



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.3387 of 2022

and

Crl.M.P(MD)No.2515 of 2022

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Balu ... Petitioner/Sole Accused

Vs.

1.State represented by,  
The Inspector of Police,  
Sivagiri Police Station,  
Tenkasi District.  
(In Crime No.349 of 2021). ... 1<sup>st</sup> Respondent/Complainant

2.M.Valli ... 2<sup>nd</sup> Respondent/  
Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,  
to call for the records in FIR in Crime No.349 of 2021 on the file  
of the first respondent and quash the same.

For Petitioner : Mr.C.Mayilvahana Rajendran

For R - 1 : Mr.K.Sanjai Gandhi  
Government Advocate (Crl. Side)

For R - 2 : No appearance

**ORDER**

This Criminal Original Petition has been filed to quash the FIR  
in Crime No.349 of 2021 registered for the offences under Sections  
294(b), 323 and 506(i) of I.P.C.

2.The case of the prosecution is that on 20.07.2021, the second  
respondent lodged a complaint alleging that her sons said to have  
been abused by the petitioner and he assaulted them with hands and  
the same was informed to her by their sons.

3.Heard the learned counsel appearing for the petitioner and  
the learned Government Advocate (Criminal Side) appearing for the  
first respondent.

4.Though the name of the second respondent has been printed in  
the cause-list, none appeared on behalf of the second respondent  
either in person or through counsel.



5. On a perusal of the impugned F.I.R revealed that all the allegations are simple and trivial in nature. Further, where the allegations made in the F.I.R or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the petitioner. To attract the provision under Section 294(b) of I.P.C., the essential ingredient is an obscene act must have 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.

6. It is relevant to rely upon the judgment of this Court 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 the allegations are frivolous in nature and the petitioner need not go for ordeal of trial.

7. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.



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8.In this regard, It is relevant to rely upon the judgment of this Court in ***Crl.O.P.(MD)No.11030 of 2014 (Abdul Agis Vs. State through the Inspector of Police)***, which reads as follows:-

"7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

9.The essential ingredient to attract the offence under Section 323 of I.P.C is that any act with the intention of thereby causing hurt to any person or with the knowledge that he is likely thereby to cause hurt to any person.

10.In the case on hand, even according to the case of the second respondent, she heard about that the petitioner hit her sons by his hands and he also scolded with filthy language. Therefore, there is no averment to attract the offence under Section 323 of I.P.C.

11.In view of the above discussions, this Criminal Original Petition is allowed and the FIR in Crime No.349 of 2021 on the file of the first respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

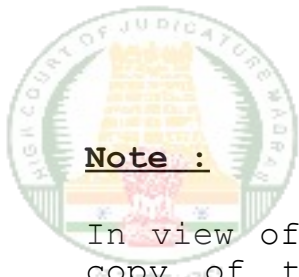
Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)



**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,  
Sivagiri Police Station,  
Tenkasi District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate ( SR-14694[F] dated 25/03/2022 )

**Crl.O.P(MD)No.3387 of 2022**  
**25.03.2022**

MGJ(07.04.2022) 4P 4C