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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.4732 of 2023

and

Crl.MP(MD)Nos.4169 and 4171 of 2023

Rajkumar @ Ramkumar : Petitioner/A1

Vs.

1.State through the Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
(Crime No.178 of 2018) : R1/Complainant

2.Raja : R2/De-facto
Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings in FIR in CC No.846 of 2023 on the file of the Judicial Magistrate, Sankarankovil. Tenkasi District in so far as the petitioner is concerned.

For Petitioner : Mr.V.Kathirvel
Senior counsel
for Mr.K.Prabhu

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**O R D E R**

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This criminal original petition is filed seeking quashment of the case in CC No.846 of 2022 on the of the Judicial Magistrate, Sankarankovil.

2.The case of the prosecution in brief:-

On 10/03/2018 at about 10.00 pm, when the de-facto complainant party was on routine patrol duty, near Geethalaya theatre, they spotted a two wheeler bearing registration No.TN-72-AQ-5166. It was intercepted and they made enquiry. Agitating the above said enquiry, the accused persons caused criminal intimidation, abused in filthy language and also prevented the de-facto complainant party from performing their official duty. On the basis of the above said occurrence, *suo motu* FIR was registered in Crime No.178 of 2018 for the offences under sections 294(b), 353 and 506(ii) IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.846 of 2022 by the Judicial Magistrate, Sankarankovil.



3. Seeking quashment of the same, this petition has been filed stating that none of the allegations made either in the FIR or in the final report attract any of the ingredients of the offences under sections 294(b), 353 and 506(ii) IPC.

4. Heard both sides.

5. As mentioned in the preamble portion, the factual background is that the petitioners were alleged to have travelled in a two wheeler and at that time, they were intercepted by the police team and wordy quarrel occurred by which, the above said act of criminal intimidation and abusive alleged to have been taken place.

6. The occurrence said to have been taken place, on 11/03/2018 at 04.00 am. Even in the FIR itself, it has not been stated anything stating that on suspicious only, the vehicle was intercepted. When the petitioner was driving a two wheeler at about 04.00, who intercepted was not known. It has been stated in the final report that the patrol team made enquiry, over his work at this odd time.



7.As mentioned earlier, it is not the odd hours. In the absence of any explanation on the side of the prosecution, the contention raised by the petitioner that when he was intercepted, a wordy quarrel occurred between them cannot be stated to be absolutely false or groundless. The police team is entitled to prevent the offence to be committed as stated above. But that does not mean that they can intercept any person on their Will.

8.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."

9.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.

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".....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 Harlan 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."

10. So 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 has been stated by the de-facto complainant. But mere allegation



that the petitioner used the abusive word is not satisfied only 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.

11. Section 503 IPC reads as follows:-

"503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

12. It has been uniformly held that for attracting section 506(ii) IPC, the alleged threat could have caused



some fear in the mind of the complainant to his life.

Absolutely, there can be criminal intimidation to the police team, who were in the uniform. Section 353 IPC may not also be attracted. As mentioned earlier, it is not the duty of the police patrol team to intercept each and every person and make enquiry.

13.As mentioned above, even though they got right to intercept a person on suspension, but so far as this petitioner is concerned, it is not even mentioned in the above complaint that only on suspension, they made enquiry. So absolutely, they were not prevented by the petitioner from performing their duty. So section 353 IPC are not attracted.

14.The entire factual circumstances clearly shows that trivial issue has been given exaggeration by the police, as it is criminal intimidation, abusive, prevented them from discharging their official duty.

15.For the above stated reasons, this criminal original petition is **allowed**. The proceedings in CC



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No.846 of 2022 on the file of the Judicial Magistrate, Sankarankovil is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

27/04/2023

Index:Yes/No
Internet:Yes/No
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To.

1.The Judicial Magistrate,



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Sankarankovil,
Tirunelveli District.

- 2.The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J

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