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Crl.O.P No.18833 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.18833 of 2019

and

Crl.M.P No.9609 of 2019

D.Arulrajan

... Petitioner

Vs.

1.State rep. by
The Sub Inspector of Police
Sevvapet Police Station
Thiruvallur District

2.Mercy Sheela

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the entire records pursuant to the Crime No.34 of 2019 pending on the file of the respondent police, and quash the same insofar as the petitioner is concerned by allowing this Criminal Original Petition.

For Petitioner : Ms.P.Sharmila
For M/s.Krishnasamy Chinnasamy

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor
No Appearance for R2



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ORDER

This Criminal Original Petition has been filed seeking to call for records pertaining to the FIR in Crime No.34 of 2019 on the file of the 1st respondent police and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the 1st respondent.

3. The petitioner is the sole accused in the said case.

4. The case of the prosecution is that on 11.01.2019 at about 10.00 p.m. the 2nd respondent's brother Arulrajan came along with some rowdy elements and abused him in filthy language, in view of certain property dispute between himself and his brother; he also threatened him that if he did not abide by his instructions, he would kill him; on the basis of the above allegation, a case has been registered in Crime No. 34 of 2019 for the offences under Sections 294(b) and 506(ii) of IPC.

5. The learned counsel for the petitioner submitted that a civil dispute between the brothers have been given a criminal colour and there



are no ingredients seen to be present to make out a case against the accused for the offences under Sections 294(b) and 506(ii) IPC.

6. The learned Additional Public Prosecutor submitted that the 2nd respondent has stated the words uttered by the petitioner and the filthy words used by the accused and hence, there are the ingredients to make out an offence under Section 294(b) IPC; since the petitioner had threatened the 2nd respondent with dire consequences, the offence under Section 506(ii) IPC is also made out.

7. On perusal of the complaint, it is seen that the 2nd respondent has not even stated the place of occurrence. The FIR reads simply that the petitioner came with some rowdy elements and abused the 2nd respondent. In order to make out an offence under Section 294(b), the following ingredients shall be present:

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.

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8. But, in the case on hand, it is not known whether the alleged occurrence had taken place in public view or in anyone's house. Since the place of occurrence is one of the essential ingredients to make out a criminal case. In the absence thereof, no criminal case can be presumed. In respect of other offence under Section 506(ii) IPC, the allegation of uttering mere words by the 2nd respondent's brother about intimidation has been stated. Even that alone is not sufficient to make out an offence under Section 506(ii) IPC. In the absence of any serious materials, I feel it is appropriate to invoke the jurisdiction under Section 482 of Cr.P.C. and to quash the same.

9. In the result, this Criminal Original Petition is allowed and the FIR in Crime No.34 of 2019 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

08.12.2022

Index: Yes/No
Speaking Order : Yes / No
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WEB COPY To

1. The Sub Inspector of Police
Sevvapet Police Station
Thiruvallur District

2.The Public Prosecutor
High Court of Madras



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R.N.MANJULA.,J
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