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Crl.O.P.No.20186 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.20186 of 2021
and Crl.M.P.No.10993 of 2021

1. Murugan
2. Muthu

... Petitioners

Vs.

1. State by
The Inspector of Police,
M2 - Milk Colony Police Station,
Madhavaram, Chennai.
(Crime No.47 of 2020)

2. Anandan

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C praying to call for the records and quash the proceedings/charge sheet in C.C.No.221 of 2021 pending on the file of the District Munsif cum Judicial Magistrate at Madhavaram.

For Petitioners	: Mr.D.Ashokkumar
For R1	: Mr.A.Gopinath Government Advocate (Crl.Side)
For R2	: Mr.T.Muruganantham



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.221 of 2021 pending on the file of the learned District Munsif cum Judicial Magistrate at Madhavaram.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the prosecution is that on 16.02.2020 when the second respondent and his family members were in house, his daughter-in-law's relatives at about 25 persons trespassed into the house and threatened the second respondent with filthy language and also damaged the articles. When it was questioned by his wife, they also attacked him with hands. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.47 of 2020 for the offences under Sections 294(b), 323 and 506(1) of IPC against the relatives of his daughter-in-law. After completion of investigation, the first respondent filed final report as against the petitioners alone for the offences under Sections 294(b), 323 and 506(1) of IPC and the



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same has been taken cognizance in C.C.No.221 of 2021 on the file of the learned District Munsif cum Judicial Magistrate at Madhavaram.

5. A perusal of records revealed that the alleged occurrence had taken place on 16.02.2020, but the second respondent had lodged a complaint only on 18.02.2020. There is absolutely no explanation by the second respondent for the belated complaint. In the said complaint, it is alleged that more than 25 persons trespassed into his house and threatened him with dire consequences and they also attacked him by their hands. Whereas, the charges were levelled only against the petitioners viz., A1 and A2.

6. A perusal of the entire records such as statement recorded under Section 161 Cr.P.C revealed that no one had spoken about the specific overtact as against the petitioners. All the allegations are bald and vague. That apart, on the date of occurrence viz., 16.02.2020, the daughter-in-law of the second respondent lodged a complaint as against the second respondent, husband and in-laws. On receipt of the same, she was issued C.S.R.No.68 of 2020 for the allegations that her in-laws and her husband tortured her and demanded huge dowry. When it was questioned by her, they had beaten her.



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7. Therefore, the present proceeding is a counter blast to the complaint lodged by the daughter-in-law of the second respondent herein. However, the said complaint was enquired and subsequently, it was closed.

8. Insofar as the complaint lodged by the second respondent is concerned, it has been taken cognizance for the offences under Sections 294(b), 323 and 506(1) of IPC. Even according to the second respondent, no injury was sustained by him. He was not treated by any Doctor for any injuries sustained by him during the occurrence. Even according to him, the accused had beaten by their hands. The FIR was registered as against unnamed persons. The second respondent deposed that the petitioners alone came to their house and caused damage to the articles. When it was questioned by them, they had beaten him by their hands and helmet. Therefore, the entire proceedings is nothing but a clear abuse of process of Court and it cannot be sustained.

9. To attract the offences 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 :-



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"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."

10. 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. 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."



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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.

11. 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.

12. 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 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.”

13. The essential ingredient to attract the offence under Section 323 of I.P.C is that any act with the intention of thereby causing hurt to any person or with the knowledge that he is likely thereby to cause hurt to any person. Therefore, there is no averment to attract the offence under Section 323 of I.P.C. It is relevant to extract the provisions under Section 323 of IPC as follows:-

*“323. Punishment for voluntarily causing hurt —
Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or*



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with fine which may extend to one thousand rupees, or with both.”

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14. In view of the above, the proceedings in C.C.No.221 of 2021 pending on the file of the learned District Munsif cum Judicial Magistrate at Madhavaram, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous petition is closed.

18.10.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

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To

1. The District Munsif cum Judicial Magistrate at Madhavaram.
2. The Inspector of Police,
M2 - Milk Colony Police Station,
Madhavaram, Chennai.
3. The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

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