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Crl.O.P.No.4926 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.4926 of 2021

&

Crl. M.P.No.3145 of 2021

1.Syed Gaiyaz

2.Mumtaj

3.Balquees Begum

... Petitioners

Vs.

1.State by Inspector of Police
W.6, All Women Police Station,
Ayanavaram,
Chennai.

2.Benazer

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.54 of 2020 on the file of the learned Additional Mahila Court, Egmore, Chennai



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and quash the proceedings therein.

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For Petitioners : Mr. A.Murugavel
For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor
For Respondent 2 : No Appearance.

ORDER

The petition is filed to quash the final report for the alleged offences under Section 498 (A), 506 (i), 294 (b), 494 IPC read with Section 34 IPC.

2. It is alleged in the final report that the 1st petitioner married the defacto complainant and after the marriage he had compelled her to transfer her property in his name and demanded money as well; that on account of the said dowry demand, he had been harassing her on several occasions at the instance of the other petitioners and thus the petitioners are guilty of the aforesaid offences.



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WEB COPY 3. A1 / 1st petitioner is the husband of the defacto complainant.

A2 is the father-in-law (deceased) of the defacto complainant. A3 / 2nd petitioner is the mother-in-law of the defacto complainant. A4 / 3rd petitioner is alleged to be the 2nd wife of the 1st petitioner.

4. The learned counsel for the petitioners would submit that the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai had not taken cognizance of the offences against A4. The allegations are primarily against A1 and since there are no allegations against A3 / 2nd petitioner, the impugned final report as against A3 is liable to be quashed. Even as against A1, the allegation is that he had compelled the defacto complainant to execute sale of her property in his favour, which is false and in any event does not attract the offences alleged.

5. The learned Additional Public Prosecutor submitted that the



points raised are factual in nature and has to be adjudicated only before the Trial Court.

6. Though notice has been served on the 2nd respondent, none has entered appearance on behalf of the 2nd respondent.

7. This Court on perusal of the impugned final report finds that all the allegations are only against A1. It is alleged that he had compelled the defacto complainant to transfer her property in his name. Admittedly, A1 and the defacto complainant were living separately. A3 and her husband were living separately and had nothing to do with the marital relationship of A1 and the defacto complainant. The father-in-law and the mother-in-law of the defacto complainant have been roped in only to wreak vengeance. This Court had time and again held that when relatives of the husband who do not live in the matrimonial home are sought to be implicated, the allegations have to be specific to prosecute them for the offences



under Section 498 A IPC. As against A3 / 2nd petitioner, there are no allegations to attract the offences alleged, except for vague allegations that she along with the 1st accused asked the defacto complainant to part with her earnings. The other allegation is that she had abused the defacto complainant in a filthy language. This Court had repeatedly held that in order to attract the offence under Section 294 (b) IPC, obscene words must be uttered in a public place to the annoyance of the others. The Hon'ble Supreme Court in the Judgement reported in **2022 LiveLaw (SC) 844 – N.S.Madhanagopal and another Vs. K.Lalitha**, has held 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



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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 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. “

Hence, the offence under Section 294 (b) of IPC is not made out.

8. As regards Section 506 (i), this Court had held that in order to attract offence of criminal intimidation, there must be a real threat.

The observation of this Court in ***Noble Mohandass Vs. State,***



reported in **1989 Cri.LJ 669**, is extracted below for better understanding:

*“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.”*

9. Even as regards 494 IPC, there is no allegation as against A3 / 2nd petitioner.

10. Therefore, this Court is of the view that the impugned final report as against A3 / 2nd petitioner is liable to be quashed and is accordingly quashed. Since the learned Magistrate has not taken



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cognizance of the offences against A4, no orders are required in respect of A4 / 3rd petitioner. The petition is therefore partly allowed.

Consequently, the connected miscellaneous petition is closed. No costs.

11. The learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, shall proceed against the 1st petitioner / 1st accused in accordance with law without being influenced by any of the observations in this order and complete the Trial as expeditiously as possible and in any event preferably within a period of 3 months from the date of receipt of a copy of this order.

26.06.2023

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Index : Yes/No

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Neutral Citation : Yes/No



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To

The Metropolitan Magistrate,
Additional Mahila Court,
Egmore,
Chennai.

SUNDER MOHAN. J,

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