



Crl.O.P.(MD)No.4465 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.4465 of 2020
and
Crl.M.P.(MD)No.2521 of 2020

1.Alaguselvi

2.Muthumari

3.Banumathi

4.Irulaiyi

5.Thanalakshmi

6.Sivagami

... Petitioners /Accused Nos.1 to 6

Vs.

1.The State represented by

The Inspector of Police,

A.Mukkulam Police Station,

Virudhunagar District.

In Crime No.28 of 2020

... 1st respondent / Complainant

2.Vijayalakshmi

... 2nd respondent /defacto complainant



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PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.28 of 2020, dated 25.02.2020, on the file of the first respondent for offence under Section 294 (b) I.P.C.

For Petitioners : Mr.T.Lajapathi Roy, Senior Counsel
for Mr.S.Rajasekar

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side) for R1

ORDER

This petition is filed to quash the F.I.R., in Crime No.28 of 2020, dated 25.02.2020, on the file of the first respondent.

2. The case against the petitioners is that on 24.02.2020, at about 8.35 pm, the first petitioner informed that as per the order of this Court, fair price shops are sought to be opened and the people gathered in front of the shop stating that they will not permit anybody other than the Society to run the shop and the petitioners uttered obscene words, resulting in law and order problem. Based on the same, a criminal case was registered against the petitioners.



3. On the side of the petitioners, it is stated that there is a civil dispute pending between the petitioner and the second respondent with regard to running of the fair price shop, situated at V.Karisalkulam and other Centres. A Writ petition in W.P.(MD)No.26937 of 2019 was filed before this Court and an interim order of stay was granted on 18.12.2019, with a direction to the District Collector and two others, to hand over the possession of the four fair price shops, including one at V.Karisalkulam on or before 23.01.2020.

4. The respondent failed to comply the order despite the extension of time granted by this Court and a statutory notice was issued on 27.01.2020. The respondent filed an Writ Appeal in W.A.(MD)No.90 of 2020, challenging the interim order passed by the Single Judge, dated 18.12.2019 and that appeal was dismissed on 29.01.2020. Then, the Writ Petition in w.P.(MD)No.26937 of 2019 came up for hearing, the Court made an observation that despite the suo-motu contempt notice issued by the Court, the order of the Court was yet to be complied and the matter was adjourned to 26.02.2020. In the above background, Keys of the fair price shops were handed over to the petitioners, but, the point of sale (POS) machines were not handed over to the petitioners. The petitioners



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are the members of a Self Help Group. Only to threatened the members of the self help group and to develop enmity, the defacto complainant registered a case under Section 294(b) of I.P.C.

5. On the side of the petitioners, it is stated that there is no prima facie case made out against the petitioners. F.I.R did not disclose any cognizable offence, investigation without an order of the Magistrate under Section 155 (2) of Cr.P.C. is invalid and the F.I.R is to be quashed.

6. On the side of the prosecution, it is stated that it was the petitioners, who entered into the premises of the ration shop and they used filthy language against the second respondent.

7. A perusal of the F.I.R reveals that there is a Court order for handing over the fair price shop to the Self Help Group. When possession was about to be handed over to the self help group, it was the public who agitated in front of the shop and a case against the Public persons, who indulged in the agitation was registered in Crime No.27 of 2020, under Sections 341, 294(b) and 353 of I.P.C. When the public were agitating, the members of the self help group scolded the public in



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filthy language and both the parties indulged in wordy quarrel and a case in Crime No.28 of 2020 was registered under Section 294(b) of I.P.C.

8. It is seen that the petitioners are the members of the self help group, which was permitted to run the ration shop. The exact wordings used by the petitioners was not stated in the petition. As per the F.I.R, only wordy quarrel was taken place in the place of occurrence. Hence, an offence under Section 294(b) was not made out and the petition is to be allowed.

9. This Petition is allowed and the First Information Report in Crime No. 28 of 2020, dated 25.02.2020, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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R.THARANI. J.

Ls

To

- 1.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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