

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No.28753 of 2019
and
Crl.M.P. Nos.15359 of 2019

1. Chinnasamy
2. Sakunthala
3. Ranjith Kumar
4. Prakash
5. Kumarasamy
6. Umapathy
7. Mohankumar
8. Arun Kumar
9. Subramanium
10. Rukmani
11. Gnanasekaran
12. Nanjappan

... Petitioners

Versus

R.Karuppusamy

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the complaint in C.C.No.36 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.D.R.Arun Kumar

For Respondent : M/s. M.Karthik for Mr. I.C Vasudevan

O R D E R

This petition is to quash the complaint in CC.No.36 of 2018 for the alleged offences under Sections 294(b) and 506(ii) of IPC. It is alleged in the complaint that the accused on 14.06.2016 at about 9 a.m., abused the complainant in filthy language and threatened them by wielding weapons.

2. The learned counsel for the petitioner submitted that in the impugned complaint, there is no averment to invoke the offence under Section 294(b) of IPC. The complaint does not state as to what were the words uttered by the petitioners. The learned Counsel further submitted that the allegations that the petitioners, some of whom are aged about 50 years, threatened the complainant with weapons is highly artificial as improbable. There is no specific allegation as against the petitioners and

general vague allegation that they threatened would not constitute the offence under Section 506(ii) of IPC. The learned counsel further submitted that there is a civil dispute between the petitioners and the complainant; that they are closely related to each other, as there is Civil dispute is sought to be projected as a criminal complaint.

3. The learned counsel for the respondent submitted that the respondent is no more. However, there are other witness to substantiate the allegations in the complaint. The allegations constitute the offences alleged and submitted that it is a case for trial and hence prayed for dismissal.

4. This Court on perusal of impugned complaint finds that there is a dispute with regard to the sharing of water between neighbours who are related to each other. The impugned final report does not state as to what were the abusive words uttered by the petitioners as against the complainant. This Court has time and again held that in order to attract the provisions of 294(b) IPC, the words uttered has to be obscene and it must be made to the annoyance of others. The relevant observations of

the Honourable Supreme Court in *N.S.Madhanagopal and Another. vs. K.Laliha* reported in *2022 Live Law (SC) 844* held as follows:

“ It has to be noted that in the instant case, the absence of words which will involved 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 no 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 annoyance 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”.

As regards the offence under Section 506(ii) of IPC, there is nothing in the impugned final report to show that there was any real threat to the complainant. This case appears to be civil dispute between neighbours which is sought to be given a criminal colour .

5. For the above said reasons, the above complaint deserves to be quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

03.04.2023

I/v

Index: Yes/No
Speaking Order / Non-Speaking Order
NCC: Yes / No

To

1. The Judicial Magistrate,
Sathyamangalam

Crl OP No.28753 / 2019

SUNDER MOHAN, J

Vv

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and
Crl.M.P. Nos.15359 and 15360 of 2019

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