



Crl.O.P(MD).No.12661 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On: 19.04.2023

Delivered On : 02.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.12661 of 2020

and

CrI.M.P.(MD)No.5751 of 2020

S.Ponnusamy

...Petitioner

Vs

1.The State Rep. By
Inspector of Police,
Alwarkurichi Police Station,
Tenkasi District.
(Crime No.221 of 2011)

2.Amutha

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to quash the chargesheet in C.C.No. 400 of 2020 on the file of the Judicial Magistrate Court, Ambasamudram and quash the same as illegal.

For Petitioner	: Mr.Ajmal Khan, Senior Counsel M/s.Ajmal Associates
For 1 st Respondent	: Mrs.M.Aasha Government Advocate (Crl. Side)
For 2 nd Respondent	: No Appearance



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ORDER

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This petition is filed to quash the chargesheet in C.C.No.400 of 2020 on the file of the learned Judicial Magistrate, Ambasamudram.

2.The case against the petitioners is that in the year 2011, when the second respondent was studying in Sri Paramakalyani College, Tirunelveli District, the petitioner was working as Associate Professor of Chemistry and he used to abuse her with double meaning words and tried to misuse his power. On 09.08.2011 at about 10.45 a.m., the petitioner scolded the defacto complainant in the class room stating that she lost himself in thoughts in the memory of her time with her husband. For the indecent act and unparliamentary words, the defaco complainant lodged a complaint in Crime No.221 of 2011 under Sections 294(b), 506(ii) of IPC r/w. 4 of TNPWH Act.

3.On the side of the petitioner, it is stated that without proper enquiry, the respondent police registered a case and subsequently, they filed a chargesheet after a lapse of nine years. The chargesheet was taken on file as C.C.No.400 of 2020 before the learned Judicial Magistrate, Ambasamudram. As a professor, the petitioner was discharging his duty for the past 25 years since 1986. The defacto complainant enrolled in the year 2010 – 2011. During



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class hours, the defacto complainant and her friends created a bad atmosphere and they always indulged in unfair practices. This prompted the petitioner to reprimand the defacto complainant. Apart from the class room, the petitioner never met any student personally throughout his service. There is no separate room for the petitioner and the petitioner used to sit in the department room along with 11 other professors. Pursuant to a letter dated 22.07.2011, the petitioner never handled class to the student of II year M.Sc., from the year 2011 onwards. There was no interaction between the petitioner and the defacto complainant from the year 2011 onwards. The result was published in May 2011 and on 08.08.2011, the defacto complainant and other girl students failed in the examination. Having a misconception that the petitioner was responsible for the result, the defacto complainant has lodged this complaint.

4. On the side of the petitioner, it is stated that the petitioner did not attend the class on 09.08.2011. The defacto complainant failed in the examination due to her carelessness and lack of involvement in studies. The defacto complainant passed the internal examination in the corresponding academic year evaluated by the petitioner. The petitioner does not have any authority over the students final semester examination. The university followed dummy number system. There is no possibility for the petitioner to



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identify the defacto complainant and other students. Only due to some personal vengeance against the petitioner, the defacto complainant has lodged this complaint. Though the case was registered in the year 2011, the first respondent has not chosen to file the chargesheet. The pendency of the case is causing a stigma to the petitioner.

5.On the side of the petitioner, it is further stated that to constitute an offence under Section 506(ii) of IPC, there must be a threat of injury. In this case, no such offence was made out. Under Section 294(b) of IPC, uttering or reciting of any obscene songs or words in a public place which resulted in annoyance to others should be there to constitute an offence. But in the instance case, there is no such averment and hence, the offence under Section 294(b) of IPC is not made out. The allegation made in the complaint does not support a charge under the Women Harassment Act. The punishment is only for a period of three years and a fine to the tune of Rs.10,000/- (Rupees Ten Thousand only). Merely reprimanding a student in the class room cannot be brought within the ambit of Tamil Nadu Prohibition of Women Harassment Act.



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6.The learned counsel for the petitioner would rely upon a judgment of the Hon'ble Supreme Court in the case of ***Vikram Johar v. State of Uttar Pradesh and another*** reported in ***(2019) 14 Supreme Court Cases 207***, wherein it is stated as follows:

*“Now, reverting back to **Section 506**, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande (supra) has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under **Section 506** IPC, what are ingredients which have to be proved by the prosecution? Ratanlal & Dhirajlal on Law of Crimes, 27th Edition with regard to proof of offence states following: -*

“...The prosecution must prove:

(i) That the accused threatened some person.

(ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of some one in whom he was interested;”

7.The learned counsel for the petitioner would rely upon a judgment of the Hon'ble Supreme Court in the case of ***Manik Taneja and another v. State of Karnataka and another*** reported in ***(2015) 7 Supreme Court Cases 423***, wherein it is stated as follows:



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“The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant.”

8.The learned counsel for the petitioner would rely upon a judgment of this Court in the case of **Jayakumar v. State and another** in **Crl.O.P.(MD)No. 6029 of 2021**, wherein it is stated as follows:

“In the considered view of this Court, the act committed by the accused person can be brought under the general exception under Chapter IV of the Penal Code and it can be specifically brought under Section 95 of Indian Penal Code. All those acts, which fall under general exceptions is not considered to be an offence.”

9.On the side of the prosecution, it is stated that the petitioner is the sole accused. He was a professor in Sri Paramakalyani College, At about 10.49 hours, the petitioner scolded the defacto complainant in front of the other students asking her 'are you in thoughts of the time you spent with your husband'. Nine witness were examined and statements under Section 161(3)



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Cr.P.C. were recorded. The other students have deposed that the professor abused the defacto complainant and he used to scold her with double meaning words, which caused mental cruelty. There is difference between the words. “thinking of your husband” or “thinking being with your husband”. The petitioner created embarrassment to a student in front of the other students. The citations on the side of the petitioner are not applicable to the case. The life of the student is affected and the petitioner has to face the trial.

10.The occurrence took place in the year 2011. The chargesheet was filed in the year 2020. The allegation against the petitioner is that he scolded the second respondent to approach anybody (யாரிடம் வேண்டுமானால் சொல்லு). This word cannot be treated as criminal intimidation under Section 506(ii) of IPC. The defacto complainant was not attentive any class. The petitioner scolded her. The motive is only to make the defacto complainant more attentive. No filthy words were used. Filing chargesheet under Section 294(b) of IPC, after a lapse of nine years, is time barred.

11.A perusal of the records reveals that the petitioner scolded the defacto complainant saying 'Are you thinking of being with her husband' and he scolded her to approach anybody. This specific words cannot be taken as an



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offence under Section 506(ii) of IPC.

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12.It is true that the words used against a married lady in front of the other is indecent. But considering that Section 506(ii) of IPC is not made out and considering that all other offences are punishable with imprisonment for a period of less than three years and the chargesheet was filed only after a lapse of five years. It is decided that the FIR is liable to be quashed.

13.Hence, this Criminal Original Petition is allowed and the case in C.C.No.400 of 2020 before the learned Judicial Magistrate, Ambasamudram is hereby quashed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

- 1.The Judicial Magistrate, Ambasamudram.
- 2.The Inspector of Police,
Alwarkurichi Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R. THARANI,J.

Mrn

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