



Crl OP Nos.4527 & 5192 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.Nos.4527 & 5192 of 2021

and

Crl.M.P.Nos.2894 & 3334 of 2021

1. Rajendran

2. Poovi ... Petitioners / A3 and A4 in Crl.O.P.No.4527 of 2021

1. Gokul

2. Gopi ... Petitioners / A1 and A2 in Crl.O.P.No.5192 of 2021

Versus

1. The State Rep. by its
Inspector of Police,
Barur Police Station,
Krishnagiri District.

2. C. Tamilarasan ... Respondents in both Crl.O.Ps

Common Prayer: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the records relating to C.C.No.13 of 2021 on the file of the District Munsif -cum- Judicial Magistrate, Pochampalli and to quash the same.



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For Petitioners	: Mr. A. Ilaya Perumal, (in both Crl.O.Ps)
For R1	: Mr. A. Damodaran, Additional Public Prosecutor (in both Crl.O.Ps)
For R2	: Mr. A. Ramesh Manikandan (in both Crl.O.Ps)

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the impugned proceedings in C.C.No.13 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Pochampalli, filed for the alleged offences under Sections 294(b), 323, 324, 427, 506(ii) and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2.The petitioners / A3 and A4 had preferred Crl.O.P.No.4527 of 2021 and the petitioners / A1 and A2 had preferred Crl.O.P.No.5192 of 2021.

3.It is alleged in the final report that on account of the property dispute; that the petitioners had assaulted the 2nd respondent and his wife and besides abusing them in filthy language and threatening them with dire consequences and thus committed the aforesaid offences.



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4.The learned counsel for the petitioners submitted that the offences are not made out on the allegations. The version is false. The defacto complainant and his wife had given two contrary versions before the doctor, as regards the number of persons who had assaulted them. Further, since the allegations stems out of civil dispute, the impugned prosecution is an abuse of process of law. Hence, he prayed for quashing of the impugned proceedings.

5.The learned counsel for the 2nd respondent and the learned Additional Public Prosecutor, however, submitted that there are allegations in the impugned final report and it has to be adjudicated only before the trial Court and this Court cannot entertain the factual controversy in these quash petitions.

6.This Court finds that the points raised by the petitioners are factual in nature and this Court cannot entertain these quash petitions on the said points.

7.However, this Court finds that the only allegation as against A4 who is the wife of A3 is that she had committed the offence under Section 294(b) IPC. The allegation is that she abused the defacto complainant in filthy language. Even if the allegations are accepted to be



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true, the offence under Section 294(b) is not made out as against A4 as no obscene words were uttered in a public place to the annoyance of others. The Hon'ble Supreme Court in ***N.S.Madhanagopal and Another Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***, had held that in order to constitute the offence under Section 294(b), the words uttered must be obscene and not merely abusive, humiliating or defamatory. The relevant portion is extracted hereunder:

“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 defamatory 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.”

8.In view of the above observations, this Court is of the view that the impugned proceedings are liable to be quashed as against A4 alone and hence, the impugned proceedings in C.C.No.13 of 2021 on the learned District Munsif cum Judicial Magistrate, Pochampalli, is quashed insofar as A4 is concerned and the trial Court may conduct the trial against the other accused persons. However, the petitioners / A1, A2 and A3 are at liberty to raise all the points before the trial Court.

9.In the result,

(i).Crl.O.P.No.4527 of 2021 is partly allowed.

(ii)Crl.O.P.No.5192 of 2021 is dismissed.

(iii)Consequently, connected Criminal Miscellaneous Petitions are closed.

16.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

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1. Inspector of Police,
Barur Police Station,
Krishnagiri District.
2. The District Munsif cum Judicial Magistrate, Pochampalli.
3. The Public Prosecutor
High Court of Madras
Chennai – 600 104.



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SUNDER MOHAN, J

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