



WEB COPY



Crl.O.P.No.7877 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :19.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.7877 of 2021

and

Crl.M.P.No.5226 of 2021

Mr.R.Sivakumar

... Petitioner/Accused No.1

Vs.

1.The Inspector of Police

Town Police Station

Salem Town

Salem District

(Crime No.356/2015)

2.Dr.T.Anuradha, M.B.B.S.,

District Designated Officer

District Food Safety Office

Old Natural Kazhaga Building Complex

Salem

...2nd Respondent/Dejure Complainant



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PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for all the records pertaining to C.C.No.124 of 2016 on the file of the Additional Mahila Court (Magisterial Level), Salem and quash the same.

For Petitioner : M/s.S.Senthil

For R1 : Mr.A.Damodaran
Additional Public Prosecutor

For R2 : No Appearance

ORDER

The petition is to quash the charge sheet on the file of Additional Mahila Court (Magisterial Level) Salem for the alleged offences under Sections 294 (b), 353, 506(ii) IPC & 4 of Women Harassment Act.

2.It is alleged in the final report that the petitioner had called the second respondent over phone and abused her in filthy language. It is further stated that the second respondent/District Nominating Officer of the Food Safety office had inspected the premises of A1/petitioner's shop on 13.08.2015; and that on 02.09.2015, the petitioner had called the second respondent and had abused her in filthy language.



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3. Mr.S.Senthil, the learned counsel for the petitioner submitted that the allegations in the impugned final report does not attract the offences alleged. He further submitted that this Court on the petition filed by A3 had quashed the proceedings stating that the allegations do not attract the offences alleged in the complaint. Hence, he prayed for quashing of the charge sheet.

4. Mr. A.Damodaran, the learned Additional Public Prosecutor submitted that it is true that on the petition filed by the third accused, this Court had quashed the final report insofar as the third accused is concerned. However, the petitioner's role is different from the role played by the third accused. Hence, that order will not enure to the benefit of the petitioner. Hence, he prayed for the dismissal of the quash petition.

5. Though notice was served on the second respondent, none has entered appearance on behalf of her.

6. This Court on perusal of the impugned final report that the allegations that the petitioner had called the defacto complainant over phone and abused her. This Court on the petition filed by A3 had



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quashed the proceedings stating that the allegations do not attract the offences alleged in the complaint. The observations made by this Court in Crl.O.P.No.168 of 2017 while quashing the proceedings against A3 reads as follows:-

“6. The only issue that has to be examined by this Court is whether the averments that has been extracted herein above will attract the offence under Sections 294, 353, 506(ii) of I.P.C. and Section 4 of Women Harassment Act.

7. Admittedly, obscene words had been uttered over phone and not in any public or in a public view. Therefore, the allegations does not attract the provisions of Section 294 b of IPC and Section 4 of Women Harassment Act. Insofar as Section 506(ii) IPC is concerned, it is well settled that mere utterance of words are not enough to attract the offence of criminal intimidation and the same does not satisfy the requirement of Section 506 of IPC. Therefore, the allegations made against the petitioner does not make out a case under Section 506 (ii) of IPC. Insofar as the offence under Section 353 is concerned, this court does not find that the allegations made against the petitioner will amount to criminal offence under Section 350 or assault under Section 351 and therefore, when these two



vital ingredients are not satisfied, automatically the provision under Section 353 of IPC will not have any application in the present case. Therefore, the charge under Section 353 of IPC is also liable to be quashed.”

7. This Court finds that the observations made by this Court to quash the proceedings against A3 squarely apply to the petitioner/A1 as well. This Court had found that even if all the allegations are accepted to be true, the offences are not made out. Hence, this Court is inclined to quash the proceedings against the petitioner/A1 for the very same reasons given by this Court for quashing the proceedings against A3.

8. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions is closed.

19.04.2023

To

1.The Inspector of Police
Town Police Station
Salem Town
Salem District



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SUNDER MOHAN. J,
dk

2.Dr.T.Anuradha, M.B.B.S.,
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