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Crl.O.P.No.25101 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL.O.P.No.25101 of 2022 and
Crl.M.P.No.15642 of 2022

R.Sundararajan

... Petitioner

Vs.

1.State of Tamilnadu rep by
The Inspector of Police,
J-1, Saidapet Police Station,
Chennai-15.
(Crime No.217 of 2022)

2. Kanmani,
W/o.Karunakaran

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court at Saidapet, Chennai and quash the charges made in the final report filed in C.C.No.2059 of 2022.

For Petitioner : Mr.Vimal B.Crimson

For Respondent 1 : Mrs.G.V.Kasthuri
Additional Public Prosecutor

For Respondent 2 : Mr.N.Arul Kumar



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ORDER

WEB COPY This Criminal Original Petition has been filed to quash the proceedings in C.C.No.2059 of 2022 on the file of the learned 9th Metropolitan Magistrate Court at Saidapet, Chennai, which taken cognizance for the offences punishable under Sections 294(b) & 506(I) of IPC.

2. The case of the prosecution is that this petitioner was working as watchmen in Mahalakshmi Apartments where the defacto-complainant and her family living in the said Apartment. On 13.06.2022, at about 8.15a.m. to pick up the children of the 2nd respondent/complainant an auto had been entered into the Apartment, at that time the petitioner prevented the auto from entering into the Apartment, immediately the 2nd respondent/complainant enquired the petitioner why prevented the pick-up auto, at that time the petitioner indulged in wordy quarrel and he also used obscene words against the 2nd respondent/complainant. Therefore, the 2nd respondent lodged a complaint before the 1st respondent police station. Based on the complaint of the 2nd respondent, the 1st respondent had registered FIR in Crime No.217 of 2022 for the offences punishable under sections 294(b) and 506(i) of IPC. Thereafter, the first respondent had conducted elaborate investigation and filed a final report before the Trial Court and the same was taken cognizance in



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C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court, Saidapet, Chennai, against which the present Criminal Original Petition has been filed to quash the proceedings in C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court, Saidapet, Chennai.

3. The learned Counsel for the petitioner would contend that there are no specific allegations as against this petitioner to constitute the offences under sections 294(b) and 506(i) of IPC and without any valid material, the 1st respondent had registered case against the petitioner and also without conducting proper investigation they filed final report before the trial Court. Even according to the final report, there are no ingredients to constitute the offences under sections 294(b) & 506(i) of IPC. More over, the trial Court also without applying judicious mind, taken cognizance for the offences punishable under Sections 294(b) & 506(i) of IPC. Therefore, pending proceedings before the Trial Court in C.C.No.2059 of 2022 is clear abuse of process of law. He further contended that this petitioner has not committed any offence as alleged by the complainant and he has been falsely implicated in the case. Even according to the allegations made in the FIR and the charge sheet filed against the petitioner stating that the petitioner threatened the Defacto-complainant by saying that "போடி உன்னால் முடிந்ததை பார்" apart from that no other specific



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allegations made as against the petitioner. The above said words will not constitute any offence as alleged by the prosecution and there are no prima facie material available as against the petitioner to proceed with the case. Therefore, pending proceedings in C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court at Saidepet, Chennai is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the 1st respondent would contend that on the date of occurrence, there was a wordy quarrel between the petitioner and the 2nd respondent/defacto-complainant and thereby the petitioner abused the 2nd respondent/Defacto-complainant by using obscene words against her. The 2nd respondent/Defacto-complainant gave a complaint before the 1st respondent, based on the said complaint FIR has been registered in Cr.No.217 of 2022 as against this petitioner. Thereafter, the 1st respondent had conducted elaborate investigation, as per the investigation, prima-facie material available to constitute offences and thereby the Trial court taken cognizance in C.C.No.2059 of 2022 for the offence punishable under sections 294(b) and 506(i) of IPC. Therefore, this petitioner has to face the trial and the present Criminal Original Petition is liable to be dismissed.

5. The learned Counsel for the 2nd respondent appeared through Video



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Conference would contend that this petitioner used obscene words against the 2nd respondent and he also threatened the 2nd respondent with dire consequences. Therefore, the 2nd respondent lodged a complaint before the 1st respondent. The specific word 'போடி' is also a obscene word and it would attract the offence punishable under section 294(b) of IPC. Therefore, prima-facie material is available to proceed with the case and therefore the present Criminal Original Petition is liable to be dismissed.

6. Heard both side. Perused all the materials available on record.

7. As per the complaint, on the date of occurrence there was a wordy quarrel between the petitioner and the 2nd Respondent/Defacto-complainant. Even as per the averments in the FIR and final report, the petitioner in the public place intended to degrade the Defacto-complainant, he threatened her by using the word " நான் அவ்வாறு தான் செய்வேன் உன்னால் முடிந்ததை பார்த்துக்கொள் போடி" apart from that there are no allegations against the petitioner. The above said words will not constitute any offence as per Section 294(b) of IPC. As far as Section 294(b) of IPC is concerned, there is no allegations that the petitioner at public place did any obscene act or sings, recites or utters any obscene song, ballad or words, in or near any public place.



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As far as the offence under section 506(i) of IPC is concerned, there is no ingredients of criminal intimidation and there is no any words uttered by the petitioner to create any fear in the minds of the Defacto-complainant. Therefore, there are no ingredients to constitute the offences under sections 294(b) & 506(i) of IPC. Without any prima-facie material, the 1st respondent had filed final report and the trial Court also without perusing the records and without applying judicious mind, taken cognizance in C.C.No.2059 of 2022. Therefore, the pending proceedings in C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court at Saidapet, Chennai is abuse process of law.

8. In view of the above discussion, this Court is inclined to quash the proceedings. Accordingly, this criminal original petition is allowed and the proceedings pending in C.C.No.2059 of 2022 on the file of the 9th Metropolitan Magistrate Court at Saidapet, Chennai is quashed. Consequently, connected miscellaneous petition is closed. No costs.



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WEB COPY Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

1. The 9th Metropolitan Magistrate Court at Saidapet,
Chennai.
- 2.The Inspector of Police,
J-1, Saidapet Police Station,
Chennai-15.
- 3.The Public Prosecutor,
High Court of Madras



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P.DHANABAL,J.

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