

Crl.R.C.(MD)Nos.154 and 155 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.02.2025

Pronounced on : 26.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)Nos.154 and 155 of 2025

and

Crl.M.P.(MD)Nos.1588 and 1589 of 2025

Valarmathi

... Petitioner in
Crl.R.C.(MD)No.
154 of 2025

Ramasamy

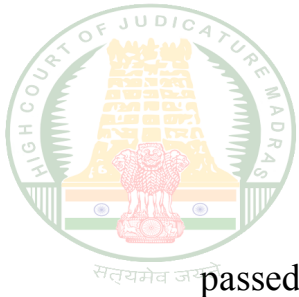
... Petitioner in
Crl.R.C.(MD)No.
155 of 2025

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Karur.
(Crime No.4 of 2023)

... Respondent in both
the petitions

Common Prayer : These Criminal Revision Cases filed under Sections 438 r/w 442 B.N.S.S., to call for the entire records pertaining to the order



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passed by the learned Additional District Judge, Karur in Cr.M.P.No.99 and 185 of 2024 in S.C.No.63 of 2023 vide order dated 21.11.2024 and set aside the same by allowing these criminal revision petitions.

(in both the petitions)

For Petitioner : Mr.R.L.Dilipan Pandian
for Mr.K.Arunraj

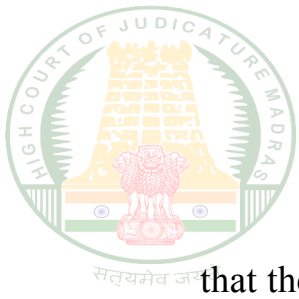
For Respondent : Mrs.M.Aasha
Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Revisions are directed against the common order passed in CrI.M.P.No.99 of 2024 and CrI.M.P.No.185 of 2024 in S.C.No. 63 of 2023 dated 21.11.2024 on the file of the Additional District Court, Karur, dismissing the petitions for discharge filed under Section 227 of the Code of Criminal Procedure.

2. The petitioners are wife and husband and are facing the case in S.C.No.63 of 2023 on the file of the Additional District Court, Karur.

3. The case of the defacto complainant is that the defacto complainant had completed M.Sc. Zoology and was working at Tex Park,



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that the defacto complainant and the first accused, who is her relative, had loved each other, that the first accused, by promising to marry her, had sexual relationship with her, that the defacto complainant has become pregnant twice and as per the direction of the first accused, she got the same aborted, that subsequently the first accused has avoided to meet the defacto complainant and when the same was enquired, he informed that he is going to marry another girl, that on 02.05.2023 at about 06.00 p.m., the defacto complainant along with her mother and other relatives went to the house of the accused and informed the petitioners/accused 2 and 3, who are the parents of the first accused, about the relationship between the defacto complainant and the first accused and also about the abortion done at the compulsion of the first accused, that the petitioners have refused to accept the version of the defacto complainant, abused her in filthy language and caused criminal intimidation and that therefore the defacto complainant was constrained to lodge a complaint.

4. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.4 of 2023 against three persons including the petitioners for the alleged offences under Sections 376, 417,



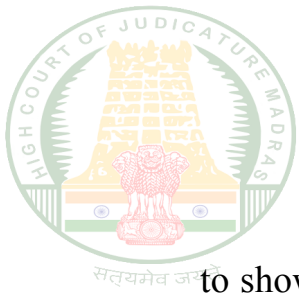
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420, 294(b) and 506(1) IPC and after completing the investigation, the respondent police has laid the final report against the first accused for the alleged offences under Sections 376, 417 and 420 IPC and against the petitioners for the alleged offences under Sections 294(b) and 506(1) IPC and after committal, the case was taken on file in S.C.No.63 of 2023 and is pending on the file of the Additional District Court, Karur.

5. When the sessions case was pending for framing of charges, the petitioners have filed the petitions under Section 227 Cr.P.C. seeking discharge from the above case.

