

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.10098 of 2019

Arun Vivek
S/o. S.C.Sezhian,
33A/81, 1st Main Road,
Kakkan Nagar,
Adambakkam,
Chennai - 600 088

... Petitioner/ Accused

Vs.

1. The State rep by
The Inspector of Police,
S-1, St. Thomas Mount PS,
Alandur, Chennai - 600 016.

2. Julie Immaculate D,
W/o. Jabamani A,
No.23, Ganesh Nagar,
4th Stree, Adambakkam,
Chennai - 600 088.

... Respondents/ Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to quash the criminal proceedings pending in C.C.No.497 of 2018, on the file of the Judicial Magistrate Court, Alandur.

For Petitioner : Mr.K.Perumal

For Respondents

For R1 : Mr.M.Mohamed Riyaz

Additional Public Prosecutor.

For R2 : No appearance

ORDER

This Petition has been filed to quash the criminal proceedings pending in C.C.No.497 of 2018 on the file of the Judicial Magistrate Court, Alandur, thereby taken cognizance for the offences under Sections 341, 294(b), 506(1) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, as against the petitioner.

2. The petitioner is a sole accused. The second respondent

lodged a complaint before the learned Judicial Magistrate, Alandur, and the same has been forwarded under Section 156(3) of Cr.P.C. on the file of the first respondent. On receipt of the same, the first respondent registered the case in Crime No.65 of 2018 for the offences under Sections 341, 294(b), 506 and Section 4 of Prevention of Women Harassment Act, 2002, alleging that on 23.03.2018 at about 15 hours, while the second respondent was on duty in the Court campus as an Advocate, the petitioner pulled her sheets and also scolded her with unparliamentary words. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.497 of 2018 by the learned Judicial Magistrate, Alandur, for the offences under Sections 341, 294 (b), 506(i) of IPC and Section 4 of TN Prohibition of Harassment of Woman Act, 2002.

3. On perusal of records it is seen that the petitioner's father is facing trial in C.C.No.916 of 2017 as third accused. On the date of occurrence, the petitioner's father was directed to cross-examine the witness P.W.5 in C.C.No.916 of 2017. There is a pervious enmity between the petitioner's father and the second respondent herein with regard to St Mark Church and therefore the petitioner's father facing the criminal proceedings. Admittedly, on 23.03.2018, the petitioner and his father alone were present along with the second respondent to cross-examine P.W.5. If at all the occurrence took place in Court hall, the second respondent is being an Advocate very well would have lodged complaint before the concerned Magistrate or otherwise she would have given complaint before the jurisdictional police station. However, the second respondent lodged complaint before the Judicial Magistrate, Alandur and the same has been forwarded under Section 156(3) of Cr.P.C. In fact, the petitioner has also sent so many complaints as against the Jurisdictional Officer before the Registry of this Court as such the second respondent filed private complaint and the same has been forwarded under Section 156(3) of Cr.P.C.

4. That apart, the allegations are not attracted the offences under Sections 294(b) and 506(i) of IPC. Further what is the words uttered by the petitioner has not been mentioned. Except the second respondent and the Police Constable, no other persons are there and as such to attract the offence under Section 294(b) of IPC, there is absolutely no materials produced by the prosecution. 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."

5. 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. On perusal of the charge and the statement of the witnesses, no criminal force was used by the petitioner on the second respondent. Therefore, entire proceedings is nothing but clear abuse of process of Court and it cannot be sustained as against the petitioners.

6. 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."

In view of the above facts, this judgment is squarely applicable to the present case. Therefore the entire proceedings are nothing but clear abuse of process of Court and misuse of profession and lodged false complaint against the petitioner. Further the allegations, even according to the second respondent simple and trivial in nature. Therefore, the petitioner is need not to go ordeal trial for the false allegations that too no material to attract the offences.

7. In view of the above discussion, this Criminal Original Petition is allowed and the proceeding in C.C.No.497 of 2018, on the file of the Judicial Magistrate Court, Alandur, is hereby quashed.

Sd/-

Assistant Registrar

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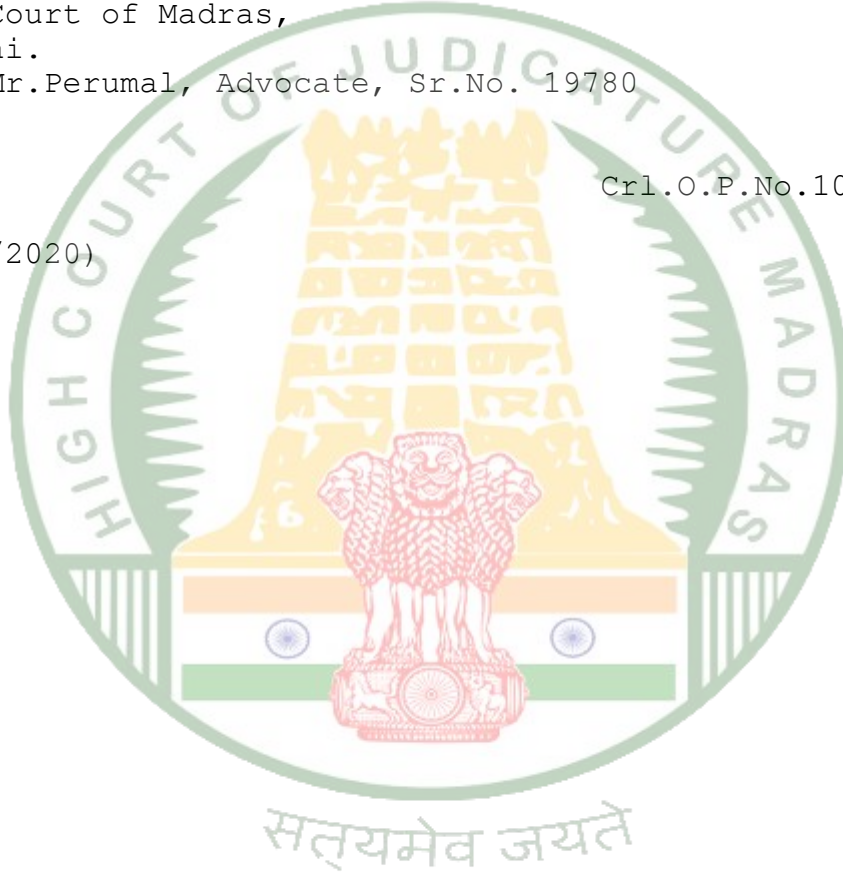
Sub Assistant Registrar

rts
To

1. The Judicial Magistrate Court,
Alandur.
 2. The Inspector of Police,
S-1, St. Thomas Mount PS,
Alandur, Chennai - 600 016.
 3. The Public Prosecutor,
High Court of Madras,
Chennai.
- +4ccs to Mr.Perumal, Advocate, Sr.No. 19780

Crl.O.P.No.10098 of 2019

CA(CO)
RMP(29/09/2020)



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