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Crl OP No. 27473 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 27473 of 2019

and

Crl.M.P. No. 14648 of 2019

1.Annadurai

2.Ratha

3.Gurunathan

4.Porkodi

... Petitioners

Versus

1. State rep.,by

Inspector of Police,

Irumbulikulurichi Police Station,

Ariyalur District.

2. Mrs.Sumathi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the entire records pertaining in S.T.C.No.84 of 2019 on the file of the learned Judicial Magistrate, Sendurai and quash the same.

For petitioners : Mr. B. Kumarasamy for
Mr. R. Gokulakrishnan.

For Respondents : Mr. S. Balaji,
Government Advocate (Crl.Side) for R1.

No appearance for R2.

ORDER



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The petition is to quash the final report for the offence under

Sections 448, 294(b) and 506(i) of the Indian Penal Code.

2. It is alleged in the final report that the accused had entered into defacto complainant's house and abused her in filthy language and threatened her of dire consequences.

3. The learned counsel for the petitioners submitted that the occurrence actually took place on 06.10.2017 and the complaint and counter complaint was lodged before the respondent police. Both the complaints were enquired into and closed as the parties had arrived at a compromise. The FIR which culminated in the impugned final report was thereafter registered on 11.10.2017 for the very same occurrence. The learned counsel further submitted that none of the offences alleged in the impugned final report are made out. The FIR would suggest that the alleged threat was made by the petitioners by standing outside the house of the defacto complainant. However in the impugned final report, it is falsely alleged that they entered into the house of the defacto complainant. The allegations do not attract any of the offences alleged.



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4. The learned Additional Public Prosecutor submitted that the final report along with the materials filed in support of the same discloses the offence alleged in the final report. The question as to whether the complaint is false or motivated has to be adjudicated only before the trial Court and hence prayed for dismissal of this petition.

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

6. This Court finds on the reading of the final report and the FIR which culminated in the final report that there was an occurrence on 06.10.2017 at 7.00 p.m. The said occurrence is said to have been taken place inside the house of the defacto complainant. In respect of the said occurrence, both the petitioners and the defacto complainant had lodged complaint to the respondent police. The respondent police had called both the parties for enquiry and on their representation that they had settled the matter amicably, the complaints were closed. The occurrence in the impugned final report is said to have been taken place on 10.10.2017 at about 07.00 a.m. The allegation in the FIR is that the



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petitioners stood outside the house of the defacto complainant and threatened her of dire consequences. However, subsequently, in the impugned final report, it is alleged that the occurrence took place inside the house of the defacto complainant. There is no basis for the same. When it is the case of the defacto complainant that the petitioners stood outside the house and shouted, the offence of criminal trespass is not made out.

7. As regards the offence under Section 294(b) of the Indian Penal Code, it is seen that the petitioners had abused the defacto complainant in filthy language. However, the said words cannot be said to be obscene within the meaning of Section 294(b) of the Indian Penal Code. The Hon'ble Supreme Court had held that in order to attract the said offence, words uttered must be obscene. In this regard, we rely upon the Judgment of the Hon'ble Supreme Court in ***N.S.Madhanagopal & Anr. Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***, wherein it was held as follows;

*“6....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 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....”

8. As regards threat, it is seen that the allegations would not amount to real threat in order to attract 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**,



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wherein this court has held as follows:

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“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...”

For all the above reasons, the impugned final report is liable to be quashed and hence, quashed.

9. Accordingly, this Criminal Original Petition is allowed by quashing the proceedings in S.T.C. No. 84 of 2019 on the file of the learned Judicial Magistrate, Sendurai. Consequently, the connected Miscellaneous Petition is closed.

19.04.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To
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1. The Inspector of Police,
Irumbulikulurichi Police Station,
Ariyalur District.
2. The Judicial Magistrate,
Sendurai.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J

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