



Crl OP No.27280 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No.27280 of 2019
and Crl.M.P.Nos.14462 & 14463 of 2019

NaveenBalaji

... Petitioner/Single Accused

Versus

1. State Rep. by
The Inspector of Police,
Suramangalam Police Station,
Salem District.

... Respondent/Complainant

2. T.Sundaramurthy

... Respondent/Defacto Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C.No.322 of 2016, pending on th file of Judicial Magistrate No.II, Salem and quash the same.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondent : Mr.S.Balaji
Govt. Advocate (Crl. Side), for R1

No Appearance



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Crl OP No.27280 of 2019

ORDER

This Criminal Original Petition has been filed to quash the Final Report for the alleged offence under Sections 294(b) and 506(ii) IPC.

2. It is alleged in the Final Report that on 28.03.2015 at about 8 a.m. the petitioner had abused the Defacto Complainant in filthy language, insulted him and caused agony to the Defacto Complainant.

3. The learned counsel for the petitioner would submit that the petitioner and the Defacto Complainant are relatives; that a wordy quarrel, while cremating the body of a common relative of both the petitioner and the defacto complainant is sought to be projected as if the defacto complainant was abused and assaulted. He further submitted that the petitioner neither uttered obscene words nor threatened the second respondent.



4. The learned Government Advocate (Criminal Side) submitted that there are allegations in the impugned Final Report which attract the offences and hence he prayed for the dismissal of the Criminal Original Petition.

5. The learned Government Advocate was requested to inform the second respondent about the pending proceedings, since the notice sent by the petitioner could not be served on the Defacto Complainant. The learned Government Advocate reported that the first respondent had informed the second respondent about the pending proceedings. However, the second respondent has not entered appearance.

6. This Court on perusal of the impugned Final Report finds that the allegation is that the petitioner had abused the Defacto Complainant/second respondent in filthy language and insulted him. The allegations 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



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Crl OP No.27280 of 2019

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, there is no allegation that the petitioner had uttered any words to attract the offence of criminal intimidation. This Court has held that in order to attract the offence of criminal intimidation, there must be a real threat. The relevant observations of the judgment of this Court in ***Noble Mohandass Vs. State***, reported in ***Manu/TN/0026/1988***, is extracted hereunder for better



Crl OP No.27280 of 2019

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.”

In the instant case the facts do not suggest that there were any obscene words uttered by the petitioner to the annoyance of others or any real threat was made by the petitioner.

8. For the foregoing reasons, this Court is of the view that the impugned Final Report is an abuse of process of law and it is liable to be quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

24.04.2023

jv

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



Crl OP No.27280 of 2019

To

1. The Judicial Magistrate No.II,
Salem
2. The Inspector of Police,
Suramangalam Police Station,
Salem District.



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Crl OP No.27280 of 2019

SUNDER MOHAN, J.

jv

Criminal Original Petition No.27280 of 2019
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24.04.2023