

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.6197 of 2020
and Crl.M.P.No.3468 of 2020

Hemanth Kumar
S/o.Panneerselvam

... Petitioner

Vs.

1. The Inspector of Police,
Sankar Nagar Police Station,
Chennai.
(Crime No.747 of 2019)

2. Mukkani,
W/o.Suriyakanth

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the FIR concerned in Crime No.747 of 2019 on the file of the Inspector of Police, Shankar Nagar Police Station, Chennai.

For Petitioner : Mr.Sasikumar
For Mr.K.Balu

For Respondents
For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.
For R2 : Mr.K.Kannan

ORDER

This petition has been filed to quash the FIR in Crime No.747 of 2019 on the file of the first respondent registered for the offences punishable under Sections 294(b) and 506(i) of IPC as against the petitioner.

2. The learned counsel appearing for the petitioner would submit that the alleged occurrence took place on 03.08.2019, whereas the complaint was registered only on 24.10.2019 and there is no explanation for the delay in lodging the complaint. He further submitted that the in-laws of the petitioner and second respondent are neighbours. There was a car parking dispute between the petitioner and the second respondent. While being so, on the date of alleged occurrence, the second

respondent voluntarily picked up quarrel with the petitioner herein. In fact, for the same occurrence the petitioner also lodged complainant and he was issued C.S.R.No.601 of 2019. Whereas subsequently, on receipt of the complaint from the second respondent, she was issued C.S.R.No.602 of 2020. Unfortunately, the complaint lodged by the second respondent has been registered in Crime No. 747 of 2019 and on the complaint lodged by the petitioner, the first respondent did not register any case. Thereafter, the complaint lodged by the petitioner has been registered in Crime No.29 of 2020 for the offences under Sections 448, 294(b) and 506(i) of IPC. Therefore the present FIR is nothing but counter blast for the complaint lodged by the petitioner herein. Further he submitted that there is no ingredients to attract the offences under Sections 294(b) and 506(ii) of IPC. Therefore the FIR cannot be sustained as against the petitioner and prayed for quashment of the FIR.

3. Per contra, the learned counsel appearing for the second respondent would submit that the second respondent is a practising Advocate. The petitioner used to park his car in front of the second respondent house compound and as such the second respondent could not able to park her car. While being so, on 03.08.2019 at about 9.30 am., the petitioner parked his car in front of the second respondent house. When it was questioned by the second respondent, the petitioner scolded her with filthy languages and also abused her. Further he also threatened her with dire consequences to the life of the second respondent. He further submitted that there is specific allegations as against the petitioner to attract the offences under Sections 294(b) and 506(ii) of IPC. Therefore, he prayed for dismissal of this quash petition.

4. The learned Additional Public Prosecutor appearing for the first respondent would submit that on 03.08.2019, when the petitioner parked his car adjacent to the compound wall of the second respondent, there was a wordy quarrel between them. The petitioner scolded the second respondent with filthy language and also threatened her with dire consequences. For the very same occurrence, the petitioner as well as the second respondent lodged complaint and both were issued C.S.R.No.601 and 602 of 2019 respectively. On the complaint lodged by the second respondent, the present FIR has been registered in Crime No.747 of 2019 for the offences under Sections 294(b) and 506(i) of IPC. On the complaint lodged by the petitioner on 06.02.2020 another FIR has been registered as against the second respondent and her husband in Crime No.29 of 2020 for the offence punishable under Sections 448, 294(b) and 506(i) of IPC. Now both the FIRs are pending for investigation.

5. Heard Mr.Sasikumar, learned counsel appearing for the

petitioner, Mr.K.Kannan, learned counsel appearing for the second respondent and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent.

6. On 03.08.2019 there was a dispute between the petitioner and the second respondent in respect of parking their cars. When it was questioned by the second respondent, the petitioner abused her with filthy language and also threatened her with dire consequences. On perusal of the complaint lodged by the petitioner, he alleged that the second respondent and her husband trespassed into his house and also abused him with filthy language and also threatened him with dire consequences. Now both complaints were registered in Crime Nos.747 of 2019 and 29 of 2020. In both FIRs, the allegations are frivolous in nature. The second respondent is being an Advocate not supposed to indulge these kind of quarrels.

7. Apart from that, 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, as follows :-

"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."

8. Admittedly, 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 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 petitioner annoyed others, it can not 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., 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 is squarely applicable to the case on hand and both the FIRs cannot be sustained. As discussed above, the entire allegations are frivolous in nature. In the interest of justice and to meet out the ends of justice, this Court felt that both FIRs can not be sustained and the first respondent is directed to close the FIR in Crime No.29 of 2020 forthwith.

9. With the above directions, this Criminal Original Petition is allowed and the FIR in Crime No.747 of 2019 on the file of the Inspector of Police, Shankar Nagar Police Station, Chennai, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police,
Sankar Nagar Police Station,
Chennai.
2. The Public Prosecutor
Madras High Court,
Chennai.

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and CrI.M.P.No.3468 of 2020

RSV(CO)
NRA(11/12/2020)

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