



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.20055 of 2021

and

Crl.M.P. (MD)No.11307 of 2021

S.Ramanathan ... Petitioner/Sole Accused
Vs.

1.The Inspector of Police,
Kamuthi Police Station,
Ramanathapuram District. ... Respondent/Complainant

2.Muniyasamy

3.Kamuthi Bar Association,
Represented by its Secretary,
Court Campus,
Kamuthi 623 603,
Ramanathapuram District. ... Respondent
/Defacto Complainant

*(R3 is impleaded vide order dated 19.01.2022 in
Crl.M.P. (MD)No.11799 of 2021 in Crl.O.P. (MD)
No.20055 of 2021 by GRSJ)*

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.782 of 2021 dated 02.12.2021 on the file of 1st respondent and quash the same as illegal.

For Petitioner : Mr.C.M.Arumugam
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side) for R1.
Mr.A.V.Arun for R3.

O R D E R

This criminal original petition has been filed to quash the FIR in Crime No.782 of 2021 registered on the file of the Inspector of Police, Kamuthi Police Station, Ramanathapuram District for the offence under Section 294(b) of IPC.

2.The petitioner is a practising lawyer. The petitioner had sent a voice message to another advocate by name Muthu Irulappan
<https://hcservices.ecourts.gov.in/hcservices/>



employing unparliamentary words to describe the Kamuthi Bar. This led to registration of the impugned FIR. Even before commencing his arguments, the learned counsel for the petitioner submitted that the petitioner sincerely regrets having used the offending expressions. Though the petitioner had already sent a regret letter to the Bar association, he shall send one more letter addressed to all the members of Kamuthi Bar expressing his unconditional apology. This undertaking given by the petitioner through his counsel is placed on record.

3.The learned counsel for the petitioner submitted that the defacto complainant namely, Muniyasamy S/o.Nagu, the erstwhile president of Kamuthi Bar was involved in an unsavory incident with a lady court staff and that the petitioner herein took up cudgels on her behalf and that is why the impugned FIR has been registered against him. He called upon this Court to quash the impugned FIR for the reasons set out in the memorandum of grounds.

4.Per contra, the learned counsel for the Kamuthi Bar Association submitted that the petitioner had admittedly employed filthy words while describing the Kamuthi Bar and that therefore, the offence under Section 294(b) of IPC is clearly attracted. He would also state that the petitioner is facing two other criminal cases. According to him, the issue involving the then president of the Kamuthi Bar has nothing to do with the case on hand. Since the general body of the Kamuthi Bar Association has not decided to accept the petitioner's apology, he called upon this Court to reject the offer made by the petitioner's counsel and dismiss this criminal original petition.

5.I carefully considered the rival contentions and went through the materials on record. Even according to the defacto complainant, the petitioner had sent a voice message only to Mr.Muthu Irulappan, another advocate practising in Kamuthi Court. It was Mr.Muthu Irulappan, who forwarded the petitioner's voice message to the whatsapp group of the Kamuthi Bar. Section 294 of IPC is as follows:-

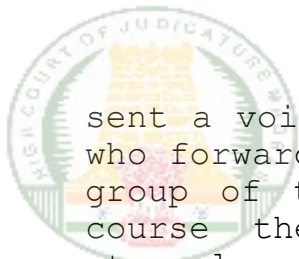
"294. Obscene acts and songs –

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."

6.No doubt the words employed by the petitioner would cause annoyance to any person hearing the same. But then, the penal provision will be attracted in the first place only if the obscene words had been uttered in or near any public place. In the case on hand, even according to the prosecution, the petitioner had only



sent a voice message to Mr.Muthu Irulappan. It was Muthu Irulappan, who forwarded the petitioner's voice message to the general whatsapp group of the Kamuthi Bar. The petitioner had not done so. Of course the learned counsel for the defacto complainant would strongly contend that the message was eventually meant to reach all the members of the Kamuthi Bar. I am not for a moment concerned with the motive of the petitioner. I am concerned only with what the petitioner had actually done. The petitioner had only sent a voice message to his friend through whatsapp. This in my view will not amount to utterance of obscene words in or near a public place. It was essentially a private communication. The ingredients of the offence under Section 294(b) of IPC are absent in this case. The impugned FIR is quashed. The criminal original petition is allowed. However, the petitioner in consonance with the undertaking given by his counsel is directed to send a common letter of apology which will be addressed to all the members of the Kamuthi Bar named individually. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

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,
Kamuthi Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-1927[F] dated 20/01/2022)
Crl.O.P(MD)No.20055 of 2021
19.01.2022

(SK(CO)

KB(17.02.2022) 3P 4C

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