



Crl.O.P.No.15840 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.15840 of 2021

and

Crl.M.P.Nos.8639 & 8640 of 2021

1.Natarajan

2.Lakshmi

3.Santhoshkumar

.. Petitioners

Vs.

Anandhan

..Respondent

PRAYER : Criminal Original Petition has been filed under sections 482 of Criminal Procedure Code to call for the records pertaining to C.C.No.33 of 2021 pending before the District Munsif cum Judicial Magistrate, Portonova and to quash the same.

For Petitioners : Mr.A.R.Sakthivel

For Respondent : Mr.V.Rajesh Babu



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ORDER

The petition is to quash the private complaint for the alleged offences under Sections 294(b), 341, 323 and 506(ii) of I.P.C.

2. It is alleged in the private complaint that the petitioners had attacked the complainant on 13.10.2018 on account of the dispute between them and the complainant; that the petitioners had abused the complainant in filthy language; and that the 1st petitioner slapped the respondent and the other petitioners attacked with hands.

3. The learned counsel for the petitioners would submit that in the occurrence dated 13.10.2018, the 1st petitioner, who is a victim, was attacked by the respondent and thus committed the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) of I.P.C. The 1st petitioner had lodged an FIR in Crime No.231 of 2018 on the file of the Bhuvanagiri Police station. Pursuant to the investigation in the said crime number, a final report was filed for the above said offences against the respondent. After filing of the final report, the respondent has come up



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with the impugned complaint. The impugned complaint has been lodged nearly 14 months after the alleged occurrence. Even according to the complaint, the complainant had given a complaint to the police on the same day and thereafter, representation was given to the Superintendent of Police on 15.12.2018, which was not acted upon. The respondent has not chosen to file any complaint thereafter, for nearly 14 months. He has now filed the impugned complaint, which is malafide and motivated, only to wreak vengeance. Hence, it is liable to be quashed.

4. The learned counsel for the respondent per contra submitted that the respondent was also injured. Since the police did not take any action, he had filed the impugned complaint. The complaint contains the necessary ingredients to attract the offence. The points raised by the petitioners are matters for trial, and prayed for dismissal of the quash petition.

5. This Court, on perusal of the complaint and on hearing the arguments of the learned counsel on either side, finds that admittedly the



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occurrence took place on 13.10.2018. In respect of the same occurrence, the 1st petitioner had lodged the FIR before the Bhuvanagiri Police station, which culminated in final report in C.C.No.28 of 2019 pending before the District Munsif cum Judicial Magistrate, Portonovo. While so, the respondent has come out with the impugned private complaint to counter the said prosecution. It is seen that the respondent had filed this complaint after 14 months. It is also his case that the Superintendent of Police did not take action on his representation dated 15.12.2018. There was no reason why he waited for such a long time to file the impugned complaint. This Court is of the view that the allegations made in the impugned complaint is an after thought made after the receipt of summons in the final report based on the F.I.R., lodged by the first respondent herein. The impugned complaint, therefore, is malafide and therefore, cannot be sustained. The allegations in any case does not attract the offence of wrongful restraint under Section 341 IPC.

6. Further, the offences of 294(b) and 506(ii) of I.P.C., are also not made out. The allegations which are in the nature of insult and



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humiliation of the complainant would not attract the offence under Section 294 (b) of IPC. The Hon'ble Supreme Court in the Judgment 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



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to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out.”

7. As regards under Section 506(ii) IPC, there is nothing to suggest that there was any real threat so as to attract the offence of criminal intimidation. This Court has repeatedly held that the words spoken must cause real threat to constitute the offence of criminal intimidation. Useful reference can be made to the judgment of this Court in **Noble Mohandass Vs. State**, reported in **Manu/TN/0026/1988**, 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.”*



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8. As stated earlier, this Court finds these allegations are only to counter the prosecution faced by the respondent. The impugned complaint is malafide and is motivated and hence liable to be quashed.

9. For the above said reasons, this Criminal Original Petition is allowed and C.C.No.33 of 2021, on the file of the District Munsif cum Judicial Magistrate, Portonova is hereby quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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Internet : Yes/No

Index: Yes/No

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To

The District Munsif cum Judicial Magistrate, Portonova.



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SUNDER MOHAN, J.

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