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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/12/2023

CORAM

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

Crl.OP(MD)No.16179 of 2023
and
Crl.MP(MD)No.12885 of 2023

1.Dr.Vedachalam
2.Parthiban
3.Suganthadevi : Petitioners/A1 to A3

Vs.

1.State; through its
Inspector of Police,
Pattukottai Police Station,
Thanjavur District.
(Crime No.396 of 2023) : R1/Complainant

2.Kiruthiga Devi : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in Crime No.396 of 2023 on the file of the 1st respondent police and quash the same and pass such further or other orders.

For Petitioners : Mr.T.A.Ebenezer

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.P.Thirumahilmaran

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O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.396 of 2023 on the file of the 1st respondent.

2.**The case of the prosecution in brief**:-

There exists property dispute between the accused persons and the de-facto complainant. In pursuance of which, on 05/05/2023 at about 07.13 pm, the accused persons abused the de-facto complainant in filthy language and also threatened her through phone by demanding to return the property. On the basis of the complaint given by the de-facto complainant, a case in Crime No.396 of 2023 was registered for the offences under sections 294(b) and 506(i) of IPC.

3.Seeking quashment of the same, this petition has been filed by the petitioners on the sole ground that none of the allegations mentioned in FIR attract any of the ingredients as alleged against them.

4.Heard both sides.

5.The learned counsel appearing for the petitioners would straightaway draw the attention of this court to

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the allegations made in the FIR. It has been simply stated that the de-facto complainant was abused in filthy language by the accused persons.

6.Section 294(b) of 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."*

7.Now coming to the legal ground, the statement of law on this issue has been clarified by 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*

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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."

8.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 petitioners has been stated by the de-facto complainant. But mere allegation that the petitioners used the abusive word does not satisfy to attract the offence under section 294(b)of IPC. So when we read the FIR, 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.

9.With regard to the offence under section 506(i) IPC, it has been simply stated by the accused persons over phone that the de-facto complainant has to return the property to them.

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10.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."*

11.When we draw the allegation mentioned in the FIR to the ingredients, it is also seen that it is not attracted. A simple abusive word alleged to have been exaggerated as if he was criminally intimidated and abused in filthy language. The parties ought to have settled the issue by themselves.

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12.For the above stated reasons, this criminal original petition is **allowed.** The FIR in Crime No.396 of 2023 on the file of the 1st respondent is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petition is closed.

12**/12/2023**

Index:Yes/No
Internet:Yes/No
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To,

1.The Inspector of Police,
Pattukottai Police Station,
Thanjavur District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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