



WEB COPY



CRL.O.P.No.5403 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.5403 of 2021

and

CrI.M.P.No.3486 of 2021

1. Ramalingam
2. Malliga
3. Sekar
4. Raguram
5. Viji

... Petitioners

Vs.

1. State represented by
The Inspector of Police,
D-3, Ice House Police Station,
Chennai – 05.

2. Liaqath Sheriff

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C praying to call for the records pertaining to the charge sheet in C.C.No.778 of 2020 on the file of the II Metropolitan Magistrate, Egmore, Chennai and to quash the same.

For Petitioners : Mr.S.Madhusudanan

For R1 : Mr.A.Gopinath
Government Advocate (Criminal Side)

For R2 : No Appearance



CRL.O.P.No.5403 of 2021

ORDER

WEB COPY

This Criminal Original Petition has been filed calling for the records pertaining to the charge sheet in C.C.No.778 of 2020, on the file of the II Metropolitan Magistrate, Egmore, Chennai and to quash the same.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the first respondent.

3. The case of the prosecution is that the accused are residing at the adjacent house of the defacto complainant and they are attempting to encroach their property. When it was questioned by the defacto complainant, the petitioners threatened him with dire consequences. They also abused in filthy languages. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered an FIR in Crime No.639 of 2017 for the offences under Sections 294(b) and 506(1) of IPC. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.778 of 2020 on the file of the II Metropolitan Magistrate, Egmore, Chennai.



5. A perusal of the entire records revealed that both the petitioners and the second respondent are neighbours. There is a dispute regarding putting garbages in front of the house of the second respondent. Further, there is no specific allegations as against the petitioners to attract the offences under Sections 294 B, 506 (i) of IPC. All the allegations are bald and vague.

6. 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 the 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."

Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 294(b) of IPC, 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, they felt annoyed and in the absence



CRL.O.P.No.5403 of 2021

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 is made out.

7. It is relevant to rely upon the judgment 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 therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

8. 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



CRL.O.P.No.5403 of 2021

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.

9. In this regard, it is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***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.”



CRL.O.P.No.5403 of 2021

10. It is also relevant to extract the judgement reported in **(1992) SCC CrL. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the impugned proceeding is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners.

11. In view of the above, the proceedings in C.C.No.778 of 2020 on the file of the II Metropolitan Magistrate, Egmore, Chennai, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous petition is closed.

20.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
mn



WEB COPY



CRL.O.P.No.5403 of 2021

To

- 1.The II Metropolitan Magistrate, Egmore, Chennai
- 2.The Inspector of Police,
D-3, Ice House Police Station,
Chennai – 05.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



CRL.O.P.No.5403 of 2021

G.K.ILANTHIRAIYAN, J.

mn

Crl.O.P.No.5403 of 2021
and
Crl.M.P.No.3486 of 2021

20.10.2023