

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.8471 of 2020

Neelavathi,
S/o.Moorthy,
No.81/178, Raja Gramani Thottam,
Mandaveli,
Chennai - 600 028.

... Petitioner

.Vs.

1. The Inspector of Police,
Foreshore Estate Police Station,
Chennai - 600 028.

2. Rajalakshmi,
W/o.Guruswamy,
No.81/178, Raja Gramani Thottam,
Mandaveli, Chennai - 600 028.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the proceeding in C.C.No.397 of 2017 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.K.Thenrajan
For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.

ORDER

This petition has been filed to quash the proceeding in C.C.No.397 of 2017 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, thereby taken cognizance for the offences under Sections 294(b) and 324 of IPC, as against the petitioner.

2. Heard Mr.K.Thenrajan, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent.

3. The petitioner is the sole accused in C.C.No.397 of 2020. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.421 of 2017 registered for the offences under Sections 294(b) and 324 of IPC as against the petitioner herein. The case of the prosecution is that the petitioner threatened the second respondent to evict from the property and also assaulted her with wooden log. It is seen from the complaint, the petitioner name is not found and the occurrence took place at about 12.00 p.m. On receipt of the complaint, the first respondent issued C.S.R.No.183 of 2017 and visited the hospital and recorded the statement from the second respondent and thereafter registered the case. On perusal of record viz., the Accident report issued by the Government Hospital, the occurrence took place at about 10.30 am and immediately the second respondent went to the hospital. Therefore, ever before the occurrence took place, the second respondent obtained accident report as if the occurrence took place at about 10.30 am., and thereafter lodged complaint as if the occurrence took place at 12.00 p.m., and she was issued C.S.R.No.183 of 2017.

4. That apart, the petitioner is none other than own sister-in-law of the second respondent herein. The second respondent's husband and others including the petitioner herein are the legal heirs of one Varadan, who owned property at Door No.81/178, Raja Garamani Thottam, Mandaveli, Chennai. The said Varadan along with his wife executed a settlement deed in favour of the petitioner and other female legal heirs except the second respondent's husband. Therefore, the second respondent's husband filed suit in O.S.No.3366 of 2016 on the file of the City Civil Court, Chennai, as if the petitioner is an unlawful occupant. While pending the said suit, the present complaint has been lodged by the second respondent with false allegations.

5. Further on perusal of entire charge sheet, the offence under Section 294(b) of IPC is not at all attracted as against the petitioner. 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."

6. 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 present case and hence the offence under Section 294(b) of IPC is not at all attracted as against the petitioner.

7. Insofar as the offence under Section 324 of IPC is concerned, on perusal of complaint there is absolutely no such allegation that the petitioner attacked the second respondent with wooden log. It is only avert that the petitioner allegedly scolded her with filthy language. Thereafter, while making statement under Section 161 of Cr.P.C., the second respondent improved her version and the petitioner has been charged for the offences under Sections 294(b) and 324 of IPC. Therefore, the entire proceedings are vitiated and it is clear abuse of process of Court. Under these circumstances, the petitioner need not to go for ordeal of trial.

8. In view of the above discussion, this Criminal Original Petition stands allowed and the proceedings in C.C.No.397 of 2017 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, is hereby quashed.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The XXIII Metropolitan Magistrate,
Egmore, Chennai.
3. The Inspector of Police,
Foreshore Estate Police Station,
Chennai - 600 028.
4. The Public Prosecutor,
High Court, Madras-104

CRL.O.P.No.8471 of 2020

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