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Crl.O.P.No.8370 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM:

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

Crl.O.P.No.8370 of 2021 and
Crl.M.P.Nos.5508 & 5509 of 2021

- 1) Leena
- 2) Reena

... Petitioners

-Vs-

- 1) The State Rep. by
Inspector of Police,
S-15, Selaiyur Police Station,
Chengalpattu District.
(Crime.No.927 of 2018)

- 2) Sarojini Sathish

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the records in connection with C.C.No.60 of 2019 dated 19.02.2019 on the file of the Learned Judicial Magistrate, Tambaram, Chennai and quash the same.

For Petitioners : Mr.S.Sabarish

For Respondent 1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For Respondent 2 : No appearance



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.60 of 2019 on the file of the learned Judicial Magistrate, Tambaram, Chennai having been taken cognizance for the offences punishable under Sections 294(b), 448 and 506(i) of IPC.

2. Though notice was served to the 2nd respondent, no one appeared on behalf of the 2nd respondent before this Court either in person or by pleader.

3. The case of the prosecution is that the Defacto-complainant owned flat and she had parked her car in the car parking which was allotted to her. In respect of the parking cars, there was a dispute between the petitioners and the 2nd respondent. While being on 16.08.2018, it was questioned by the 2nd respondent, for which the petitioners scolded her in a filthy languages and threatened her with dire consequences. Admittedly, the petitioners and the 2nd respondent are living in the same apartment and there was a dispute in respect of parking their cars.



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4. Even according to the 2nd respondent, on 16.08.2018 when she was in the house along with other family members, the petitioners entered into the house and scolded with filthy languages. Except the family members of the 2nd respondent, no other persons were enquired by the 1st respondent in order to prove the charges. That apart, the occurrence took place in the house of the 2nd respondent.

5. 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."

6. 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



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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 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



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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 petitioners 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 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



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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. Therefore no offence is made out as against the petitioners and the entire allegations are trivial in nature and arisen out of the parking dispute. Therefore, to meet the ends of justice, the entire proceedings initiated as against the petitioners cannot be sustained and it is liable to be quashed. Accordingly, the entire proceedings in C.C.No.60 of 2019 on the file of the Learned Judicial Magistrate, Tambaram, Chennai is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

07.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

1. The Judicial Magistrate,
Tambaram, Chennai
2. The Inspector of Police,
S-15, Selaiyur Police Station,
Chengalpattu District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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