



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD)No.20830 of 2021

and

Crl.M.P (MD) No.11934 of 2021

1. Jeeli @ Iruthaya Juli
2.Gladwin
3.Kennadi

... Petitioners/Accused 1,2,3

Vs.

1.The State represented by its
The Inspector of Police,
Kurumbur Police Station,
Thoothukudi District.
(Crime No.174 of 2021)

...1st Respondents/Complainant

2.Thomas Antony Inigo

...2nd Respondents/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in relating to the impugned FIR in Crime No.174 of 2021 on the file of the first respondent police and to quash the same.

For Petitioner : Mr.M.S.Jeyakarthik

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)

For R2 : Mr.V.Angusamy

ORDER

This petition has been filed to quash the FIR in Crime No.174 of 2021 on the file of the first respondent police for the offence under Sections 294(b) and 506(i) of IPC.

2.The case of the prosecution is that the first petitioner caused disturbance to the villagers by letting out the drainage water. Due to the said motive, on 05.10.2021, when the second respondent / defacto complainant along with one Anthony Silluvai



were talking in front of the defacto complainant's house, the accused came there and abused him by using filthy language and they also made life threat to the defacto complainant. Hence, the complaint.

3. Heard the learned counsel appearing on either side and perused the records.

4. A perusal of the records revealed that the second respondent and another had constructed community hall without getting proper permission adjacent to the third petitioner's house. They closed down the pathway of the third petitioner's house. Therefore, the petitioners had questioned the act of the second respondent and his group. Therefore, the defacto complainant and another excommunicated the petitioners from the village. That apart, the second respondent refused to collect village tax from the petitioner's family members for the past three years. Hence, the third petitioner submitted a representation on 21.12.2018 to the District Collector, Thoothukudi as against the second respondent's act. With regard to drainage dispute, the petitioner's family members lodged a complaint before the first respondent on 20.06.2021 as against the second respondent. They also made several representations before the revenue authorities including the District Collector, Thoothukudi against the illegal activities of the defacto complainant and his groups for their act of excommunication. All his complaints were resulted in the present complaint lodged by the second respondent before the first respondent.

5. The first respondent did not register any FIR for the reason best known to him that no prima facie case is made out to register the FIR. Therefore, the second respondent filed a petition in Cr.M.P.No.3166 of 2021 before learned Judicial Magistrate, Srivaikundam, under Section 156(3) of Cr.P.C and the learned Magistrate directed the first respondent to conduct enquiry and register the case. As per the direction, the first respondent registered the impugned FIR.

6. The alleged occurrence was taken place on 05.10.2021, whereas the complaint was lodged by the second respondent only on 09.10.2021 and there is absolutely no explanation for lodging the complaint belatedly. Therefore, the motive behind the present impugned FIR is that their earlier complaints and the representation made by the petitioners. It is relevant to rely upon the judgment of the Supreme Court of India reported in **1992 (1) SUPP (SCC) 335** in the case of **State of Haryana vs. Bajajlal**, which held as follows:-



”.

..... where the allegations in the FIR or complaint are absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceedings against the accused. Accordingly, the plain reading of entire FIR it is highly improbable and no prudent person can ever reach a just conclusion that there is sufficient ground for proceedings against the accused.

.....
If the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do no prima facie constitute any offence of make out a case against the accused the impugned FIR is liable to be quashed. Accordingly while applying the principle in this case the plain reading of entire FIR it palpably, pellucidly, clearly and glaringly demonstrate and display that no cognizable offence is made out.”

7. In view of the above dictum laid down by the Hon'ble supreme Court, the present impugned FIR is nothing, but an afterthought and no prima facie case is made out to constitute any of the offence as alleged by the second respondent herein.

8. Insofar as the offence under Section 294(b) of IPC is concerned, to attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who lodged the complaint. In this regard, it is relevant to extract Section 294(b) of IPC 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."

9. Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 294(b) of IPC and there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses felt annoyed. No one has spoken about the obscene words, for which they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioners annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC are made out. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K. Jeyaramanuju Vs. Janakaraj & anr.**, wherein it is



"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."

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10.Insofar as the offence under Section 506(ii) of IPC is concerned, this Court relied upon the judgment in the case of **Noble Mohandass Vs State** reported in **1998(2)MWN (Cr) 184**, wherein it is held as follows:-

"Further for being an offence under Section 506(ii) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word 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."

11.The above judgments are squarely applicable to the case on hand and in the impugned FIR, there is absolutely no whisper about the filthy words uttered by the petitioners herein. Therefore, the entire allegations are bald and grave in nature and the First Information Report is nothing, but clear abuse of process of law, which cannot be sustained as against the petitioners.

12.In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.174 of 2021 on the file of the first respondent police, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp



To:

1. The Inspector of Police,
Kurumbur Police Station,
Thoothukudi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-5537[F] dated 11/02/2022)

Order made in
CrI.O.P. (MD) No.20830 of 2021
10.02.2022

VK (12/03/2022) 5P 4C