



Crl.O.P.No.27522 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.27522 of 2019

and

Crl.M.P.No.14702 of 2019

Murali Shankar

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Pappireddipatti Police Station,
Dharmapuri District
(Crime No.265 of 2016)

2. Jayanthi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.34 of 2017 on the file of Judicial Magistrate, Pappireddipatti and quash the same as illegal.

For Petitioners : M/s.R.Sankarasubbu

For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor [R.1]

: No appearance [R.2]

ORDER



The petition is to quash the final report for the alleged offences under Section 294 B, 323, 506 (ii) IPC read with Section 4 of the Tamil Nadu Women Harassment Act.

2. It is alleged in the final report that on 24.07.2016, at about 1 p.m. when the de facto complainant was approaching towards the Government Hospital, Pappireddipatti, the accused abused her in filthy language and caused hurt to her.

3. The learned counsel for the petitioner submitted that the petitioner and L.W.2 had a love affair. This act was opposed by the de facto complainant who is the mother of L.W.2. In order to arm-twist the petitioner, the de facto complainant has come up with this false complaint. In any event, the learned counsel further submitted that none of the offences are made out. There is no allegation that any obscene words were uttered to the annoyance of others. The alleged offence under Section 294(B) IPC is not made out and the other offences under Section 323, 506 (ii) IPC & Section 4 of the of the Tamil Nadu Women Harassment Act are also not made out.



4. The learned Additional Public Prosecutor submitted that there are allegations in the impugned final report which have to be adjudicated only before the Trial Court and prayed for dismissal of the quash petition.

5. Though notice was sent to the de facto complainant, none has entered appearance for the de facto complaint. This Court had directed the learned Additional Public Prosecutor to inform the de facto complainant about the pendency of the quash proceedings. The learned Additional Public Prosecutor on instructions submitted that the 2nd respondent had informed the 1st respondent police that she does not intend to pursue the impugned proceedings.

6. This Court finds that apart from the present stand taken by the 2nd respondent not to pursue the proceedings, the impugned prosecution is liable to be quashed, even otherwise. The allegation do not attract the offence under Section 294(b) IPC as the words uttered by the petitioner cannot be said to be obscene. In order to attract the offences under Section 294(b) IPC, the words uttered must be obscene. The observation of the Hon'ble Supreme Court in the judgment reported in **2022 LiveLaw (SC) 844 -**



N.S.Madhanagopal & Anr. Vs. K.Lalitha wherein it was reiterated that in

order to attract the offence under Section 294(b) the words uttered ought to

be obscene is 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. As regards the offence under Section 506 (ii) IPC, this Court had



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held that in order to attract the offence of criminal intimidation, there must be a real threat. There is no such threat in the present case. The other offences under Sections 323 IPC and Section 4 of the Women Harassment Act also are not made out on the facts of the case. That apart, this Court finds that admittedly the petitioner and the 2nd respondent's daughter had a love affair. The impugned complaint appears to be to wreak vengeance on the petitioner since the 2nd respondent was aggrieved by the act of the petitioner.

8. For all the above reasons, this Court is inclined to quash the impugned final report. Hence, the impugned final report is quashed. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

28.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

WEB COPY

1. The Inspector of Police,
Pappireddipatti Police Station,
Dharmapuri District
2. The Judicial Magistrate, Pappireddipatti.

SUNDER MOHAN. J,



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