



CRL.A(MD).No.142 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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|---------------|---|------------|
| Reserved On   | : | 12.11.2024 |
| Pronounced On | : | 14.11.2024 |

CORAM

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

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Karuppusamy

... Appellant/Sole Accused

Vs.

State rep by,  
The Deputy Superintendent of Police,  
Ottanchatiram Sub Division,  
Ambilikai Police Station,  
Dindigul District.  
(In Crime No.83 of 2016)

... Respondent/Complainant

**Prayer :** This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to call for the records relating to the judgment passed in Spl.S.C.No.30 of 2019 dated 07.02.2020 by the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul and set aside the same and acquit the appellant/accused from all charges levelled against him.

For Appellant : Mr.R.Venkateswaran

For Respondent : Mr.M.Sakthi Kumar,  
Government Advocate (Crl.Side)



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## **JUDGMENT**

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This appeal has been filed to set aside the judgment and conviction passed by the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul, in Spl.S.C.No.30 of 2019, dated 07.02.2020, and acquit the appellant.

2.The appellant, who is the sole accused in Spl.S.C.No.30 of 2019 on the file of the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul, has filed this appeal, challenging the conviction and sentence imposed on him for the offences under Sections 294(b) and 506(i) of IPC, by the impugned order dated 07.02.2020.

### **3. Prosecution Case:-**

According to the prosecution, on 21.04.2016 at 07.00 a.m, when P.W.2 was defecating on the road side after parking his bike, the appellant, who passed through that way, is said to have abused P.W.2 for defecating in his garden and insisted P.W.2 to remove the same by using hands. Further, he threatened him that if he failed to do the same, he would not give the bike key to him. Without knowing any other way, P.W.2 removed



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the feces by hands. However, the appellant did not give the bike key. After repeated demand, the appellant threw away the bike key on the floor by abusing him in filthy language and threatening him with dire consequences. Thereafter, P.W.2, reached his house and informed P.W.1, father of P.W.2. On hearing the same, P.W.1 along with P.W.2 went to the garden of the appellant and questioned the appellant about the alleged occurrence. At that time also, the appellant abused them in filthy language and threatened them with dire consequences. Hence, they informed the occurrence to the brother of the appellant. Since there was no answer from the brother of the appellant, on the same day of the occurrence, they went to the respondent Police Station at 10.00 p.m, and lodged a complaint to P.W.8. Thereafter, a case in Crime No.83 of 2016 was registered for the punishable offences under Sections 294(b) and 506(i) of IPC r/w Section 3(1)(i)(r)(s) of the Scheduled Caste/Scheduled Tribes) Prevention of Atrocities) Amendment Act. The Investigating Officer, conducted the investigation and arrested the accused. After completion of investigation, final report was filed before the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul, and the same was taken on file in Special Spl.S.C.No.30 of 2019.



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3.1. After taking cognizance, the learned trial Judge framed the charges against the appellant for the offences under Sections 294(b) (2 Counts) and 506(i) (2 Counts) of IPC and Section 3(1)(i)(r)(s) of the Scheduled Caste/Scheduled Tribes) Prevention of Atrocities) Amendment Act. On the basis of charges, the learned trial Judge, questioned the appellant and the appellant pleaded not guilty and hence, the trial was conducted and the prosecution adduced the evidence of P.W.1 to P.W.9 and marked the documents under Ex.P1 to Ex.P.6.

3.2. The learned trial Judge, considered the same, examined the appellant under Section 313 Cr.P.C., by putting the incriminating materials available against him and he denied the same and hence, the case was posted for examination for the defence witness. On the side of defence, no witness was examined and no document was marked.

3.3. The learned trial Judge after considering the oral and documentary evidence, convicted the accused for the offence under Sections 294(b) (2 Counts) and 506(i) (2 Counts) of IPC and acquitted him from the offence under Section 3(1)(i)(r)(s) of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, by the



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impugned order dated 07.07.2020 and sentenced him to undergo 2 months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) in default, to undergo, 2 weeks simple imprisonment for the offence under Section 294(b) of IPC (2 Counts) for each count and sentenced him to undergo 6 months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) in default, to undergo one month simple imprisonment for the offence under Section 506(i) of IPC (2 Counts) for each count. The sentences were ordered to run concurrently. The fine amount imposed upon the appellant was paid by him.

4. Aggrieved over the same, the appellant filed this appeal on the grounds stated in the memorandum of grounds of appeal.

5. The learned counsel for the appellant submitted that no ingredients are available to make out the case for the offences under sections 294(b) and 506(i) of IPC. Once the learned trial Judge acquitted the appellant from the offence under Section 3(1)(i)(r)(s) of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, there is no further material to convict the appellant either under sections 294(b) or 506(i) of IPC. Hence, he seeks to acquit the appellant from the charges under sections 294(b) or 506(i) of IPC.



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6. The learned Government Advocate (Crl.Side) for the respondent upon perusal of the other materials submitted that the necessary ingredients are available from the evidence of the P.W.1 and P.W.2 to constitute the offence under Sections 294(b) and 506(i) IPC since they had categorically deposed about the criminal intimidation and abuse made by the appellant. Hence, the learned trial Judge correctly convicted the appellant for the above said alleged offences and he seeks to confirm the conviction and sentence imposed against the appellant by the trial Court.

