



CrI.O.P.(MD) No.17300 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.10.2023**

CORAM:

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

CrI.O.P.(MD)No.17300 of 2023

and

CrI.M.P.(MD)Nos. 13721 and 13722 of 2023

Sowndarya

...Petitioner / Accused

Vs.

1.State represented by,
The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.

2.Devi ...Respondents / De-facto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C,
to Call for records in STC No.831 of 2023 on the file of the learned
Judicial Magistrate – I, Sivagangai and quash the same.

For Petitioner :Mr.S.Arunkumar

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



CrI.O.P.(MD) No.17300 of 2023

WEB COPY

ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C, to Call for records in STC No.831 of 2023 on the file of the learned Judicial Magistrate – I, Sivagangai and quash the same.

2. The case of the prosecution is that is that the petitioner lodged a complaint stating that on the date of the occurrence, the defacto complainant / accused persons came to the house of the petitioner, stating that they are going to purchase the property lying in the opposite area. He was also abused them. When neighbours intervened, they started assaulting them with brick. In spite of repeated occurrence and repeated complaints, no proper action was taken by the respondents. On the basis of the complaint, a case was registered in Crime No. 150 of 2023 under Section 294(b) of IPC.

3. Seeking quashment of the same, this petition has been filed by the petitioner on the ground that none of the allegations mentioned either in



Crl.O.P.(MD) No.17300 of 2023

WEB COPY

the FIR or in the final report attracts any of the ingredients under Section 294(b) of IPC. Apart from that it is also stated that on the basis of the complaint given by this petitioner, a case in Crime No.151 of 2023 was also registered against the defacto complainant party for the very same offences under Sections 294(b) of IPC.

4. Reading of the complaint and counter complaint shows that the counter party has also given a complaint against this petitioner. It was also registered under Sections 294(b) of IPC. Reading of the complaint and counter complaint shows that on the particular date, there was exchange of abusive words between them. Since, the respondent instead of charge sheeting both the parties together under Section 160 of IPC, charge sheeted them separately under Section 294(b) of IPC. So the offence under Section 294(b) does not attract in this case, by following 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:



Crl.O.P.(MD) No.17300 of 2023

WEB COPY

"... 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 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. ".

5. The final report in STC No.831 of 2023 on the file of the learned Judicial Magistrate – I, Sivagangai, does not satisfy the above said requirement of law.



Crl.O.P.(MD) No.17300 of 2023

WEB COPY

6. On that account, the proceedings in STC No.831 of 2023 on the file of the learned Judicial Magistrate-I, Sivagangai, is quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

04.10.2023

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

pnn

To

- 1.The Judicial Magistrate-I, Sivagangai.
2. The Inspector of Police, Sivagangai Town Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

5/6



WEB COPY



CrI.O.P.(MD) No.17300 of 2023

G.ILANGOVAN. J.

pnn

CrI.O.P.(MD)No.17300 of 2023
and
CrI.M.P.(MD)Nos. 13721 and 13722 of 2023

04.10.2023