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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/03/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.2645 of 2023

and

Cr1.MP(MD)No.2380 of 2023

1.B.Karpagamurugan @ Karpakamurgan

2.M.Naveen Kumar

3.M.Sarathkumar @ Sakthinivethan

: Petitioners/A1 to A3

Vs.

1.The State represented by

The Inspector of Police,

Chatrapatti Police Station,

Dindigul District,

(Crime No.617 of 2020)

: R1/Complainant

2.N.Sownthararajan

: R2/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in STC No.438 of 2022 on the file of the Judicial Magistrate Court, Oddanchatram, Dindigul District, in Crime No.617 of 2022 on the file of the first respondent and quash the same.



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For Petitioners : Mr.K.Dinesh
For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)
For 2nd Respondent : No appearance

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.438 of 2022 on the file of the Judicial Magistrate Court, Oddanchatram, Dindigul District, in Crime No.617 of 2022 on the file of the first respondent.

2.The facts in brief:-

On 03/09/2020 at about 06.00 pm, when the de-facto complainant was returning to his house, he found the accused persons playing in the street. So, he directed them not to play in the street, for which, the accused persons picked up quarrel, abused and abused him in filthy language. Upon the above said occurrence, a case in Crime No.617 of 2020 was registered for the offence under section 294(b) IPC. Investigation was undertaken and after completing the formalities of investigation, final report was filed and it was taken cognizance in STC No.438 of 2022 by the trial court.



3. Seeking quashment of the same, this petition has been filed.

4. Heard both sides.

5. Section 294(b) IPC reads as follows:-

"Sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months."

6. By pointing out these ingredients, the learned counsel appearing for the petitioner would submit that neither in the complaint, nor in the final report, the alleged abusive or insulting word alleged to have been used by the petitioners are mentioned.

7. The learned counsel appearing for the petitioners would straightaway rely upon the judgment of the Hon'ble Supreme Court in the case of **N.S. Madhanagopal & another Vs. K. Lalitha (2022 LiveLaw (SC) 844)** to support his argument.



8.No doubt that neither in the FIR, nor in the final report, it has been stated the above said abusive word has been used by the petitioners to the annoyance of the public. No-where, it has been mentioned that apart from the de-facto complainant, others were present in the place of occurrence and because of the abusive and insulting word alleged to have been used by the petitioner, the public were also annoyed.

9.The circumstance shows that it is a petty issue between the de-facto complainant and the petitioners. The petitioners alleged to have aborted to use the street for plying the game, which was objected by the de-facto complainant, over which, the above said abusive word alleged to have been made by the petitioners.

10.It is also seen that more than one persons were playing in the street. All the petitioners are aged about 27, 21 and 30. A trivial issue has been given exaggeration by the de-facto complainant. More-over, no ground for the offence under section 294(b) IPC is made available.



11.As per section 468 of Cr.P.C., final report ought to have been filed within a period of limitation namely one year from the date of the offence. It is mentioned in the ground that the final report was filed before the trial court only in 2022 namely 16/06/2022. The final report ought to have been filed within a year namely on or before 04/09/2021. But here, the final report has been filed on 16/06/2022, much after the period of limitation. On that sole ground, cognizance that has been taken by the trial court is illegal.

12.In the result, this criminal original petition is **allowed. The entire proceedings in STC No.438 of 2022 on the file of the Judicial Magistrate, Oddanchatram is herein quashed.** Consequently, connected Miscellaneous Petition is closed.

27/03/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Oddanchatram,
Dindigul District.
- 2.The Inspector of Police,
Chatrapatti Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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