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CrI.R.C.No.1884 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1884 of 2023

W.Solomon

... Petitioner

Vs.

1.State rep. by Inspector of Police,
Thiruninravur Police Station,
Thiruvallur District.

2.Gnanaprakasam

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the judgment passed in C.C.No.239 of 2021 by the learned Judicial Magistrate No.II, Tiruvallur, Tiruvallur District dated 06.07.2023.

For Petitioner : Mr.Suresh

For R1 : Mr.A.Damodaran
Additional Public Prosecutor

For R2 : Mr.M.G.Martin Manivannan
for Mr.K.Subburaj



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ORDER

The petitioner/defacto complainant lodged a complaint to the first respondent police on 28.04.2021 and a case in Crime No.139 of 2021 for the offence under Sections 294(b), 326 and 506(ii) IPC registered against the second respondent. After completion of investigation, charge sheet filed listing nine witnesses and documents. The Trial Court by judgment dated 06.07.2023 rendered a judgment releasing the second respondent on probation invoking Section 4(1) of Probation of Offenders Act, 1958 for a period of one year. Aggrieved against the same, the petitioner/defacto complainant preferred a revision.

2.The contention of the learned counsel for the petitioner is that on 28.04.2021 at about 13.45 hours, the defacto complainant/owner of the property situated at No.4, Solomon Cottage, Thiruvengada Nagar, Thiruninravur went to the property to collect rent from the tenants. The second respondent, a tenant, not paid the rent and picked a wordy altercation, abused the petitioner in filthy language, assaulted him with a



knife in his stomach and left side of the abdomen and threatened the petitioner not to come again asking for any rent. The petitioner sustained serious and grievous injuries, got admitted in Ramachandra Hospital, Porur and a case was registered for the offence under Sections 294(b), 506(ii) and 324 IPC. After completion of investigation and collecting documents and finding the nature of injury, medical records and Doctor's evidence, charge sheet filed under Sections 294(b), 506(ii) and 326 IPC. He would submit that the petition filed by the second respondent to release him under Probation of Offenders Act, on the face of it, is not sustainable for the reason that there is a bar under Section 4 of Probation of Offenders Act that it will not be applicable for the persons who have been charged for the offences punishable to death or life imprisonment. In this case, the second respondent is charged for the offence under Section 326 IPC, for which, the punishment is upto life sentence. In such circumstances, the bar under Section 4 of Probation of Offenders Act applies. Hence, the Trial Court ought not to have invoked Section 4(1) of Probation of Offenders Act and released the second respondent under the Act.



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3.The learned Additional Public Prosecutor appearing for the first respondent confirm that the second respondent is charged for the offence under Sections 294(b), 506(ii) and 326 IPC and for the offence under Section 326 IPC, the maximum punishment is life sentence. For the said proposition, the learned Additional Public Prosecutor relied upon the decisions of the Apex Court in the cases of ***Ramesh Dass vs. Raghu Nath and others*** reported in ***(2008) 4 SCC 588*** and ***Goverdhan Dass vs. Chaman Lal and others*** reported in ***(2021) 14 SCC 757***.

4.The learned counsel for the second respondent submitted that initially the case was registered for the offence under Sections 294(b), 506(ii) and 324 IPC, thereafter without any materials the Investigating Officer altered the section to 326 IPC. He would further submit that the medical records and Doctor's evidence would clearly show that the offence as projected by the defacto complainant would not fall under Section 326 IPC.



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5.Considering the submissions made, it is seen that the contention of the second respondent cannot be decided in this petition, the same can be raised by filing appropriate petition or during trial before the Trial Court. In view of the same, this Court is inclined to set aside the impugned order passed by the Trial Court. Accordingly the order passed by the learned Judicial Magistrate No.II, Thiruvallur in C.C.No.239 of 2021 dated 06.07.2023 is set aside, the same is restored and the Trial Court to decide the case on its own merits. It is made clear that the observations made herein are only for the limited purpose as to whether the Probation of Offenders Act would be applicable or not.

6.In the result, the criminal revision petition stands allowed.

28.08.2024

Index:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse



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M.NIRMAL KUMAR, J.

cse

To

- 1.The Inspector of Police,
Thiruninravur Police Station,
Thiruvallur District.
- 2.The Judicial Magistrate No.II,
Tiruvallur, Tiruvallur District.
- 3.The Public Prosecutor,
High Court, Madras.

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