



Crl.O.P.(MD)No.19160 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.19160 of 2021 &  
Crl.M.P.(MD)No.10663 of 2021

Balamurugan

... Petitioner

vs.

1.The Deputy Superintendent of Police,  
Theni District, Theni.

2.The Inspector of Police,  
Devadanapatti Police Station,  
Theni District.  
In Crime No.1417 of 2020

3.Pandiyarajan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in Spl.S.C.No.8 of 2021 on the file of the Special Court exclusively triable for the offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Theni and quash the same as illegal.

For Petitioner

:Mr.A.Mohan

For Respondents

:Mr.M.Sakthi Kumar,  
Government Advocate (Criminal Side)  
for R1 and R2  
Mr.R.Appadhurai for R3



Crl.O.P.(MD)No.19160 of 2021

WEB COPY

## ORDER

Seeking to quash the final report in Spl.S.C.No.8 of 2021 on the file of the Special Court exclusively triable for the offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [hereinafter referred as 'the Act' in short], the present petition is filed.

2. The third respondent / defacto complainant namely, Pandiyarajan, a practicing advocate availed a loan from TVS Credit Service Limited for purchase of a two wheeler and executed a Hire Purchase Agreement on 08.09.2020. As per the agreement, the third respondent / defacto complainant has to pay the loan amount in 28 Equated Monthly Installments. So far, he had paid only 10 Equated Monthly Installments and did not make any further payment, as a result of which, the petitioner / sole accused, one of the recovery agents of TVS Credit Service Limited, went to the place of residence of the third respondent to seize two wheeler that was hypothecated with the TVS Credit Service Limited. According to the third respondent / defacto complainant, when he requested the petitioner to provide statement of



accounts to him, the latter abused him in filthy language mentioning his caste name and also threatened him with dire consequences. Based on the complaint given by the third respondent / defacto complainant, the Inspector of Police, Devadanapatti Police Station, Theni registered FIR in Crime No.1417 of 2020 for the offences punishable under Sections 294(b), 506(i) IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Act. The Deputy Superintendent of Police, Theni after concluding investigation laid a final report in Spl.S.C.No.8 of 2021 before the Special Court for the aforesaid offences..

3. Mr.A.Mohan, learned counsel appearing for the petitioner would contend that the petitioner is only a recovery agent and he does not know the community of the third respondent / defacto complainant. His further contention is that as per the directions of the Management, he went to the hometown of the third respondent / defacto complainant for seizing the vehicle, for which, the third respondent / defacto complainant picked up quarrel with him. According to the counsel, the petitioner did not abuse the third respondent / defacto complainant in filthy language by



CrI.O.P.(MD)No.19160 of 2021

mentioning his caste name and in order to avoid payments, he has given a false complaint against the petitioner. He also relied on the decision of the Hon'ble Apex Court in *Hitesh Verma vs. State of Uttarakhand and Another reported in (2020) 4 MLJ (Crl) 632 (SC)* and contended that the offences under the Act cannot be established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. His further contention is that in the present case, the petitioner, a recovery agent had gone over to the village of the third respondent / defacto complainant for seizing the vehicle for non-payment of dues by the latter.

4. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 and Mr.R.Appadhurai, learned counsel appearing for the third respondent / defacto complainant would contend that the petitioner and the third respondent / defacto complainant are residents of neighbouring villages and they know each other very well and therefore the contention of the



CrI.O.P.(MD)No.19160 of 2021

WEB COPY

counsel for the petitioner that the petitioner does not know the community of the third respondent cannot be accepted. It is their further contention that the Deputy Superintendent of Police, Theni after conducting proper investigation had laid a final report and there is no good ground for quashing the same.

5. Mr.R.Appadhurai, learned counsel appearing for the third respondent added that the third respondent / defacto complainant is a junior advocate and due to Covid-19 pandemic situation, he was unable to pay the dues to the TVS Credit Service Limited.

6. At the outset, it may be observed that the offences alleged against the petitioner are for the offences punishable under Sections 294(b), 506(i) IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Act. It is an admitted fact that the petitioner is only a recovery agent of TVS Credit Service Limited and he had gone over to the Genguarpatti village to seize the vehicle purchased by the third respondent / defacto complainant through Hire Purchase Agreement from TVS Credit Service Limited.



There is nothing to show in the 161(3) Cr.P.C. statements of the witnesses that the petitioner and the defacto complainant already knew each other. Moreover, a mere empty threat without an intention of causing any bodily injury would not attract the offence under Section 506(i) and it is not also the case of the defacto complainant that he was put under imminent danger on account of threat posed to him.

7. In fact, Section 161(3) Cr.P.C. statements of the witnesses are very vague with regard to the commission of offence by the petitioner and nowhere it is stated that the petitioner already knew the community of the third respondent (defacto complainant). In the circumstances, the decision in *Hitesh Verma vs. State of Uttarakhand and Another (cited supra)* would squarely apply to the facts of the present case and the relevant paragraphs of the decision are extracted hereunder.

"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or



intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste.

14....

15....

16....



17....

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19....

20....

21....

22....

23. This Court in a judgment reported as Ishwar Pratap Singh & Ors. v. State of Uttar Pradesh & Anr. 10 held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court



held as under:

“9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse.



CrI.O.P.(MD)No.19160 of 2021

There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed.””

8. In view of the above, the final report in Spl.S.C.No.8 of 2021 on the file of the Special Court exclusively triable for the offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

22.02.2024

NCC: Yes/No  
Index : Yes/No  
Speaking/Non-Speaking order  
*mbi*



CrI.O.P.(MD)No.19160 of 2021

To  
WEB COPY

- 1.The Special Court exclusively triable for the offences  
under SC/ST (POA) Act, Theni
- 2.The Deputy Superintendent of Police,  
Theni District, Theni.
- 3.The Inspector of Police,  
Devadanapatti Police Station,  
Theni District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



WEB COPY



CrI.O.P.(MD)No.19160 of 2021

R.HEMALATHA, J.

*mbi*

CrI.O.P.(MD)No.19160 of 2021

22.02.2024