6. The case of the petitioners is that actually the first accused and the defacto complainant loved each other and later on they got separated, that the defacto complainant to wreck vengeance made bald and frivolous allegations against the petitioners, that the statement given by the defacto complainant before the police under Section 161(3) Cr.P.C. and the statement given under Section 164 Cr.P.C. are contradictory to each other, that the prosecution has not levelled any charges that the petitioners have used abusive words in a public place, that there are absolutely no materials



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to show that abusing with obscene words caused annoyance to others, that the prosecution has not shown that the alleged threat given by the petitioners are real and substantial and that since the prosecution has failed to show any *prima facie* materials so as to attract the offences under Sections 294(b) and 506(1) IPC, the petitioners are entitled to get discharge from the above case.

7. The respondent police has filed a counter raising objections and further stated that the defacto complainant has given statement under Section 164 Cr.P.C. implicating the involvement of the petitioners in the alleged occurrence, that the defacto complainant has given statement that the petitioners had abused in filthy language and caused criminal intimidation, that contradictions referred by the petitioners cannot be gone into at the present stage, that there are sufficient materials available to frame charges against the petitioners and that therefore the discharge petitions are liable to be dismissed.

8. The learned Sessions Judge, after enquiry, has passed the impugned common order dated 21.11.2024 dismissing the discharge



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petitions. Aggrieved by the order of dismissal, the present revisions came to be filed.

9. No doubt, as already pointed out, serious charges are levelled against the first accused for the offences under Sections 376, 417 and 420 IPC.

10. It is not the case of the defacto complainant that the petitioners were already aware of the relationship between the defacto complainant and the first accused. Even according to the defacto complainant, she went to the accused house on 02.05.2023 along with her mother and relatives and at that time only, informed the petitioners about the relationship between the defacto complainant and the first accused and the abortion done at the compulsion of the first accused.

11. As rightly pointed out by the learned counsel appearing for the petitioners, though the defacto complainant, in her complaint as well as in her statement under Section 161(3) Cr.P.C., has given the abusive words alleged to have been used by the petitioners but in her statement under



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Section 164 Cr.P.C. given before the learned Magistrate, she has not whispered anything about the abusive words alleged to have been used by the petitioners but on the other hand, she has stated that the third accused had started to abuse them in filthy language and the same could not be borne to be heard.

12. The defacto complainant in her statement under Section 161(3) Cr.P.C. has stated □... தகாத கெட்ட வார்த்தையால் திட்டி, எனது மகனை திருமணம் செய்து கொள்வதாக கூறி இனிமேல் எனது வீட்டுப்பக்கம் வந்தாலோ, எனது மகனிடம் நேரிலோ, போனிலோ பேசினாலோ உன்னை கொல்லாமல் விடமாட்டோம் என்று கொலை மிரட்டல் விடுத்தார்கள்....□. The above version was reiterated by the other witnesses also. But in 164 statement, the defacto complainant has stated □.. அவரது அம்மாவும் அப்பாவும் உனக்கு என்ன தகுதி இருக்கு என் பையன கல்யாணம் பண்ணிக்க, நீ என் பையனுக்கு ஒத்துவர மாட்ட, இனிமேல் போனில் பேசக் கூடாது, என் வீட்டு வாசப்படியை மிதிக்கக்கூடாது, நவீன்குமாரை பார்க்க கூடாது, மீறினால் கொலை செய்துவிடுவோம் என்று மிரட்டினார்கள். நவீன்குமாரின் அப்பா கெட்டவார்த்தையில் எல்லாம் பேச ஆரம்பித்து விட்டார். அந்த வார்த்தைகளை காதில் கேட்க முடியவில்லை. ...□



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13. Even assuming that the petitioners have abused the defacto complainant and others, when the defacto complainant accompanied by her mother and relatives confronted the first accused and his parents about the alleged rape and forced abortions, the parents initial reaction is of using abusive language, although unfortunate, is understandable, hearing the shocking nature of the allegations. In this context, verbal outburst cannot be construed as offences so as to attract Sections 294(b) and 506(1) IPC.

