleged offences are satisfied. We are of the view that in the facts and circumstances of the case, it would be



unjust to allow the process of the court to be continued against the appellants and consequently the order of the High Court is liable to be set aside.

17. In the result, the impugned order of the High Court in Criminal Petition No.252 of 2014 dated 24.4.2014 is set aside and this appeal is allowed and the FIR in Crime No.174/2013 registered against the appellants is quashed.”

6.The Petitioner in the reported case is alleged to have posted comments on the Bangalore traffic police on the facebook page accusing the Inspector's misbehave. The Hon'ble Supreme Court had held that mere expression of any words without any intention to cause along could not be sufficient to bring him under Section 503.

7.In the reported case, the appellant and his wife met with an accident with an auto rickshaw on 13.06.2013 by around 10.30 in the morning, while Sakshi Jawa was driving Maruthi SX4 KA 03 MM 8646. One of the passengers, who travelled in the auto rickshaw, namely Mrs.Laxmi Ganapati, sustained injuries and was admitted in the hospital for treatment.



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Sakshi Jawa, the second appellant is said to have paid all the hospital expenses and the matter was amicably settled between the injured and the appellants and no FIR was lodged. The Constable, who was present at the time of incident, directed the appellants to meet Kasim, Police Inspector, Pulakeshi Nagar, Traffic Police Station, Bangalore City. When the appellants entered into the office of Kasim, he behaved in a rude manner. Kasim summoned the second appellant to produce her driving licence and other documents. At that time, no FIR was lodged. The second appellant questioned the Police Inspector as to why she was being asked to produce those documents. Kasim, in reply, is alleged to have threatened the second appellant stating that he would drag her to Court if she continued to argue and she was thrown out of his office. On the orders of Kasim, his deputy told the appellants that they are booking them for the charge of rash and negligent driving.

8. Being aggrieved by the manner of the Inspector of Police, the appellants posted comments on the Bangalore Traffic Police's facebook page accusing Kasim's misbehavior and also forwarded an e-mail complaining about the harassment meted out to them at the hands of Kasim.



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The second Respondent therein filed a complaint regarding the posting of the comment on the facebook by the appellants and subsequently FIR was registered against the appellants.

9. Here in this case, as per the FIR, the Complainant in this case, the Inspector of Police, Traffic was regulating the traffic. He signalled 2 two wheelers to stop the vehicle. But they did not stop the vehicle. The Traffic Constable, Mohan noted the vehicle numbers. The 2 two wheelers were parked haphazardly near the centre median of the road opposite to KR Residency Hotel. When the Police Constable requested them to remove the vehicle causing hindrance to the traffic, one among the two wheeler rider, namely Suresh abused the Police Constable using filthy language stating that these Police Constables are just 10th passed people. Just because they entered into the Police Department, they think that they are powerful. When the Complainant/the Inspector of Police Traffic came to the place, on seeing her again the said Suresh abused the Inspector of Police stating that he is a Reporter in the media and they could do anything with the Police and Government servants. The person, who abused the Police Constable and the Inspector of Police, was identified as Suresh, Reporter in a channel.



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10. On verification, it was found that they were intoxicated at that time. Therefore, a case was registered against them for obstructing the traffic. The Inspector of Police asked the two wheeler riders to hand over the keys of the two wheelers, for which the said Suresh had stated that he will not obey the order of the Inspector. The other person pleaded guilty and paid the fine, whereas the said Suresh, Reporter in a channel, did not pay the fine amount and had approached this Court. Therefore, the ingredients of offences is made out in this case, whereas in the Bangalore case, it was the Police Inspector, who is alleged to have threatened the woman, who drove the Car, the appellant before the Hon'ble Supreme Court.

11. In the light of the above, this Criminal Original Petition stands dismissed, even though the facts are similar with the reported decision of the Hon'ble Supreme Court relied on by the learned Counsel for the Petitioner, which is a case involving traffic police and the vehicle rider. Here also, it is between the vehicle rider and the traffic police. Here, the person, who is alleged to have threatened the Police is the Petitioner, who is alleged to be a Reporter in a channel. Based on that, he threatened the Police Officer, based on which, the complaint was given.



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12.In the result, ***this Criminal Original Petition stands dismissed.***

Consequently, connected Miscellaneous Petitions are closed.

Internet:Yes./No

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Index:Yes/No

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To

- 1.The Inspector of Police,
Ponnamaravathy Police Station,
Pudukkottai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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