



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.5828 of 2022

and

Crl.M.P (MD)No.4118 of 2022

WEB COPY

1.Fatima

(wrongly mentioned as Fathima Babu
instead of Fatima in F.I.R)

2.S.Raja

... Petitioners/Accused Nos.1 & 8
(Wrongly Mentioned as Thermal Raja instead of Raja)

Vs.

1.The State represented by,

The Inspector of Police,
Thoothukudi SIPCOT Police Station,
Thoothukudi District.

(In Crime No.140 of 2018). ... 1st Respondent/Complainant

2.M.Seenivasan

... 2nd Respondent/
Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the entire records pertaining to the impugned First
Information Report in Crime No.140 of 2018 on the file of the first
respondent Police Station and quash the same as against the
petitioners are concerned.

For Petitioners : Mr.Henri Tiphagne

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the
impugned First Information Report in Crime No.140 of 2018 on the
file of the first respondent Police Station for the offences under
Sections 147, 148, 341, 294(b) and 506(ii) of I.P.C and Section 4 of
the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and
Section 3 of the Tamil Nadu Public Property (Prevention of Damage
and Loss) Act, 1992 as against the petitioners.

2.There are totally 11 accused named accused and others, in
which the petitioners are arraigned as A.1 and A.8.

3.The case of the prosecution is that on 12.04.2018 when the
Sterlite company workers were about to proceed on a bus to give a



petition to the District Collector regarding the company, the petitioners and other accused persons indulged in criminal intimidation against them and also damaged the glass of the bus. Hence, the case has been registered.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent and perused the entire materials available on record.

5. On a perusal of the materials available on record revealed that the petitioners and others have been engaged in protest against the establishment and continued running of the Sterlite Industry for the past several years. The first petitioner worked as an Associate Professor and retired from service and she is also an environmental activist. The second petitioner has been serving as an elected office-bearer of the Tamil Nadu Vannigar Sangam in Thoothukudi District for many years and he has also been engaged in representing the Sangam in many anti-Sterlite protest activities for its closure. The petitioners have been agitating the Sterlite issue in a democratic manner by way of approaching Court and other peaceful protest. The first petitioner is being a woman, the case registered for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act would not attract as against her. Further, admittedly the petitioners are agitators against the Sterlite company and this is the only reason for implicating them in the impugned F.I.R registered in Crime No.140 of 2018. Even as per the impugned F.I.R, there are no ingredients to attract the offences under Section 294(b) and 506(ii) of I.P.C as against the petitioners.

6. 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 petitioners.

7. It is also 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 petitioners need not go for ordeal of trial.

8.Insofar as the offence under Section 506(ii) of I.P.C is concerned, threat should be a real one and not just a mere words when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Whereas, in the case on hand, there is no averment to attract the offence under Section 506(ii) of I.P.C.

9.Insofar as the other offences are concerned, there are no ingredients to attract the offences as against the petitioners.

10.In view of the above discussions, this Criminal Original Petition is allowed and the FIR in Crime No.140 of 2018 on the file of the first respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

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,
Thoothukudi SIPCOT Police Station,
Thoothukudi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-15434[F] dated
30/03/2022)

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