



Crl.O.P.(MD) No.16048 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.10.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.16048 of 2023

and

Crl.M.P(MD)Nos.12740 and 12741 of 2023

Ashok Kumar

...Petitioner / Accused No.1

Vs.

1.State represented by,
The Sub Inspector of Police,
Palani Taluk Police Station,
Dindigul District.
(In Crime No.112 of 2016).

...1st Respondent / Complainant

2.Thirugnanasammantham

...2nd Respondent / Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Charge Sheet in STC No.1361 of 2016 on the file of the Hon'ble Judicial Magistrate, Palani and Quash the same as illegal so far as this petitioner is concerned.



Crl.O.P.(MD) No.16048 of 2023

WEB COPY

For Petitioner :Mr.G.Anto Prince

For Respondent :Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed, to call for the records pertaining to the Charge Sheet in STC No.1361 of 2016 on the file of the Hon'ble Judicial Magistrate, Palani and Quash the same as illegal so far as this petitioner is concerned.

2. The case of the prosecution is that on 01.03.2016 at about 8.30 pm, he was driving the bus bearing registration No.TN 28 Y 7699 from Palani to Pollachi. Near Pappampatti junction road, the accused namely Ashok, Padmanathan, Kannan and others caused disturbance to the traffic. On the basis of the complaint given by the defacto complainant, the case was registered in Crime No.112 of 2016. After completion of the investigation, a final report was filed against the three persons alleging that they have committed offences punishable under Sections 294(b) and 342



Crl.O.P.(MD) No.16048 of 2023

WEB COPY

of IPC. Seeking quashment of the final report, this petition has been filed on the ground that none of the allegation mentioned either in the FIR or in the final report, attracts any of the ingredients of the offences under Sections 294(b) and 342 of IPC.

3. Reading of the complaint as well as the final report does not indicate the specific word of abuse used by the petitioners at the time of the occurrence. It has been stated in the complaint that in drunken mode the petitioner obstructed the movement of the traffic. So the offence under Section 294(b) is not attracted as stated in the Judgment of the Hon'ble Supreme Court in the case of N.S.Madhanagopal and another Vs. K.Lalitha (2022 LiveLaw(SC) 844), which reads as follows:

"... 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



Crl.O.P.(MD) No.16048 of 2023

WEB COPY

Warren said that the test of 'obscenity' is the "substantial 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. "

4. So far the offences under Section 342 of IPC, is concerned, it appears that there was no intention on the part of the petitioner to make obstruction to the traffic. A simple nuisance has been given exaggeration by the defacto complainant. Even the offences under Section 342 of IPC is concerned, the ingredients are not attracted. Apart from that it is also seen that the offence is of the year 2016. Even after lapse of 7 years, the trial could not be completed for one or other reasons. Prolonging trial process without any progress is sufficient enough to quash the proceedings.



Crl.O.P.(MD) No.16048 of 2023

WEB COPY

5. On that account the the Charge Sheet in STC No.1361 of 2016 on the file of the Hon'ble Judicial Magistrate, Palani is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

04.10.2023

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

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To

- 1.The Sub Inspector of Police, Palani Taluk Police Station,
Dindigul District. (In Crime No.112 of 2016).
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P.(MD) No.16048 of 2023

G.ILANGOVAN. J.

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Crl.O.P.(MD)No.16048 of 2023
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04.10.2023