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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/06/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.3997 of 2023
and
Cr1.MP(MD)No.3575 of 2023

Sanoj Raja : Petitioner/Sole Accused

Vs.

- 1.State rep. by
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.
(In Crime No.674 of 2022) : R1/Complainant
- 2.Francis John Kenndey,
Special Sub Inspector of Police,
Dindigul Taluk Police Station,
Dindigul. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case registered in impugned charge sheet in STC No.2612 of 2022 on the file of the Judicial Magistrate Court No.1, Dindigul West, in Crime No.674 of 2022 on the file of the 1st respondent and quash the same as illegal and to pass such other orders.



2

For Petitioner : Mr.N.Balasubramanian
For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.2612 of 2022 on the file of the Judicial Magistrate No.1, Dindigul.

2.The case of the prosecution is that when the de-facto complainant was on the routine patrolling duty, at about 09.30 pm, on 27/10/2022 near Dindigul Reddiyapatti Bus Stop, the accused standing in the public place and caused public nuisance. In-spite of warning given by the police team, he did not stop. On that basis, a case Crime No.674 of 2022 was registered for the offence under section 294(b) IPC. After completing the process of investigation, final report was filed and it was taken cognizance in STC No.2612 of 2022 by the Judicial Magistrate No.1, Dindigul.

3.Seeking quashment of the same, this petition has been filed by the petitioner on the sole ground that none of the allegation mentioned, either in FIR or in the final report attracts any of the ingredients of the offence alleged.



4.Heard both sides.

5.To ascertain the fact of causing the above said public nuisance, the petitioner was directed to be present before this court. He was also present before this court and stated that he is a Diploma Holder in Engineering and no previous case was registered against him.

6.The learned counsel appearing for the petitioner would straightaway draw the attention of this court to the allegations made in the final report. It has been simply stated that the petitioner standing in the public place and caused public nuisance.

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

"294(b)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, or with fine, or with both."



8. Now coming to the legal ground, the statement of law on this issue has been clarified by the Hon'ble Supreme Court the Hon'ble Supreme Court in the case of **N.S.Madhanagopal and another Vs. K.Lalitha (2022 LiveLaw (SC) 844)**.. Let me extract the settlement of law for better appreciation.

".....the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences". This test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in Ranjit D.Udeshi V. State of Maharashtra, AIR 1965 SC 881. In Samuel Roth V. U.S.A., 354 US 476(1957), Chief Justice Warren said that the test of 'obscenity' is the "substantial tendency to corrupt by arousing lustful desires". Mr. Justice Harian observed that in order to be 'obscene' the matter must 'tend to sexually impure thoughts'. I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think that the words are 'obscene' and the utterance would constitute an offence punishable under S.294(b) IPC."



9. So when we apply the above said statement of law, I am of the considered view that not even the obscene words alleged to have been spoken by the petitioner, as has been stated by the de-facto complainant. But mere allegation that the petitioner used the abusive word does not satisfy to attract the offence under section 294(b) IPC. So when we read the final report, in the context of the Hon'ble Supreme Court decision in the case of **N.S.Madhanagopal and another Vs. K.Lalitha (2002 LiveLaw (SC) 844)**, it is seen that the ingredients of section 294(b) IPC are not attracted.

10. For the above stated reasons, this criminal original petition is **allowed**. The case in STC No.2612 of 2022 on the file of the Judicial Magistrate No.1, Dindigul is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

27/06/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.1,
Dindigul.
- 2.The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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7

G.ILANGOVAN, J

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