



Crl OP No.27493 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No. 27493 of 2019

S.Gopinathan

... Petitioner

Versus

1.The State represented by
The Inspector of Police
G-3 Kilpauk Police Station,
Chennai – 600 010.

2.Dr. Vasantha Premkumar

... Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the entire records in Cr. No. 1819 of 2015 on the file of the Inspector of Police, G3 Kilpauk Police Station, Chennai and quash all further proceedings against the accused.



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For Petitioner : Mr. Venkatesh Mohanraj
For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor
For Respondent 2 : No Appearance.

ORDER

The Criminal Original Petition is filed to quash the FIR in Cr. No. 1819 of 2015 for the offences under Section 341, 294 (b), 506 (II) read with Section 3 of the TNPPDL Act.

2. It is alleged that the defacto complainant is a landlord and the petitioner is a tenant in respect of the premises at No.6, Ramanathan Street, Kilpauk, Chennai. It is further alleged that on 30.08.2015 at about 12.30 p.m., when the defacto complainant went to check whether the motor switch was on, the petitioner had abused her in a filthy language asking her to get out of the place and thereafter the petitioner had caused damage to the EB box with an iron rod.



3. The learned counsel for the petitioner would submit that it is the case of dispute between landlord and tenant and the impugned FIR is only to armtwist the petitioner to vacate from the premises. The learned counsel for the petitioner would further submit that there were Rent Control Proceedings initiated by the 2nd respondent against the petitioner. In the said Rent Control Proceedings, the petitioner and the 2nd respondent had arrived at a compromise, by which the 2nd respondent agreed to withdraw all the proceedings against the petitioner and the petitioner also agreed to vacate the premises.

4. The learned counsel for the petitioner would further submit that the defacto complainant had filed an affidavit dated 09.01.2020, in which she had mentioned about the compromise and had no objection to quash the FIR.

5. The learned Additional Public Prosecutor would submit that



the impugned allegation in the FIR have to be investigated and cannot be quashed at this stage. The learned Additional Public Prosecutor further submitted that the 2nd respondent / defacto complainant is no more.

6. This Court finds that the allegations do not constitute the offences under Section 341 and 506 (II) of the IPC. There is no allegation of wrongful restraint. As regards criminal intimidation there is no allegation to infer real threat. That apart, the allegations which are in the nature of insult and humiliation of the defacto complainant would not attract the offences under Section 294 (b) of the IPC. The Hon'ble Supreme Court in the Judgement 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 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. Further, the 2nd respondent has filed an affidavit dated 09.01.2020, which reads as follows:

“ I humbly submit that according to the settlement arrived between both of us, the Petitioner/Accused herein had vacated the and handed over the vacant possession and key of the petition schedule premises in said R.C.A., by an order dated 9.1.2020 in R.C.A. No.655 of 2017 in VIII th Small Court, Chennai, I have enclosed copy of order dated 9.1.2020 here with, according to settlement



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this 2nd respondent agrees to drop all further proceedings in Crime No.1819 of 2015 and this 2nd respondent have no any objection and consent to quash the F.I.R in Crime No.1819 of 2015 and to allow the Crl.O.P.No.27493 of 2019.

Thereafter, it appears that the 2nd respondent died on 21.12.2021.

8. For the above said reasons, this Court is inclined to quash the FIR in Cr. No. 1819 of 2015 on the file of the Inspector of Police, G3 Kilpauk Police Station, Chennai. Accordingly, the petition is allowed. No costs.

30.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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G-3 Kilpauk Police Station,
Chennai – 600 010.

SUNDER MOHAN, J

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