



Crl.O.P.No.5847 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.5847 of 2021

and

Crl.M.P. Nos.3776 and 3777 of 2021

1. K. Muthusamy
2. T.Pappathi
3. N.Sarasu
4. P.Malliga

... Petitioners

Vs.

T.Selvi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash in C.C.No.118 of 2019 on the file of Judicial Magistrate No.II, Namakkal.

For Petitioners : Mr.P.Tamilavel

For Respondent : No Appearance



ORDER

WEB COPY

This petition has been filed to quash the private complaint for the offence under Sections 294(b), 430 and 506(ii) I.P.C.

2.It is alleged in the complaint that the petitioners had caused damage to the pipeline supplying water to the respondent's land for agricultural purposes and had abused the complainant in filthy language besides threatening him.

3.The learned counsel for the petitioners would submit that the petitioners and the complainant are closely related to each other. There are civil disputes pending between them. In fact, the petitioners had filed the suit in O.S.No.97 of 2018 on the file of the Principal Subordinate Court, Namakkal. In the said suit, the respondent herein who was the 2nd defendant in the said suit had filed I.A.No.1010 of 2018 praying for temporary injunction against the petitioners herein and others from interfering with their peaceful possession and enjoyment in the suit properties. In the said application, the learned



Principal Subordinate Judge, Namakkal had found that no injunction can be granted against the petitioners herein as they are all joint owners of the suit properties. In fact, there is a reference to the alleged damage to the pipeline in the said order. The respondent herein had stated that the alleged occurrence took place on 29.09.2018. In the impugned complaint, she had stated that the occurrence took place on 30.07.2018. Earlier, the respondent had given a police complaint in C.S.R.No.133 of 2018, which was closed by the Police stating that it was civil in nature. Therefore, the learned counsel prayed that the impugned complaint may be quashed.

4.Though notice was served on the respondent, none has entered appearance for the respondent either in person or through counsel.

5.This Court on perusal of the impugned complaint finds that the only allegation is that the pipeline said to be supplying water for agricultural purposes was damaged by the petitioners. The petitioner 2 to 4 are ladies. The respondent filed I.A.No.1010 of 2018 in



O.S.No.97 of 2018 before the learned Principal Judge, Namakkal seeking for temporary injunction. However, the same was declined by the learned Principal Subordinate Judge, Namakkal holding that the respondent was not in exclusive possession of the suit properties. It is also seen that the petitioners and the respondent are closely related to each other. The complaint given by the respondent to the respondent Police was not acted upon and the respondent Police closed the said complaint stating that the dispute was civil in nature.

6.This Court is therefore of the view that the impugned complaint is nothing but an abuse of process of law. The respondent has also not disclosed the fact that a civil suit for partition is pending before the Principal Subordinate Judge, Namakkal. In the light of the civil Court finding that the respondent is not in exclusive possession of the disputed property, it cannot be said that the petitioners are guilty of damaging the water pipe line. Hence, the offence under Section 430 I.P.C is not made out. The impugned complaint seeks to convert a civil dispute into an offence under Section 430 I.P.C.



7.As regards as the offence under section 294(b), this Court finds that the alleged words uttered by the complainant would not attract the said offence. 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 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



WEB COPY

others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out. “

Thus the offence under Section 294(b) is not made out in the facts of the case.

8.Further, there is no real threat alleged in the complaint to attract the offence of criminal intimidation. Useful reference can be made to the judgment of this Court in ***Noble Mohandass Vs. State***, reported in **1983 Cri.Lj 669**, wherein this court has held as follows:

*“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.For the above reasons, this Court is of the view that the impugned complaint is liable to be quashed. Accordingly, the Criminal



Crl.O.P.No.5847 of 2021

Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

13.04.2023

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

To

- 1.The Judicial Magistrate No.II, Namakkal.
2. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.5847 of 2021

SUNDER MOHAN. J,

srn

Crl.O.P.No.5847 of 2021
and
Crl.M.P. Nos.3776 and 3777 of 2021

13.04.2023