

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.12493 of 2016
Crl.M.P.Nos.6424 & 6425 of 2016

1. Girija
 2. Buvaneshwary
 3. Mahalakshmi
- ... Petitioners/Accused 4 to 6

Vs.

1. The State rep. By its
The Inspector of Police,
K-11, CMBT Police Station,
Koyambedu,
Chennai.
(Crime No.68 of 2013)
- ...1st Respondent/Complainant

2. E.Gobi
- ...2nd Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash all the proceedings in C.C.No.3305 of 2013 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai in Crime No.68 of 2013 on the file of the Inspector of Police, K-11, CMBT Police Station, Koyambedu, Chennai.

For Petitioners : Mr.P.Kumaresan

For Respondents

For R1 : Mr.M.Mohammed Riyaz,
Additional Public Prosecutor.

सत्यमेव जयते
O R D E R

This petition has been filed to quash the proceedings in C.C.No.3305 of 2013 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, thereby taken cognizance for the offences under Sections 294(b), 341, 324 & 506(i) of IPC, as against the petitioners.

2. On the complaint lodged by the second respondent, the first respondent registered the case in Crime No.68 of 2013 for the offences under Sections 294(b), 341, 324 & 506(ii) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.3305 of 2013 by the learned V Metropolitan Magistrate,

Egmore, Chennai, as against six accused persons in which, the petitioners are arrayed as accused Nos.4 to 6. The allegations leveled against the accused persons are that the second respondent owned a shop and he was doing whole sale business of goods and the first accused also owned a shop in the same market. During business the first accused purchased goods from the defacto complainant and failed to repay the amount. Therefore, the defacto complainant/second respondent on 24.01.2013 locked the shop owned by the first accused. Thereafter, the first accused broke open the lock and entered into the shop. When the defacto complainant questioned the same, the petitioners abused the defacto complainant and also assaulted his brother with wooden log along with six ladies.

3. The learned counsel appearing for the petitioners submitted that initially the defacto complainant/second respondent lodged a complaint only as against the first accused and thereafter other persons are implicated as accused. The first petitioner is the wife of the first accused and the second and third petitioners are sister and mother-in-law of the first accused. He further submitted that the entire allegations are simple and trivial in nature and no specific word uttered by the petitioners to abuse the defacto complainant. Therefore the offences under Sections 294(b) and 506(ii) of IPC are not at all attracted as against the petitioners. Therefore he sought for quashment of the proceeding as against the petitioners.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

5. On perusal of the statement recorded under Section 161 (3) of Cr.P.C., all of them spoke about the participation of 4 to 6 ladies and no one is identified the petitioners herein. The entire allegations are very vague and bald and there is no specific overt act as against the each of the petitioners herein. All the witnesses have mechanically spoken about the participation of 5 to 6 ladies and no one is mentioned the name of the petitioners. Therefore, the proceedings as against the petitioners cannot be sustainable and there is absolutely no possibility for conviction as against the petitioners. More over the prosecution failed to bring the evidence to attract the offences under Sections 294(b) and 506(ii) of IPC as against the petitioners. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person, who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC.

"294. Obscene acts and songs –
Whoever, to the annoyance of others– (a)
does any obscene act in any public place,

or (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."

6. Admittedly, 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 witnesses felt annoyed. 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 petitioners annoyed others, 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.Jeyaramanuj Vs. Janakaraj & anr., which 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 squarely applicable to the case on hand and there is absolutely no material to constitute the offences under Sections 294(b) and 506(ii) of IPC as against the petitioners. Therefore, the entire proceedings is nothing but clear abuse of process of Court and it could not sustainable as against the petitioners. Therefore the petitioners need not to go for ordeal of trial.

7. Accordingly, this Criminal Original petition is allowed and the proceedings in C.C.No.3305 of 2013 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai, is hereby by quashed insofar as the petitioners alone. The trial Court is directed to proceed with the trial as against the other accused persons and complete the trial in C.C.No.3305 of 2013 within a period of six months from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The V Metropolitan Magistrate,
Egmore, Chennai
 2. The Inspector of Police,
K-11, CMBT Police Station,
Koyambedu,
Chennai.
 3. The Public Prosecutor,
High Court of Madras,
Chennai.
- +1 CC to Mr.P. Kumaresan, Advocate sr 22481.

CRL.O.P.No.12493 of 2016
Crl.M.P.Nos.6424 & 6425 of 2016

RSV(CO)
SP(19/08/2020)



WEB COPY