7. Even though, notice has been served upon the defacto complainant, no one appeared on behalf of him.

8. This Court has perused the records and the impugned judgment passed by the learned trial Judge.

9. According to the prosecution, on 21.04.2016, at about 07.00 a.m, P.W.2 defecated in the garden of the appellant. At that time, the appellant came there and abused P.W.2 in filthy language and also criminally intimidated to remove the feces by hands. The learned trial Judge, after acquitting the appellant under Section 3(1)(i)(r)(s) of the Scheduled



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Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, without any incriminating material, should not have convicted him under Sections 294(b) and 506(i) of IPC. Further, the following evidence of P.W. 2 does not constitute the offences, neither under section 294(b) nor under Section 506(i) of IPC.

“என் அப்பா எதிரியிடம் ஏன் இப்படி செய்தீர்கள் என்று கேட்டார். உன் மகன் என் தோட்டத்தில் வந்து மலம் கழித்தால் இப்படித்தான் செய்வேன் என்று சொன்னார். உன்னால் முடிந்ததை பார்த்துக்கொள் என்று சொன்னார். ஏன் தகப்பனாரையும் வார்த்தைகளால் பேசினார்.”

9.1. A judgment of the Hon'ble Supreme Court, in the case of ***Dr.Subramanian Swamy Vs. C.Pushparaj*** reported in **1998 SCC Online Mad 67**, has held as follows:-

*“An insult even if gross one is not an offence in itself under Section 504, IPC. Part II of Sec. 506, IPC is attracted if the criminal intimidation includes threat to cause death or grievous hurt. Mere outburst is not sufficient to hold that it would fall within the mischief of Sec. 506, IPC. In the instant case, the averment in the complaint and the statements in the depositions, if taken together, there are no allegations in the whole complaint that the petitioner ever made any attempt or did any act*



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*in pursuance of his alleged expression. So also, the actual words used or supposed to have been used by the petitioner is not stated either in the complaint or in the depositions. Regarding criminal intimidation to whom it was intended, whether alarm was caused, it so, what are the actual words employed are not stated either in the complaint or in the depositions. In the absence of these averments touching the ingredients, mere mentioning of sections and putting a person to face the trial is nothing but the abuse of the process of the Court.”*

9.2. As per the law laid down by the Hon'ble Supreme Court in the case of **Parminder Kaur v. State of Punjab**, reported in **(2020) 8 SCC 811**, if no assault was made, which was the material ingredient of Section 506 (i) of IPC. In the case of **Manik Taneja and another Vs. State of Karnataka and another** reported in **2015 [7] SCC 423** it has been held as follows:-

*“Threat must be intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expressions of any words, without any intention to cause alarm would not be sufficient to bring in the application of this Section.”*



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9.3. A judgement in the case of **Noble Mohandass Vs. State**, reported in **1988 [2] MWN CrI 184**, has held as follows:

“Threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom thereat is launched does not feel threatened actually.”

9.4. By applying the above principles, this Court finds no ingredients to constitute the offence under Section 506(i) of IPC.

10. In so far as the offence under Section 294(b) of IPC is concerned, a judgement in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, reported in **1996(1) CTC 470**, has held as follows:-

"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”.

10.1. With out uttering of obscene words which would cause annoyance, the offence under Section 294(b) IPC is not made out. The Hone'ble Supreme Court of India in the Judgment of the Hon'ble Supreme



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Court in the case of N.S.Madhanagopal and another Vs. K.Lalitha (2022

LiveLaw(SC) 844), has held as follows: "

*... 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 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 Harian 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. "*

10.2. On going through the evidence of the witnesses, P.W.1 and P.W.2 it did not satisfy the ingredients of the offences under Section 294(b) of IPC.



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11. Considering the overall facts and circumstances of the case, this Court is of the considered view that no ingredients are found to make out the case for the offences under sections 294(b) and 506(i) of IPC. Hence, this court is inclined to set aside the conviction and sentence imposed against the appellant.

12. Accordingly, the appeal is allowed in the following terms:

*12.1.The judgment passed by the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul, in Spl.S.C.No.30 of 2019, dated 07.02.2020, is set aside.*

*12.2.The appellant is acquitted from all the charges in Spl.S.C.No.30 of 2019, dated 07.02.2020, passed by the learned Sessions Judge, Special Court for Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Dindigul.*

*12.3.Fine amount paid by the appellant shall be refunded to the appellant forthwith.*



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*12.4.Bail bond executed by the appellant  
shall stand cancelled.*

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NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To

1. The Sessions Judge,  
Special Court for Scheduled Castes/Scheduled Tribes  
(Prevention of Atrocities) Act Cases, Dindigul.
2. The Deputy Superintendent of Police,  
Ottanchatiram Sub Division,  
Ambilikai Police Station, Dindigul District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer,  
Criminal Section(Records),  
Madurai Bench of Madras High Court, Madurai.



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**K.K.RAMAKRISHNAN,J.**

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Order made in  
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