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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.508 of 2023

Thilagavathi

... Petitioner

-Vs-

1. Sathiyamoorthy

2. Vinod

3. Poongodi

4. The Sub Inspector of Police,
Vennandur Police Station,
Namakkal.

... Respondents

Prayer: Criminal revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order dated 10.02.2023 made in Crl.M.P.No.631 of 2023 in CC.No.40 of 2022 on the file Judicial Magistrate, Rasipuram.



For petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.A.Gopinath R4
Government Advocate
Crl. Side
Mr.Akshai Sanjin Kumar
RR1 to 3

ORDER

The Criminal Revision is filed against the order dated 10.02.2023 made in Crl.M.P.No.631 of 2023 in CC.No.40 of 2022 on the file Judicial Magistrate, Rasipuram.

2. The case of the prosecution is that due to pathway dispute between the petitioner and the private respondent, the first respondent attacked the petitioner and abused the petitioner's husband in filthy language. The petitioner sustained injuries and admitted in government hospital for treatment. Thereafter, the petitioner lodged a complaint before the 4th respondent against the respondents 1 to 3 and the 4th respondent registered a case in Cr. No.723 of 2021 and filed final report in CC.No.40 of 2022 before the learned Judicial Magistrate, Rasipuram against the private respondents for the offences under Section 294(b), 323, 324, 354 and 506(ii) of IPC. The respondents 1 to 3 have



filed a discharge petition before the learned Magistrate under Section 239 of

Cr.P.C. And the same was allowed. Challenging the same, the petitioner has

filed the present revision before this Court.

3. The learned counsel for the petitioner submitted that the petitioner's husband was working as Head Master and after retirement, he is residing at Thottipatti Village and doing agriculture. When the petitioner and her husband was working in the land, the respondents 1 to 3 has trespassed into the petitioner's land and quarrelled with them due to pathway dispute. Subsequently, the first respondent attacked the petitioner. Due to which, she sustained injuries and the respondents have abused the petitioner's husband in filthy language. Without considering the entire facts, the learned Judge, has allowed the petition by discharging the respondents 1 to 3 from the above offences, which is not sustainable. The learned counsel prays to set aside the impugned order and allow this revision.

4. The learned counsel for the respondents 1 to 3 submitted that the allegation made against the respondents is not true. Due to pathway dispute, the



petitioner has lodged a false complaint against the respondents. There is no prima facie case made out in this case. Hence, the learned Judge, after considering the entire materials, discharged the respondents from the offences, which does not warrant any interference.

In support of his contention, the learned counsel relied upon the judgment passed by the Hon'ble Apex Court reported in **2022 LiveLaw SCC 844 in the case of N.S.Madhanagopal and another Vs. K.Lalitha.**

5. The learned Government Advocate submitted that the entire dispute is civil in nature, which has been given criminal colour as the petitioner and the respondent have lodged a complaint as against each other. This Court may direct the parties to approach the competent forum to resolve the pathway dispute.

6. Heard the learned counsel for the petitioner, the learned counsel for the respondents 1 to 3 and the learned Government Advocate and perused the materials available on record.



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7. On perusal of the records, it is seen that there is a pathway dispute between the parties. Admittedly the petitioner made a complaint before the 4th respondent against the respondents 1 to 3 and registered a case in CC.No.40 of 2022 before the learned Judicial Magistrate, Rasipuram against the private respondents for the offences under Section 294(b), 323, 324, 354 and 506(ii) of IPC. In order to prove the case, the respondent police examined 17 witnesses. Out of which, PW1 is defacto complainant, PW 2 to PW6 are the eyewitnesses to incident, PW7 to PW 9 are the hearsay witnesses. All the witnesses are the relatives of PW1. There is no independent witnesses were examined in this case. Apart from that no proof was filed as if the first respondent has attacked the petitioner. On perusal of the copy of the A.R., it is seen that there is no connection with the injuries sustained by the petitioner and the Doctors have not given wound certificate for the petitioner's husband.

8. In view of the above discussion, this Court is of the considered view that the dispute between the parties is purely civil in nature and the trial Court has rightly assessed the issued and allowed the petition.



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9. It is to be pointed out that the judgment relied upon by the learned Counsel for the respondents 1 to 3, referred supra, clearly applies to the facts of the case. The Hon'ble Supreme Court held that *it has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or deffamative words, by itself cannot attract an offence under Section 294(b) IPC. To prove the offence under Section 294 of Ipc mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IP is made out.*



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10. The above said judgment is squarely applicable to the present case on hand. The learned Judicial Magistrate has rightly allowed the petition and hence, this Court is not inclined to interfere with the same.

11. Accordingly, the Criminal Revision stands dismissed.

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

1. The Judicial Magistrate, Rasipuram.

2. The Sub Inspector of Police,
Vennandur Police Station,
Namakkal.

3. The Public Prosecutor,
High Court of Madras.

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M.DHANDAPANI,J.

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