14. The learned counsel appearing for the petitioners would rely on a judgment of the Hon'ble Supreme Court in ***N.S.Madhanagopal and others Vs. K.Lalitha*** reported in ***MANU/SC/1805/2022***, wherein, the Hon'ble Apex Court has specifically held that mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC and the relevant passages are extracted hereunder:-

“7.Section 294(b) of the IPC talks about the obscene acts and songs. Section 294 of the IPC as a whole reads thus:

"294.Obscene acts and songs - Whoever, to the annoyance of others -

(a) does any obscene act in any public place, or



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(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

8.It is to be noted that the test of obscenity under Section 294(b) of the I.P.C. is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences. The following passage from the judgment authored by Justice K.K. Mathew (as his Lordship then was) reported in P.T. Chacko v. Nainan (1967 KLT 799) explains as follows:

"The only point argued was that the 1st accused has not committed an offence punishable under Section 294(b) IPC., by uttering the words above-mentioned. The courts below have held that the words uttered were obscene and the utterance caused annoyance to the public. I am not inclined to take this view. In the Queen v. Hicklin, [L.R.] 3 Q.B. 360 at 371 Cockburn C.J. Laid down the test of 'obscenity' in these words: "..... the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences" This test has been uniformly followed in India. The Supreme Court



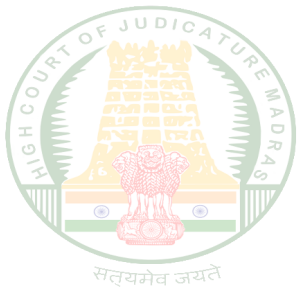
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has accepted the correctness of the test in Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881. In Samuel Roth v. U.S.A., 354 US 476 (1957), Chief Justice Warren said that the test of 'obscenity' is the "substantial tendency to corrupt by arousing lustful desires". Mr. Justice Harlan observed that in order to be 'obscene' the matter must "tend to sexually impure thoughts". I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think that the words are 'obscene' and the utterance would constitute an offence punishable under Section 294(b) IPC".

9.It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC. To prove the offence under Section 294(b) of IPC mere utterance of obscene words are not sufficient but there must be a



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further proof to establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.”

15. It is also necessary to refer the judgment of the Kerala High Court in ***Latheef Vs. State of Kerala*** reported in **2014 (2) KLT 987**, wherein also, it has been held that abusive words or humiliating words or defamatory words will not as such amount to obscenity as envisaged in Section 292 and 294(b) IPC and that to make it punishable under Section 294(b) IPC, the alleged words must be in a sense lascivious, or it must be appeal to the prurient interest, or will deprave or corrupt persons.

16. Even assuming for arguments sake that the petitioners had uttered abusive or filthy words, there is no material to show that it was to the annoyance of other. It is not the case of the prosecution that the witnesses have stated that they felt annoyed. Considering the above, this Court has no hesitation to hold that the ingredients of the offence under



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Section 294(b) IPC are not made out.

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17. Now turning to the offence under Section 506(1) IPC, according to the prosecution, the petitioners had threatened the defacto complainant that they would kill her if she meets or contacts the first accused. The prosecution, in order to attract the offence under Section 506 IPC, must prove (i) that the accused threatened some person, (ii) that such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested and (iii) that he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.

18. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in *Manik Taneja and another Vs. State of Karnataka and another* reported in **2015 7 SCC 423**,

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



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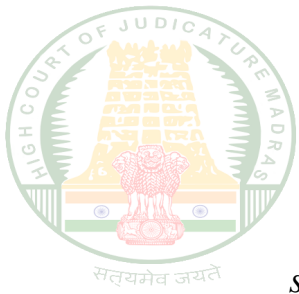
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"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that 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."

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.

12. 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

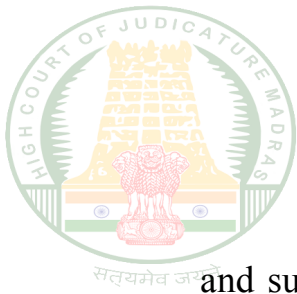


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spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause 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."

