



Crl.O.P.No.3685 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.3685 of 2021

and

Crl.M.P.No.2194 of 2021

Malairaja @ Allwinraj

...Petitioner

-Vs-

1.The State rep. by
The Inspector of Police,
Sendurai Police Station,
Ariyalur.
(Crime No.439 of 2020)

2.C.Pazhanisamy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records with respect to the proceedings in S.T.C.No.3 of 2021 on the file of the District Munsif -cum- Judicial Magistrate, Sendurai and to quash the same.



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For Petitioner : Mr.W.Camyles Gandhi
For R1 : Mr.A.Damodaran,
Additional Public Prosecutor
For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the final report in S.T.C.No.3 of 2021 filed for the offence under Sections 294(b) and 506(i) of IPC.

2.It is alleged in the final report that on 26.08.2020 when the petitioner was standing near the Court complex at Sendurai, the de-facto complainant asked the petitioner as to why he is filing the petition in Courts insulting the lawyers and the legal profession; that the petitioner had replied stating that, he had learnt law by watching the Court proceedings and insulted the de-facto complainant stating as follows:

“சட்டம் படித்து விட்டு இதுவரை நீங்கள் என்ன
புருங்குனீங்க”

It is further alleged that the petitioner had threatened the de-facto complainant stating that he would kill him.



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3.The learned counsel for the petitioner would submit that, the allegations in the final report do not constitute the offence alleged. Even assuming that the entire allegations are true, the words uttered by the petitioner cannot said to be obscene in order to constitute the offence under Section 294 (b) of IPC. As regards, under Section 506(i) of IPC, the learned counsel submitted that there was no real threat and this Court has held repeatedly that mere words would not constitute offence under Section 506(i) of IPC.

4.The learned Additional Public Prosecutor appearing for the 1st respondent would submit that, in view of the allegations, the points raised by the learned counsel for the petitioner has to be adjudicated only before the trial Court and prayed for dismissal of the quash petition.

5.Though notice was served on the de-facto complainant, none has entered appearance.

6.This Court finds that the allegation against the petitioner is that he had insulted the de-facto complainant by uttering the words, which is



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extracted above. Even assuming that the de-facto complainant was insulted, it would not amount to offence under Section 294 (b) of IPC. 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 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.



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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.”

7.Further, the allegation with regard to the alleged threat does not amount to real threat. This Court has held repeatedly that mere words would not constitute the offence of criminal intimidation. A useful reference may be made to the judgment of this Court in ***Noble Mohandass Vs. State*** reported in ***1989 Cri.Lj 669*** and the relevant portion of which is extracted below:

“7. Further for being an offence under Section 506(2) 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 it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually.



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8.Since none of the offences are made out on the allegations, the impugned final report in S.T.C.No.3 of 2021 on the file of the District Munsif -cum- Judicial Magistrate Court, Sendurai, is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

28.03.2023

smv

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Internet: Yes

Index : Yes/No

Speaking order : Yes / No

Neutral Citation : Yes / No

To,

- 1.The Inspector of Police,
Sendurai Police Station,
Ariyalur.
- 2.The Public Prosecutor,
High Court of Madras.
- 3.The District Munsif -cum- Judicial Magistrate Court,
Sendurai.

SUNDER MOHAN,J.



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