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Crl.O.P.No.3913 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.3913 of 2021

and

Crl.M.P.Nos.2340 & 2341 of 2021

1.C.R.Saravanan
2.Ramadas
3.Bharathi

... Petitioners

Vs.

1.Sub-Inspector of Police,
Gudiyattam Town Police Station
Gudiyattam
Vellore District

2.S.Rubi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.358 of 2019 on the file of the Judicial Magistrate, Gudiyattam, Vellore District and quash the same.

For Petitioners : Mr.R.Vinoth Kumar

For Respondents : Mr.S.Balaji, Government Advocate

(Crl.Side) [R.1]

: Not ready in notice [R.2]



ORDER

The petition is to quash the final report for the offences under Sections 294(b), 354, 506(1) IPC read with Section 4 of Woman Harassment Act

2. It is alleged in the final report that the de facto complainant and the 1st accused got married 16 years ago and out of the said wedlock a girl child was born who is now aged about 14 years; that the 1st accused along with the other accused had caused harassment to the de facto complainant; that the 1st accused had outraged the modesty of his daughter Abhinaya; that the petitioners who are arrayed as A.2, A.3 and A.4 had abused her in filthy language and also did not respect her and give equal status to her in the house.

3. The learned counsel for the petitioners would submit that the petitioners are the mother, father and sister of A.1. The main allegation is against the A.1, who is said to have outraged the modesty of his daughter. As against the petitioners, there are vague allegations and even those vague



allegations do not constitute the offences alleged. He would further submit

that the 1st petitioner is no more. Since the allegations do not satisfy the ingredients of offences under Sections 294(b), 354, 506(1) IPC read with Section 4 of the Tamil Nadu Women Harassment Act against the petitioners, he, prayed for quashing of the impugned complaint.

4. The learned Additional Public Prosecutor would submit that the allegations in the final report ought to be adjudicated only before the Trial Court. The question as to whether the petitioners are guilty of the alleged offences cannot be gone into the quash petition, hence prayed for dismissal of the quash petition.

5. Though notice was sent to the de facto complainant, it could not be served since the de facto complainant is said to be not residing in the address shown in the complaint. The learned counsel for the petitioner submits that the notice taken privately also was returned for the reason “addressee left return to sender”.



6. This Court on perusal of the impugned final report finds that the allegation against the petitioners is that they abused her in filthy language and asked her to bring more jewels. This allegation is vague and bereft of necessary particulars. Further, this allegation would not by any stretch of imagination constitute the offences under Sections 294(b). In order to attract the offences under Section 294(b), the words uttered must be obscene. The observation of the Hon'ble Supreme Court in the judgment reported in **2022 LiveLaw (SC) 844 - N.S.Madhanagopal & Anr. Vs. K.Lalitha** wherein it was reiterated that in order to attract the offence under Section 294(b) the words uttered ought to be obscene is as follows:-

" It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot



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attract an offence under Section 294(b) IPC. 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. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out. "

The above observation squarely applies to the case in hand.

7. As regards the offence under Section 506 IPC, the words said to have been uttered by the petitioners would not constitute a real threat.

8. The other allegation is that equal status was not given to the respondent/de facto complainant in the house by the petitioners. This would not attract the offence under Section 4 of the Tamil Nadu Harassment of Women Act by any stretch of imagination. It would not fall within the



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meaning of harassment defined under Section 2(a) of the said Act. That apart, there is nothing in the impugned final report to show as to what is the nature of embarrassment or unequal treatment that the de facto complainant suffered.

9. In view of the above, this Court finds the impugned complaint as against the petitioners is clearly an abuse of process of law and hence, liable to be quashed, and hence the complaint is quashed.

10. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed.

30.03.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Sub-Inspector of Police,
Gudiyattam Town Police Station
Gudiyattam
Vellore District
2. The Judicial Magistrate, Gudiyattam, Vellore District.



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SUNDER MOHAN. J.

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