19. In the case on hand, it is not the case of the defacto complainant that after hearing the alleged threatening made by the petitioners, she and her relatives were criminally intimidated. As rightly contended by the learned counsel appearing for the petitioners, there is absolutely no materials to show that the alleged threat given by the petitioners are real



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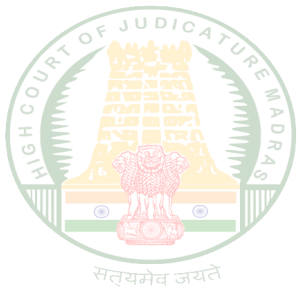
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and substantial. Hence, this Court has no other option but to say that the ingredients of the offence under Section 506(1) IPC are not made out.

20. The learned Sessions Judge, without considering the above factual aspects and the legal position in proper perspective, by simply observing that the defacto complainant and the other witnesses have deposed the same contents of the complaint in their statements recorded under Section 161 Cr.P.C. and that the correctness of the statements can only be decided at the trial, dismissed the petitions.

21. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***State by the Inspector of Police, Chennai Vs. S.Selvi and another*** reported in ***(2018) 13 SCC 455***.

“7. It is well settled by this Court in catena of judgments including the cases of Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4, Dilawar Balu Kurane v. State of Maharashtra (2002) 2 SCC 135, Sajjan Kumar v. CBI (2010) 9 SCC 368, State v. A.Arun Kumar (2015) 2 SCC 417, Sonu Gupta v. Deepak Gupta (2015) 3 SCC 424, State of Orissa v. Debendra Nath Padhi (2003) 2 SCC 711, Niranjana Singh Karan Singh Punjabi vs. Jitendra Bhimraj

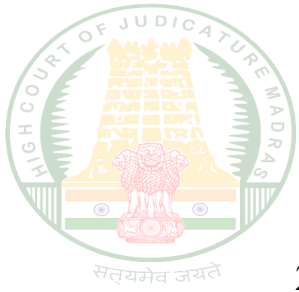


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Bijayya (1990) 4 SCC 76 and Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja (1979) 4 SCC 274 that the Judge while considering the question of framing charge under Section 227 of the Code in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his rights to discharge the accused. The Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the statements and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the mater and weigh the materials as if he was conducting a trial”



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22. It is settled law that at the stage of framing charges, the Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused and the Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

23. It is pertinent to note that the Courts are duty bound to determine if there are sufficient grounds to proceed against the accused and if there are not sufficient grounds, then the Courts must discharge the accused. The purpose of Section 227 Cr.P.C. is to ensure that the Court is satisfied that the accusations made against the accused are not frivolous. In the case on hand, there are absolutely no material sufficient enough to frame charges and to proceed against the petitioners and as such, the impugned order dismissing the discharge petitions cannot be sustained and the petitioners are entitled to get discharge from the above case.

24. In the result, these Criminal Revision Cases stand allowed and the impugned common order dated 21.11.2024 is hereby set aside. The petitioners shall stand discharged in S.C.No.63 of 2023 on the file of the



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Additional District Court, Karur. Consequently, connected Miscellaneous

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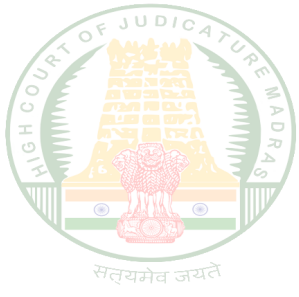
Petitions are closed. No costs.

26.03.2025

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Index :yes/No
Internet:yes/No
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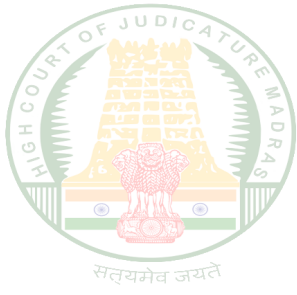
1. The Additional District Judge,
Karur.
- 2.The Inspector of Police,
All Women Police Station,
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Common Order made in
Crl.R.C.(MD)Nos.154 and 155 of 2025
and
Crl.M.P.(MD)Nos.1588 and 1589 of 2025

Dated : 26.03.2025

20/20