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Crl.O.P.No.19437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.19437 of 2023

and

Crl.M.P.Nos.13093 and 13094 of 2023

1. Gouse Basha
2. Fayas @ Fayashamad
3. Mohammed Ali

... Petitioners

Vs

1. State rep by
The Inspector of Police,
Walajapet Police Station,
Ranipet District.
Crime No.188/2022

2. Mugamath Kalith

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to
a) Stay all the proceedings in C.C.No.59 of 2023 on the file of the Judicial Magistrate-II, Walajapet, Ranipet District pending disposal of the above Criminal Original Petition on the file of this Court. b) Dispense with the personal appearance of the petitioners in all future hearing in C.C.No.59 of 2023 on the file of the Judicial Magistrate-II, Walajapet, Ranipet District pending disposal of the above Criminal Original Petition. c) Call for the



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records relating to C.C.No.59 of 2023 on the file of the Judicial Magistrate-II, Walajapet, Ranipet District and quash the same.

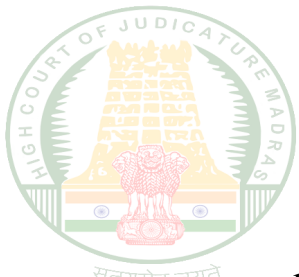
For Petitioners : Mr.M.Rajkumar

For Respondents : Mr.A.Gopinath,
Government Advocate (Crl. Side) for R1
Mr.R.Vinothkumar (for R2)

ORDER

This petition has been filed to quash the proceedings in C.C.No.59 of 2023 on the file of the Judicial Magistrate-II, Walajapet, Ranipet District.

2. The case of the prosecution is that on 28.03.2023, at about 8.00 p.m., near the house of the second respondent, a lorry driver hit the electricity cable. Thereafter, the owner of the lorry gave one coil of wire to the second respondent, which was objected to by the first petitioner, due to which a wordy quarrel arose between the first petitioner and the second respondent. At that time, the second and third petitioners damaged the house of the second respondent and attacked him with their hands. Hence, the



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complaint.
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3. The learned counsel for the petitioners would submit that the petitioners are arrayed as A1 to A3. There was already a previous enmity between the petitioners and the second respondent. Therefore, the second respondent lodged a false complaint against the petitioners. The alleged occurrence had taken place on 28.03.2023, but the complaint was lodged 16 days after the date of the alleged occurrence and the same was got registered by the first respondent. As per the alleged occurrence, it happened due to the cut of the electricity line and even then, no complaint has been received from the Tamil Nadu Electricity Board so far. Therefore, he prays to quash the proceedings in C.C.No.59 of 2023.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. Further, on a perusal of the final report filed by the first respondent on 31.05.2022, it is seen that the same has been taken



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cognizance in C.C.No.332 of 2022. The Sub Inspector of Police, who filed the final report, was retired on 31.05.2022, and on the very same day, the final report was lodged before the Trial Court. However, the Trial Court had taken cognizance only on 09.03.2023.

6. On a perusal of the record, it reveals that the charge sheet was lodged before the learned Judicial Magistrate on 09.03.2023, which was signed on 31.05.2022. Further, the doctor, who treated the victim, was examined on 02.10.2022. According to the Investigating Officer, the charge sheet was laid on 31.05.2022, whereas the doctor was examined on 02.10.2022. Therefore, after completion of the investigation, in order to substantiate the charges, the doctor was inserted in the charge sheet. On a perusal of the records furnished under the Right to Information Act, it is also clear that the injury was treated as an outpatient, and no injury was sustained by the victim. Therefore, the offence under Section 323 of IPC is not at all attracted as against the petitioners.



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7. 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 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



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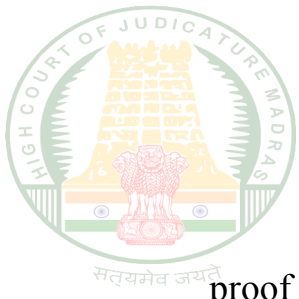


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intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit 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."

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

8. Insofar as the offence under Section 294(b) of IPC, mere utterance of obscene words are not sufficient, but there must be a further



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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 petitioners 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 petitioners, the person felt annoyed. They have not spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioners 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 the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, wherein it is held as follows :-

"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 petitioners. That apart, in the case on hand, even according to the case of the



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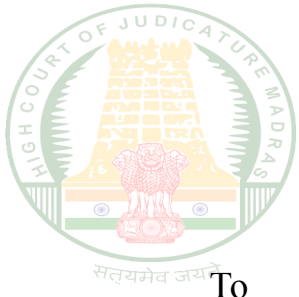
prosecution, threatening was made over phone. Therefore, the offence under Section 294(b) of IPC would not attract as against the petitioners.

9. In view of the above, this Court finds that the entire proceedings initiated as against the petitioners under Sections 294(b), 323 and 506(i) of IPC, cannot be sustained and liable to be quashed.

10. Accordingly, the Criminal Original Petition stands allowed and the proceedings in C.C.No.59 of 2023 on the file of the Judicial Magistrate Court-II, Walajapet, Ranipet District, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

24.03.2025

Index:Yes/No
Neutral Citation/Yes/No
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To
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1. The Inspector of Police,
Walajapet Police Station,
Ranipet District.
2. The Judicial Magistrate-II, Walajapet,
Ranipet District.
3. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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