



Crl.O.P.(MD)No.17905 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/11/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Crl.OP (MD)No.17905 of 2023

and

Crl.MP (MD)Nos.14133 and 14134 of 2023

Manikandan : Petitioner/A2

Vs.

1.The Inspector of Police,
Ramanathapuram Town Police Station,
Ramanathapuram District.
(Crime No.109 of 20160 : R1/Complainant

2.Sub Inspector of Police,
Town Police Station,
Ramanathapuram Police Station,
Ramanathapuram District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to STC No.550 of 2018 on the file of the Judicial Magistrate No.I, Ramanathapuram and to quash the same as far as the petitioners are concerned and pass such other or further orders.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



Crl.O.P.(MD)No.17905 of 2023

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This criminal original petition has been filed seeking quashment of the case in STC No.550 of 2018 on the file of the Judicial Magistrate No.I, Ramanathapuram.

2.The case of the prosecution in brief:-

The de-facto complainant who is the Sub Inspector of Police lodged a complaint stating that on 01/06/2018 at about 05.30 pm, when he was in routine surveillance duty near Ramanathapuram Pasumpon Nagar Junction Railway Gate, the accused persons said to have abused the general public with unparliamentary words. Over the above said occurrence, a case in Crime No.109 of 2018 was registered for the offence under section 294(b) IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in STC No.55 of 2018 on the file of the Judicial Magistrate No.1, Ramanathapuram.

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



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4.Heard both sides.

5.The learned counsel appearing for the petitioner would straightaway draw the attention of this court to the allegations made in the final report. It has been simply stated that the de-facto complainant was abused in filthy language by the accused.

6.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."

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



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CrI.O.P.(MD)No.17905 of 2023

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."

8.So when we apply the above said statement of law, I am of the considered view that not even a single 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 does not enough 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 (2022 LiveLaw (SC) 844), it is seen that the ingredients of section 294(b) IPC are not attracted.



Crl.O.P.(MD)No.17905 of 2023

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9.For the above stated reasons, this criminal original petition is **allowed**. The case in STC No.550 of 2018 on the file of the Judicial Magistrate No.I, Ramanathapuram is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

02/11/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.1,
Ramanathapuram.
- 2.The Inspector of Police,
Ramanathapuram Town Police Station,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Cr1.O.P.(MD)No.17905 of 2023

G.ILANGO VAN, J

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Cr1.OP (MD) No.17905 of 2023

02/11/2023