



Crl OP No.20067 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Criminal Original Petition No.20067 of 2021
and
Crl.M.P. Nos.10922 and 10924 of 2021**

1.Abirami

2.R.Rajaganesh

3.R.Kanagasabai

...Petitioners

Versus

1. State by Inspector of Police,
All Women Police Station,
Virudhachalam, Cuddalore District.

2. Sangeetha

...Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records in S.C.No.124 of 2021 on the file of the learned Sessions Judge, Mahila Court, Cuddalore, Cuddalore District and quash the proceedings.



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For Petitioners : M/s. T. Vijayaragavan
For Respondent : Mr. S.Balaji
Government Advocate (Crl.Side)
for R1.

No Appearance for R2

ORDER

The petition is to quash the final report for the alleged offences under Sections 294 (b) and 506 (1) of the Indian Penal Code, 1860, as against the petitioners.

2. It is alleged in the final report that the defacto complainant/second respondent herein and the first accused were in love with each other; that the first accused had promised to marry and indulged in a physical relationship with the de-facto complainant; that thereafter, the first accused deserted the defacto complainant; that when the defacto complainant had questioned the first accused and the petitioners, they had abused the defacto complainant in filthy language and threatened her with dire consequences.



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3. Mr.T.Vijayaragavan, the learned counsel for the petitioners would submit that admittedly the dispute is only with the second respondent and the first accused; that the petitioners are arrayed as A2/first petitioner, A3/second petitioner and A6/third petitioner in the final report; that the first petitioner is the sister of the first accused, the second petitioner is the sister's husband and the third petitioner is the maternal uncle of the first accused; that they had nothing to do with the alleged relationship with the first accused and the defacto complainant; that allegation against the first two petitioners is that they committed the offence under Section 294 (b) IPC; that the allegation is that they had abused the defacto complainant in filthy language; that the final report does not contain the exact words said to have uttered by the petitioners; that in any case, Section 294 (b) IPC is not made out; that as against the third petitioner, the offences under Sections 294 (b), 506(1) IPC are not made out; and hence, he prayed for quashing of the final report filed against the petitioners.

4. Mr.S.Balaji, the learned Government Advocate (Crl. Side), submitted that there are allegations in the impugned final report which would attract the offences alleged; that the matter has to be adjudicated



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only before the trial Court; and hence, he prayed for dismissal of the quash petition.

5. Though notice was served on the second respondent/defacto complainant, none has entered an appearance on behalf of the second respondent.

6. This Court, on perusal of the impugned final report, finds that the allegation against A1 is that he had a physical relationship with the defacto complainant/second respondent on the promise of marriage and thereafter deserted her. The petitioners are the relatives of the first accused. There is no allegation of deception against them. This Court is of the view that the petitioners, who are the relatives of the first accused, have been implicated in the instant case only to wreak vengeance on the first accused. In any case, the allegations do not attract the offences alleged. The Honourable Apex Court held that in order to attract the offence under Section 294 (b) IPC, the words uttered must be obscene and in a public place to the annoyance of others. In the instant case, there is no such allegation. The observations of the Hon'ble Supreme Court in the Judgment reported in **2022 LiveLaw (SC) 844** –



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N.S.Madhanagopal and another Vs. K.Lalitha, is extracted hereunder

for understanding:

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



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Further, this Court also held that in order to attract the offence of criminal intimidation, there must be a real threat. Mere words would not attract the said offence. The observations of this Court in the Judgment reported in **Manu/TN/0026/1988, - Noble Mohandass Vs. State**, is extracted hereunder for better understanding:

*“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.”*

7. For all the above reasons, the impugned final report as against the petitioners is liable to be quashed. Hence, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

13.06.2023

dk

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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- 1.The Sessions Judge,
Mahila Court,
Cuddalore,
Cuddalore District.
- 2.The Inspector of Police,
All Women Police Station,
Virudhachalam, Cuddalore District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J
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