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Crl.O.P.No.3672 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.3672 of 2021

and

Crl.M.P.Nos.2164 & 2165 of 2021

Manikandan Karuppaih

...Petitioner / Accused - 5

-Vs-

1.The State rep by :
The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
(Crime No.109 of 2018)

2.Aranganathan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for records relating to the proceedings in C.C.No.5 of 2020 on the file of the Judicial Magistrate, Thittakudi, and to quash the same.



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For Petitioner : Mr.Sharath Chandran
For R1 : Mr.A.Damodaran
Additional Public Prosecutor
For R2 : Mr.A.V.Raju

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.5 of 2020 on the file of the Judicial Magistrate Court, Thitttakudi, filed for the offence under Sections 147, 148, 341, 294(b), 323, 324, 326 and 506(ii) IPC.

2.The allegation is that the petitioner / A5, along with others had committed the offence of wrongful restraint and assaulted the defacto complainant. Hence the complaint.

3.The learned counsel for the petitioner would submit that offence under Section 294(b) IPC is not made out; and that even if the words uttered by the petitioner amounts to insulting and humiliating the defacto complainant, they would not fall within the meaning of Section 294(b) IPC. As regards the other allegations, the learned counsel for the



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petitioner would submit that the impugned final report is false. Hence, he prayed for quashing the proceedings in C.C.No.5 of 2020 .

4.The learned Additional Public Prosecutor would submit that there are allegations in the impugned final report, which has to be adjudicated only before the trial Court. Hence, he prayed for dismissal of the quash petition.

5.This Court finds that offence under Section 294(b) IPC is not made out on the allegations made in the impugned final report. The words uttered by the petitioner would not fall within the meaning of Section 294(b) IPC. It is well settled that even if the words uttered is in the nature of insulting and humiliating the victim, the same would not be termed as obscene to attract the offence under Section 294(b) IPC.

6.In ***N.S.Madhanagopal and Another Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***, the Hon'ble Supreme held as follows:

“It has to be noted that in the instant case, the absence of words which will involve some lascivious



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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 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 of 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 cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.”



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7.Since the offence under Section 294(b) IPC is not made, the impugned final report insofar as the offence under Section 294(b) IPC alone is quashed. The learned Magistrate may proceed with the trial against the accused with respect to the other offences namely, Sections 147, 148, 341, 323, 324 and 326 of IPC. It is needless to say that the learned Judicial Magistrate, may consider the evidence adduced in trial without being influenced by any of the observations made in this order.

8.With the above observations, this Criminal Original Petition is partly allowed. Consequently, connected Crl.M.P.No.2164 of 2021 is closed.

9.However, the personal appearance of the petitioner in C.C.No.5 of 2020 is dispensed with, unless the learned Judicial Magistrate, Thittakuddi, considers his appearance necessary for the progress of the trial. Accordingly, Crl.M.P.No.2165 of 2021 is ordered.

31.03.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



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WEB COPY To,

1. The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
2. The Public Prosecutor,
High Court of Madras.
3. The Judicial Magistrate Court,
Thittakudi.



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SUNDER MOHAN,J.

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