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CrI.O.P.(MD)No.23131 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21/12/2023

CORAM

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

CrI.OP(MD)No.23131 of 2023

and

CrI.MP(MD)No.18003 of 2023

Veeramani : Petitioner/Sole Accused

Vs.

1.State represented by the
Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
(In Crime No.466 of 2020) : R1/Complainant

2.Akilan,
Head Constable,
Manamelkudi Police Station,
Pudukkottia District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the FIR in Crime No. 466 of 2020 pending on the file of the Inspector of Police, Manamelkudi Police Station, Pudukkottai District and quash the same and pass such any or other orders.

For Petitioner : Mr.B.Micheal Sabastian

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the FIR in Crime No.466 of 2020 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The de-facto complainant, who is working as Head Constable attached to Manamelkudi Police Station, Pudukkottai lodged a complaint stating that he enquired the petitioner in connection with the case in Crime No.248 of 2020 on the basis of the complaint given by one Femina, w/o.Rajesh. In pursuance of the same, on 02/08/2020, the accused met the de-facto complainant in a tea shop, scolded him with filthy language and also threatened him with dire consequences. Upon which, a case in Crime No.466 of 2020 was registered for the offences under sections 269, 271, 294(b), 353, 341 and 506(ii) 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 in the FIR attract any of the ingredients of the offences alleged against him.



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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.

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 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



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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 Harlan 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 petitioner has been stated by the de-facto complainant. But mere allegation that the petitioner used the abusive word does not satisfy 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 (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 that there was criminal intimidation.

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 final report 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.



12.For attracting the offence under section 341 of IPC, Section 340 of IPC must be fulfilled.

13.Section 340 of IPC reads as under:-

"Section 340.Wrongful confinement.-

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said "wrongfully to confine" that person."

14.For attracting the offence under section 341 of IPC, there must be material to show that some was restrained unlawfully. But there is no complaint by any of the public.

15.Further it is not the case of the prosecution that the accused used criminal force to deter public servant from discharging his official duty to attract the offence under section 353 of IPC.

16.Further, as seen from the FIR, it is not case of the respondents that the petitioner is a Covid-19 affected person. [Section 269](#) of IPC would be attracted



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where a person unlawfully or negligently indulges in any act which is likely to spread the infection of any disease dangerous to life and [Section 271](#) of IPC, in the event of any disobedience to quarantine rule. As the petitioner simply wandering in the road during COVID-19 period. So the question of disobedience to quarantine rule in terms of [Section 271](#) of IPC would not arise. Under the aforementioned circumstances, the registration of FIR, for the offences punishable under Section 269 and [271](#) of IPC are not attracted.

17.For the reasons stated above, this criminal original petition stands **allowed**. The impugned FIR in Crime No.466 of 2020 is hereby quashed as against the petitioner. Consequently connected Miscellaneous Petition is closed.

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Index:Yes/No
Internet:Yes/No

hindu/er



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To,

1.The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.

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



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G.ILANGOVAN, J

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