



WEB COPY



CRL.O.P.No.7217 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrL.O.P.No.7217 of 2021
and CrL.M.P.No.4802 of 2021

K.P.Chandrawekaran

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Law & Order,
B-4, Esplanade Police Station,
Chennai.

2.T.Sivarajan

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the records of C.C.No.599 of 2021 on the file of VIIth
Metropolitan Magistrate, George Town and quash the same.

For Petitioner : Mr.K.P.Chandrawekaran
Party-in-Person

For R1 : Mr.A.Gopinath
Government Advocate (Criminal Side)

For R2 : No Appearance



CRL.O.P.No.7217 of 2021

ORDER

WEB COPY

This Criminal Original Petition has been filed calling for the records of C.C.No.599 of 2021 on the file of VIIth Metropolitan Magistrate, George Town and quash the same.

2. Heard and perused the materials available on record.

3. The case of the prosecution is that when the second respondent came out of the Advocate General office of this Court, the petitioner scolded the second respondent with filthy language for the reason that the second respondent only called the petitioner for enquiry on the complaint lodged by one Sarangapani in C.S.R.No.224 of 2018. Further, he also abused him in filthy language and prevented him from discharging his official duty. Hence, the complaint.

4. After registration of the complaint by the first respondent in Crime No.06 of 2019 for the offences under Sections 341, 294B, 353, 506(i) of IPC, conducted investigation. After completion of investigation, the first respondent filed final report for the offences under Sections 294(b), 353 and 506(1) of IPC



CRL.O.P.No.7217 of 2021

in C.C.No.599 of 2021.

WEB COPY

5. A perusal of records revealed that except the statement of the second respondent, no independent witness was examined by the first respondent. Other witnesses are also police persons. The alleged occurrence had taken place outside the office of the Advocate General. There are so many Advocates always available and no such Advocate was examined by the first respondent. No other person was also examined by the first respondent. Normally Government officials and other persons and other staffs are very much available in the Advocate General office. However, no one was examined by the first respondent. It shows that a false complaint has been foisted as against the petitioner and now it has been culminated into C.C.No.599 of 2021.

6. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-

"294. Obscene acts and songs —Whoever, to the annoyance of others— (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with



imprisonment of either description for a term which may extend to three months, or with fine, or with both."

Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses felt annoyed. 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 petitioners annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC is made out.

7. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-

"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."

The above judgment is squarely applicable to the present case and therefore, the



CRL.O.P.No.7217 of 2021

offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

8. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.

9. In this regard, it is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of



CRL.O.P.No.7217 of 2021

I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

10. Insofar as the offence under Section 353 of IPC is concerned, even according to the second respondent when he was coming out from the Advocate General office, the petitioner abused him. Therefore, the petitioner never prevented from discharging his official duty. Therefore, no material is available to attract the offence under Section 353 IPC.

11. Therefore, the proceedings in C.C.No.599 of 2021 on the file of VIIth Metropolitan Magistrate, George Town cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, the proceedings in C.C.No.599 of 2021 on the file of VIIth Metropolitan Magistrate, George Town, is hereby quashed. This Criminal Original Petition is allowed. Consequently, connected Miscellaneous petition is closed.

20.10.2023

Internet : Yes / No

Index : Yes / No



CRL.O.P.No.7217 of 2021

Speaking / Non Speaking order
mn

WEB COPY

To

- 1.The VIIth Metropolitan Magistrate,
George Town.
- 2.The Inspector of Police,
Law & Order,
B-4, Esplanade Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



CRL.O.P.No.7217 of 2021

G.K.ILANTHIRAIYAN, J.

mn

Crl.O.P.No.7217 of 2021
and Crl.M.P.No.4802 of 2021

20.10.2023