



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CrI.OP(MD)No.12725 of 2020 &
CrI.MP(MD)No.5791 of 2020

1.Vinoth Kumar

2.Nagarajan

... Petitioners

vs.

1.State, Represented by,
The Inspector of Police
Dhadikombu Police Station,
Dindigul District.
(Crime No.691 of 2020)

2.Thangavel

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the First Information Report in Crime No.691 of 2020 on the file of the respondent police and quash the same as illegal.

For Petitioners : Mr.T.Lenin Kumar

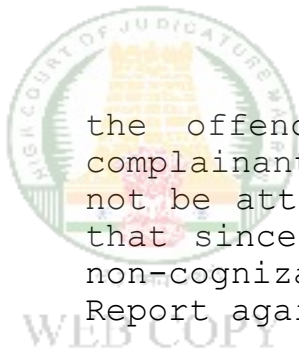
For R1 : Mr.A.Robinson,
Government Advocate(Criminal Side)

O R D E R

The present petition is filed to quash the First Information Report in Crime No.691 of 2020 of Dhadikombu Police Station, Dindigul District. The main grounds on which the petitioner seek for quashment of First Information Report in Crime No.691 of 2020 are as follows: (i) The allegations levelled against the petitioners do not attract any offence much less the offences punishable under Sections 294(b) and 323 of Indian Penal Code and (ii) The registration of First Information Report by the police is illegal as Section 323 of Indian Penal Code is a non-cognizable offence.

2. Mr.A.Robinson, learned Government Advocate (Criminal Side) accepts notice on behalf of the first respondent.

3. Mr.T.Lenin Kumar, learned counsel appearing for the petitioners contended that as per the version of the prosecution,



the offence took place in front of the house of the defacto complainant and therefore, Section 294(b) of Indian Penal Code would not be attracted in the present case. It is his further contention that since the offence under Section 323 of Indian Penal Code is a non-cognizable offence, the police cannot register First Information Report against the present petitioners.

4. It is relevant to extract Section 294 of Indian Penal Code,

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

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

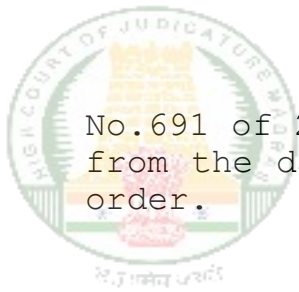
(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. "

The ingredients to attract Section 294 of Indian Penal Code are that (i) the offender has done any obscene act in any public place or has sung, recited or uttered any obscene song or word in or near any public place and (ii) has caused annoyance to others.

5. A perusal of the First Information Report shows that the present petitioners abused the defacto complainant in filthy language when he was walking in front of his house. It is admitted by the learned counsel for the petitioners that a public road is abutting the defacto complainant's house. As per Section 294 of Indian Penal Code, if the act is done in or near any public place, Section 294 would be attracted. In any event, the investigation is still underway and at this stage, it cannot be held that the offence under Section 294(b) is not made out against the present petitioners. The contention of the learned counsel appearing for the petitioners that the police cannot register First Information Report as far as Section 323 of Indian Penal Code is concerned, cannot be accepted since in the instant case, the police registered First Information Report for the offences under Sections 294(b) and 323 of Indian Penal Code, in which, 294(b) is a cognizable offence.

6. In the facts and circumstances, I do not see any reason to quash the First Information Report in Crime No.691 of 2020 on the file of the Inspector of Police, Dhadikombu Police Station, Dindigul District.

7. With the above observation, this petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. The first respondent / Inspector of Police, Dhadikombu Police Station, Dindigul District is directed to expedite the investigation in Crime



No.691 of 2020 and file a final report within a period of two months from the date of receipt of a copy of this order / uploading of the order.

WEB COPY

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector of Police
Dhadikombu Police Station,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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(VR) CO
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