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CRL.O.P.No.29281 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.O.P.No.29281 OF 2019
and CrI.M.P. No.15807 of 2019

V.Jeyarohini

... Petitioner

VS.

1.The State

Represented by its
Inspector of Police
Law and Order,
B-4, High Court Police Station,
Chennai.

2.Indhumathi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the FIR in Cr.No.21 of 2019 dated 14.10.2019 on the file of the first respondent herein and quash the same.

For Petitioners : Mr.AR.L.Sundaresan
Senior Counsel

For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor

2 : Party-in-person



ORDER

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This Criminal Original Petition has been filed to call for the records and quash the FIR in Cr. No.21 of 2019 dated 14.10.2019 on the file of the first respondent.

2. The case of the prosecution is that the second respondent is a practising advocate and when she was about to enter into the II Small Causes Court, Chennai for attending the pre-sitting session of Lok Adalat, a mob of about ten advocates headed by the first accused stopped her in the entrance of the Court and threatened her not to enter into the Court as there is a boycott. Despite the same when she entered into the Court hall, the named advocates along with others entered into the Court hall and abused her in the presence of Judge and Court staffs and prevented her from bringing up the bundles and intimidated her by abusing in filthy language and attempted to attack her. After getting approval from the Security Committee of the High Court, a complaint of the second respondent was forwarded to the first respondent by the Registrar-Administration in R.O.C. No.72224-E/2019/D8 dated 09.10.2019 and on



the basis of which, a case has been registered in Cr. No.21 of 2019 for the offences under Section 341, 294(b), 354, 506(1) IPC.

3. Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner, Mr.A.Damodaran, learned Additional Public Prosecutor and Ms.Indhumathi, the second respondent herein.

4. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner submitted that the petitioner is the fifth accused in this case and the averments alleged in the First Information Report does not disclose any materials to make out a case as against this petitioner; the name of this petitioner has been included in this case only with an intention to harass her.

5. The *de facto* complainant expressed the difficulty faced by her on the alleged date of occurrence amidst the group of ten advocates who disgraced her when she continued to participate in the Lok Adalat proceedings during boycott. So far as the petitioner is concerned, the First



Information Report discloses that she had scolded the *de facto* complainant in filthy language. Though the First Information Report has been registered for the offences under Section 341, 294(b), 354, 506(1) IPC, the allegations made against the petitioner is only with regard to abusing the *de facto* complainant in a filthy language. The words uttered by the petitioner has also been incorporated in the First Information Report. However, the same does not appear to be obscene in order to make out an offence under Section 294(b) IPC. The words uttered by someone in a fit of anger can be rough or sometimes obscene also. But the harsh words uttered during that time cannot be construed as obscene words.

6. In this regard, the learned Senior Counsel has cited the decisions of this Court rendered in *S.P.Sivalingam Vs. The State and others in Crl.O.P.(MD) No.1759 of 2021* to show that the ingredients to make out an offence under Section 294 (b) IPC is not present in the FIR registered as against this petitioner. In the said judgment it is held as under :

“ ... 19. To attract the provision under Section 294(b) IPC is concerned, the essential ingredient is an obscene act must have



WEB COPY



CRL.O.P.No.29281 / 2019

been done in a public place or the act or song or ballad or words were obscene and the acts were done by the accused causing annoyance to others. Here in this case, where the alleged occurrence taken place had not caused annoyance to others. In this regard, it is relevant to extract the provision under Section 294(b) of IPC, which reads as under:

“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.”

Admittedly, Section 294(b) of I.P.C. Is not attracted as against the petitioner.

20. It is relevant to rely upon the judgment of this Court reported in MANU/TN/0153/1996:1996(1) CTC 470 in the case of K.Jeyaramanuj Vs. Janakaraj & Anr. which held as follows:

“ To prove the offence under Section 294 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.”



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7. The above judgment is squarely applicable to the facts of this case. The second respondent who appeared in person has stated that owing to the difficulties faced by her on the alleged day of occurrence, she thought it fit that a complaint should be given so that such occurrence shall not occur to anyone in future.

8. It is also relevant to note that the action on the mutual complaints given by the second respondent and the opposite members, the Bar Council of Tamil Nadu and Pondicherry has been dropped in view of the understanding arrived between the members of the same fraternity.

9. Since the alleged language said to have been spoken by the petitioner at the time of the occurrence does not attract the ingredients of obscene language as defined under Section 294(b) IPC, I feel that the case against the petitioner / fifth accused should be quashed by invoking the powers of this Court under Section 482 Cr.P.C. So far as the other penal provisions are concerned, there is no material available as against this



CRL.O.P.No.29281 / 2019

petitioner in order to make out those offences against her.

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10. In view of the above stated reasons, this Criminal Original Petition is allowed and the FIR in Cr. No.21/2019 dated 14.10.2019 on the file of the first respondent is quashed as against the petitioner only. Consequently, connected miscellaneous petition is closed.

06.12.2022

Index : Yes/No

Internet : Yes/No

Note: Issue order copy by 07.12.2022.

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CRL.O.P.No.29281 / 2019

R.N.MANJULA, J.

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To

- 1.The Inspector of Police
Law and Order,
B-4, High Court Police Station,
Chennai.
- 2.The Additional Public Prosecutor
High Court of Madras
Chennai.

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