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Crl.O.P.No.2588 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.2588 of 2024

and

Crl.M.P.Nos.1882 and 12308 of 2024

Krishnakumar

... Petitioner

Vs

1. The State

Rep. by the Inspector of Police,
T-14, Mangadu Police Station,
Avadi City,
Tamil Nadu.

2. Sappany Pillai

... Respondents

Prayer: Criminal Original Petition filed under 482 of Cr.P.C., to call for the records in Crime No.592 of 2023, pending investigation of the file of the first respondent Police and quash the same.

For Petitioner : Mr.S.Karthikeyan
for Mr.J.V.Sakthi Baalakrishnan

For Respondents : Mr.A.Gopinath,
Govt. Advocate (Crl. Side) (for R1)
Mr.P.Palaniandy (for R2)



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ORDER

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This Petition has been filed to quash the First Information Report in Crime No.592 of 2023, pending investigation of the file of the first respondent Police.

2. The case of the prosecution is that the second respondent/de-facto complainant lodged a complaint against the petitioner, alleging that the petitioner's father and the second respondent had jointly purchased, partitioned and had been enjoying their respective portions in the property, consisting of land measuring an extent of 5550 sq.ft, comprised in S.No.69/1B, situated at No.76 (Old No.53), Madhanandhapuram Village, Sriperumbudur Taluk, Kancheepuram District, more fully described in the schedule-A in the Schedule of properties. Further, the second respondent had fenced his portion of the property by spending a sum of Rs.30,000/-, while the portion belonging to the petitioner's father was rented out by the petitioner and his brothers to an Auto Repair Shop, i.e., a hut made of metal sheet.

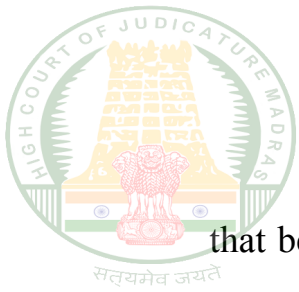


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Shivakumar, who are the brothers of the petitioner herein, the petitioner, along with three other unknown persons, on 14.06.2023, pushed the fence put up by the second respondent and threatened the second respondent with dire consequences if he ever enters the petitioner's property. Subsequently, the second respondent alleged that the said Shivakumar had, on 30.06.2023, called the second respondent over the phone and abused him with filthy language and also threatened him with dire consequences. On 02.07.2023, the petitioner's henchmen, along with equipment, once again knocked down the fences put up by the second respondent and threatened the security personnel who tried to stop them. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner's father and the second respondent are friends and they jointly purchased the property comprised in S.No.69/1B, situated at No.76 (Old No.53), Madhanandhapuram Village, Sriperumbudur Taluk, Kancheepuram District. As per the sale deed, the petitioner's father is entitled to 56% of the property and the second respondent is entitled to 44% of the property. While



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that being so, there is a dispute in respect of the said property, and as such, the second respondent filed a suit in O.S.No.117 of 2010 on the file of the District Munsif-cum-Judicial Magistrate, Sriperumbudur, seeking a right of easement for the scheduled property and filed another suit in O.S.No.52 of 2011 on the file of the Subordinate Judge, Kancheepuram, for partition. In the meanwhile, the petitioner's father died and the petitioner stepped into his father's issues. While that being so, the second respondent lodged a complaint, as if the petitioner and others damaged the fence worth about Rs.30,000/- and also threatened the second respondent through the phone with dire consequences by using filthy language.

4. The learned counsel for the second respondent would submit that the CCTV footages are very much available to prosecute the petitioner. He further submitted that the petitioner's henchmen, along with equipment, damaged the wire fence to the tune of Rs.30,000/-.

5. Admittedly, the suits filed by the second respondent were dismissed for default and now, the second respondent has filed applications to restore the said suits. Further, the petitioner's father and the second



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respondent had jointly purchased the subject property, in which the petitioner's father was allotted 56% of the property, and the second respondent was allotted 44% of the property. Therefore, after the demise of the petitioner's father, the petitioner is entitled to have the same share. In this regard, there is a dispute pending between the petitioner and the second respondent. Due to the civil dispute, the present First Information Report has been filed. Therefore, since the petitioner is also a joint owner of the subject property, the offence under Section 427 of IPC is not at all attracted as against the petitioner.

6. On perusal of the FIR, the entire allegations are vague and bald. Even assuming that the allegations are to attract offence under Section 506(i) of IPC, the intention must be to cause alarm to the victim and materials have to be brought on record to show that the intention was to cause alarm to the person. Hence, mere a threat is not sufficient to attract the charge of criminal intimidation. In this regard it is relevant to rely upon the judgment in the case of *Manik Taneja and anr. Vs. State of Karnataka* reported in **2015 (7) SCC 433**, wherein it is held as follows:-

“14. A reading of the definition of "Criminal



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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.

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



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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.”

Therefore, offence under Section 506(i) of IPC is not at all attracted as against the petitioner.

7. Insofar as the offence under Section 294(b) of IPC, mere utterance of obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance of others, which is lacking in this case. Further, there is absolutely no words uttered by the petitioner as such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioner, the person felt annoyed. He has not spoken about the obscene words, he felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioner annoyed the person, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out. It is relevant to rely upon



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the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju**

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"To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

The above judgment is squarely applicable to the present case and therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioner. That apart, in the case on hand, even according to the case of the prosecution, threatening was made over phone. Therefore, the offence under Section 294(b) of IPC would not attract as against the petitioner.

8. In view of the above, this Court finds that the First Information Report in Crime No. 592 of 2023, as against the petitioner under Sections 294(b), 427, and 506(i) of IPC, cannot be sustained and is liable to be quashed.



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9. Accordingly, the Criminal Original Petition stands allowed and the

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First Information Report in Crime No.592 of 2023 on the file of the on the first respondent Police, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The Inspector of Police,
T-14, Mangadu Police Station,
Avadi City,
Tamil Nadu.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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