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Crl.R.C.No.711 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.711 of 2023
And
Crl.M.P.No.5535 of 2023**

Ganesan

... Petitioner

Vs.

1.Sulotchana
2.Karunakaran

... Respondents

Prayer:

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, seeking to call for the records on the file of the learned Chief Judicial Magistrate at Pondicherry in Crl.M.P.No.35 of 2023 dated 15.02.2023 and to set aside the said order dated 15.02.2023 in Crl.M.P.No.35 of 2023.

For Petitioner : Mr.R.Ganesan
For Respondents : Mr.K.Sasindran

O R D E R

The criminal revision case has been filed seeking to set aside the order dated 15.02.2023 passed in Crl.M.P.No.35 of 2023 by the learned Chief Judicial Magistrate at Pondicherry.



CrI.R.C.No.711 of 2023

WEB COPY

2.The case of the petitioner is that the petitioner is doing the profession as document writer by establishing office. The first respondent worked as a typist cum clerk for more than 10 years and she managed all the affairs of the office. While so, on 10.06.2022 she availed one week leave and thereafter she was irregular in attending office and suddenly she left the job. Thereafter, the petitioner called her to the office to hand over all the responsibilities and records. The first respondent along with her husband/ second respondent came to office on 16.11.2022 at 11.30 hours and shouted at him with unparliamentary words and threatened him with dire consequences. Thereafter, the petitioner lodged a complaint before the Grand Bazaar Police Station on 16.11.2022 and since no action was taken, the petitioner filed complaint under Section 200 of Cr.P.C. before the trial Court and the same was dismissed by the trial Court. Challenging the same, the present revision has been filed.

3.The learned counsel for the petitioner submitted that the first respondent received Rs.10 Lakhs from the petitioner by executing two promissory notes and further submitted that promissory notes and some cheques are not available in the petitioner's office and



CrI.R.C.No.711 of 2023

when he

WEB COPY

questioned the first respondent about the same, the second respondent abused the petitioner using filthy language and threatened him with dire consequences. Initially, the petitioner lodged a complaint before the Grand Bazaar Police Station on 16.11.2022, which contains all the particulars. Subsequently, the petitioner made complaint to the Superintendent of Police on 02.12.2022 and it did not contain all the particulars. Since no action was taken by the law enforcing agency, the petitioner filed the complaint under Section 200 of Cr.P.C. before the trial Court, however, the same was dismissed by the trial Court.

4.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the materials available on record.

5.The petitioner claims that the first respondent worked a typist cum clerk for more than 10 years and she managed all the affairs of the office. On 10.06.2022 she availed one week leave and thereafter she was irregular in attending office and suddenly she left the job.



CrI.R.C.No.711 of 2023

Thereafter, the petitioner called her to the office to hand over all the

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responsibilities and records. The first respondent along with her husband/ second respondent came to office on 16.11.2022 at 11.30 hours and shouted at him with unparliamentary words and threatened him with dire consequences. Thereafter, the petitioner lodged a complaint before the Grand Bazaar Police Station on 16.11.2022. However, the copy of the complaint dated 16.11.2022 has not been filed before this Court.

6.This Court perused the copy of the complaint dated 02.12.2022 filed before this Court, in which it is stated that the alleged occurrence happened on 02.12.2022, whereas the petitioner now claim that the initial complaint for the alleged occurrence was made before the Grand Bazaar Police Station on 16.11.2022. Further the complaint dated 02.12.2022 did not reveal anything about the theft of promissory note and cheques and it is only stated that the respondents came to his office and abused him using filthy language.

7.It is for the trial Court to decide whether to take cognizance of the offence or not under Section 200 of Cr.P.C. Even Section 200



Crl.R.C.No.711 of 2023

of Cr.P.C. makes it clear that a Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate. Section 202 of Cr.P.C. makes it clear that any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding.

8.In case if the Magistrate is satisfied that there is no sufficient ground available to proceed further, he can dismiss the complaint by invoking the power under Section 204 of Cr.P.C. In the present case except few averments that the respondents used unparliamentary words, no other averment is available to disclose the commission of offence.

9.Similar issue has been considered by the Hon'ble Apex Court



Crl.R.C.No.711 of 2023

in the decision reported in 2022 LiveLaw (SC) 844

[N.S.Madhanagopal

and another Vs. K.Lalitha], wherein it has been observed that mere abusive, humiliating or defamative 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 is 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.

10.In view of the above, this revision is dismissed.
Consequently, the connected miscellaneous petition is closed.

02.08.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Chief Judicial Magistrate at
Pondicherry.



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Crl.R.C.No.711 of 2023

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CrI.R.C.No.711 of 2023

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