



CRL.OP.(MD)No.6388 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.11.2022
DELIVERED ON : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD).No.6388 of 2022

I.Vincentraja : Petitioner/Sole Accused

VS

1. State Rep. By
The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
(Crime No.78 of 2022) : 1st Respondent/Complainant
2. M.A.Muniyasamy : 2nd Respondent/*De facto* Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records pertaining to the FIR in Crime No.78 of 2022
on the file of the first Respondent and quash the same.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl.Side) for R1

: No Appearance for R2



CRL.OP.(MD)No.6388 of 2022

WEB COPY

ORDER

This Criminal Original Petition had been filed seeking to quash the FIR in Crime No.78 of 2022 on the file of the first Respondent.

2. The brief facts, which are relevant to decide this Criminal Original Petition, are as follows:-

2.1.The *De facto Complainant*/second Respondent is the District Secretary of AIADMK, Ramanathapuram District. The Petitioner is the former District Secretary of AIADMK Youth Wing, Ramanathapuram District. The Petitioner was removed from primary membership of the AIADMK party. The Petitioner contested the local body election and he lost the election. Due to the enmity caused by the removal of the Petitioner from AIADMK Youth Wing and from the membership of the party, the Petitioner is alleged to have threatened the *De facto Complainant*/second Respondent through facebook by way of using abusive language. Therefore, the *De facto Complainant*/second Respondent has lodged a complaint against the Petitioner. Based on the complaint given by the *De facto Complainant*/second Respondent, a case was registered in Crime No. 78 of 2022, dated 03.03.2022 on the file of the first Respondent for the



CRL.OP.(MD)No.6388 of 2022

offences under Section 294(b) and 506(i) of IPC.

WEB COPY

3. It is the submission of the learned Counsel for the Petitioner that to attract provision of 294(b), no abusive words had been used to cause annoyance to the *De facto Complainant*/second Respondent.

4.The learned Counsel for the Petitioner invited the attention of this Court to the contents of the FIR which does not disclose the specific words used by the Petitioner herein to cause annoyance to the *De facto Complainant*/second Respondent in the eyes of the general public in public place or to affect or injure his reputation. No such words had been mentioned in the complaint or in the FIR to attract the ingredients of Section 294(b) of IPC.

5.Similarly, no words had been used to threaten the *De facto Complainant*/second Respondent by the Petitioner to attract the ingredients of Section 506(i) of IPC. The video tape or audio tape which were enclosed along with the complaint also does not disclose any words used by the Petitioner to be treated as abusive to attract Section 294(b) of IPC or intimidatory to attract Section 506(i) of IPC. Therefore, the learned



CRL.OP.(MD)No.6388 of 2022

Counsel for the Petitioner sought to quash the FIR as the ingredients of either Section 294(b) or 506(i) of IPC are not all attracted.

6.The only words mentioned by the Petitioner was that the *De facto Complainant*/second Respondent had caused the Petitioner to lose his election. That cannot be treated as intimidatory. The Petitioner contested the election as independent candidate after his removal from AIADMK membership. Even though he contested as independent candidate, he lost the local body election. Therefore, he is alleged to have sent a message alleging the *De fato Complainant*/second Respondent as responsible for his defeat. That cannot be presumed as intimidatory. The contents of the message in the social media sent by the Petitioner cannot at all be treated as either attracting the ingredients of Section 294(b) or 506(i) of IPC.

7. The learned Counsel for the Petitioner had invited the attention of this Court to the order passed by the learned Single Judge of this Court in CrI.O.P No.8836 of 2020 dated 31.08.2020, where the facts were similar. Paragraphs 4 to 8 of the order in CrI.O.P No.8836 of 2020 are extracted hereunder:

“4. It is seen from the content of the statement, which was allegedly written in the face book that questioned the extra charges, charged by the particular political party cadres in the



WEB COPY

TNCSC centre. It was not making any abusive content or indecent manner and incite any violence in the particular class or defame statement. It is also seen from the complaint, no words uttered by the petitioner as against the second respondent and also there is no allegation of threatening by the petitioner herein. There is absolutely no prima facie case made out to attract the offence under Sections 294(b) and 506(i) of IPC as against the petitioner. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person, who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC.

"294. Obscene acts and songs Whoever, to the annoyance of others (a) does any obscene act in any public place, or (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."

*5. Admittedly, there is absolutely no words uttered by the petitioner as such to constitute the offence under Section 294(b) of IPC, there is no averment and allegation. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioner, the witnesses felt annoyed. 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 petitioner annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC is made out. It is relevant to rely upon the judgment reported in **1996(1) CTC 470 in the case of K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-*

"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."

8. The learned Counsel for the Petitioner relied on another judgment reported in **(1994) 2 Crime 67** in the case of **V.Dhasiah Vs. State** wherein it was held as follows :-



"Therefore a mere allegation of use of obscene words without mentioning that the words uttered and without complaining that the same has resulted in the annoyance to the complainant cannot attract a charge under Section 294(b) IPC"

The above judgments are squarely applicable to the present case and therefore there is no allegation to attract the offence under Section 294(b) of IPC as against the petitioner.

7. Insofar as the other offence under Section 506(i) of IPC, there is absolutely no allegation to attract the said offence of criminal intimidation as against the petitioner. Further when an individual is threatened or induced to cause injury by the offender who had the intention to his reputation or property or to any individual or person related to him. When it being so, there is absolutely no allegations as against the petitioner under Section 506(i) of IPC. Therefore, the present FIR is nothing but clear abuse of process of Court and it cannot be sustained as against the petitioner.

8. In view of the above discussion, this criminal original petition is allowed and the proceeding in C.C.No. 4455 of 2019 on the file of the learned FTC-II, Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed."

9. The learned Counsel invited the attention of this Court to the contents of the FIR and the ingredients of the offences under Sections 294(b), 506(i) IPC. The contents of the FIR does not prima facie attract ingredients of Sections 294(b), 506(i) of IPC. Therefore, he seeks to quash the FIR.

10. The learned Additional Public Prosecutor by way of reply submitted that already investigation has been proceeded by examining five



witnesses. He further submitted that the FIR is not an Encyclopedia.

Further materials will be collected only in the course of the investigation.

Therefore, he seeks to dismiss this Petition as not maintainable and having no merits.

11. The case was posted to hear the argument of the learned Counsel for the second Respondent/*De facto Complainant*. Even though notice had been served and his name was printed in the cause list, he did not appear.

12. On consideration of the rival submissions of the learned Counsel for the Petitioner and the learned Government Advocate (Crl. Side) and on perusal of the FIR, it is found that the specific words used against the second Respondent/*De facto Complainant* by the Petitioner had not been stated in the Complaint or in the FIR to attract Section 294(b) of IPC. As per the Provisions of law, not only abusive words used against the victim/*De facto Complainant* ought to be proved by the victim. Also what was the abusive words uttered in front of other people, in the presence of other people in the public place which caused annoyance also to be proved by the victim/*De facto Complainant*. Here, those circumstances are not available on perusal of the FIR in this case. Similarly, the ingredients of the



CRL.OP.(MD)No.6388 of 2022

FIR does not attract the offence under Section 506(i) IPC. In the light of the Order passed by this Court in CrI.O.P.No.8836 of 2020 dated 31.08.2020, the same ratio is applicable to the facts of this case .

In the result, this ***Criminal Original Petition is allowed.*** The FIR in Crime No.78 of 2022 on the file of the first Respondent against the Petitioner is quashed. Consequently, the connected miscellaneous petition is closed.

30.06.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
dh

To

1. The The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
2. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.OP.(MD)No.6388 of 2022



WEB COPY



CRL.OP.(MD)No.6388 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

dh

Order made in

CRL.OP.(MD)No. 6388 of 2022

30.06.2023