



CRL.A(MD).No.6 of 2019

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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J.Prince Kumar

... Appellant/Accused

Vs.

The State rep by,
The Deputy Superintendent of Police,
Lalgudi, Trichy District.
(Crime No.315 of 2012)

2.The Inspector of Police,
Lalgudi Police Station,
Lalgudi, Trichy District.

... Respondents/Complainants

3.Karal Marx (Died)

(R3 Died. Memo is recorded as per the order of this Court dated
15.10.2020 in Crl.A(MD)No.6 of 2019 by RTJ)

... Respondent/Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to set aside the judgement dated 20.12.2018 made in Special Session Case No.29 of 2014 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli, and allow the above criminal appeal.



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For Appellant : Mr.Ram Sundar Vijayraj,
for M/s.Veera Associates
For R1 & R2 : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

JUDGMENT

This appeal has been filed to set aside the judgment and conviction passed by the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli, in Spl.S.C.No.29 of 2014, dated 20.12.2018.

2.The appellant, who is the sole accused in Spl.S.C.No.29 of 2014 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli, has filed this appeal, challenging the conviction and sentence imposed on him for the offences under Sections 341, 294(b), and 506(i) of IPC, by the impugned order dated 20.12.2018.

3. Prosecution Case:-

According to the prosecution, the marriage between the defacto complainant and his wife is a inter-caste marriage. The appellant belongs to the defacto complainant's wife community. The defacto complainant married his wife against the wish of his wife's relatives including the



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appellant. Hence, the appellant and the other persons are said to have attacked P.W.2 & his mother and caused fracture in the hand of P.W.2. Hence, P.W.2 lodged a complaint against the appellant and the same is pending. Because of that motive, on 17.06.2012, at 04.45 p.m, when the defacto complainant was returning back his field, the appellant is said to have waylaid the defacto complainant and abused him by calling his caste name and threatened him with dire consequences to withdraw the complaint. Hence, the defacto complainant lodged a complaint before the respondent police and the same has been registered as case in Crime No. 315 of 2012 for the offences punishable under Sections 341, 294(b) and 506(i) of IPC and Section 3(1)(x) of SC/ST (POA) Amendment Act, 1989. The Investigating Officer, conducted the investigation and arrested the accused. After completion of investigation, final report was filed before the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli, and the same was taken on file in Special Spl.S.C.No.29 of 2014.

3.1.After taking cognizance, the learned trial Judge framed the charges against the appellant for the offences under Sections 341, 294(b) and 506(i) of IPC and Section 3(1)(x) of the SC/ST (POA) Amendment Act, 1989. On the basis of charges, the learned trial Judge, questioned the



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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.7.

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), 341 and 506(i) of IPC and acquitted him from the offence under Section 3(1)(x) of SC/ST (POA) Amendment Act, 1989, by the impugned order dated 20.12.2018, and sentenced him to undergo 3 months rigorous imprisonment and to pay a fine of Rs.500/- in default, to undergo, 1 month simple imprisonment for the offence under Section 294(b) of IPC and sentenced him to undergo 1 month simple imprisonment and to pay a fine of Rs.100/- in default, to undergo 7 days simple imprisonment for the offence under Section 341 of IPC and sentenced him to undergo 2 years



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rigorous imprisonment and to pay a fine of Rs.500/- in default, to undergo 1 month simple imprisonment for the offence under Section 506(i) of IPC.

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 found to make out the case for the offences under sections 294(b), 341 and 506(i) of IPC. Once the learned trial Judge acquitted the appellant from the offence under Section 3(1)(x) of the SC/ST (POA) Amendment Act, 1989, there is no other material to convict the appellant under sections 294(b), 341 and 506(i) of IPC. Hence, he seeks to acquit the appellant from the charges under sections 294(b), 341 and 506(i) of IPC.

6. The learned Government Advocate (Crl.Side) appearing for the respondents 1 & 2 upon perusal of the other materials submitted that the necessary ingredients are available from the evidence of the P.W.2 to P.W.4 to constitute the offence under Sections 294(b), 341 and 506(i) of IPC



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since they had categorically deposed about the wrongful restraint, 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.

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

8. According to the prosecution, on 17.06.2012 at 04.45 p.m, when the defacto complainant was returning from his field, the appellant is said to have restrained the defacto complainant and abused him by calling his caste name and threatened him with dire consequences to withdraw the earlier case pending against him. The learned trial Judge, after acquitting the appellant under Section 3(1)(x) of the SC/ST (POA) Amendment Act, 1989, without any incriminating material, should not have convicted him under Sections 294(b), 341 and 506(i) of IPC.

9. Insofar as the offence under Section 506(i) is concerned, the following evidence of P.W.2 does not constitute the offence under section



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“சம்போட்டிற்கு வந்தாலும் இங்கே அடித்து சுடுகாட்டில்
போட்டுவிடுவேன் என்று மிரட்டினார்.”

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 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, if 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



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*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 no case is made out. 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.”

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.”



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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.Jeyaramanuj 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 Hon'ble Supreme Court of India in the Judgment of the Hon'ble Supreme 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 witness, P.W.2, he has failed to satisfy the ingredients of the offence under Section 294(b) of IPC.

11. So far as offence under Section 341 of IPC is concerned, there is no whisper in the deposition of P.W.2 that the appellant wrongfully restrained the defacto complainant.

12. Considering the overall facts and circumstances of the case, this Court is of the considered view that the entire allegations are simple in



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nature and no ingredients are available to make out the case for the offences under sections 294(b), 341 and 506(i) of IPC. Hence, this court is inclined to set aside the conviction and sentence imposed against the appellant.

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

13.1.The judgment passed by the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli, in Spl.S.C.No.29 of 2014, dated 20.12.2018, is set aside.

13.2.The appellant is acquitted from all the charges in Spl.S.C.No.29 of 2014, dated 20.12.2018, passed by the learned I Additional District and Sessions Judge (PCR), Tiruchirapalli.

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

13.4.Bail bond executed by the appellant shall stand cancelled.

14.11.2024

NCC : Yes/No
Index : Yes / No
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K.K.RAMAKRISHNAN,J.

dss

To

1. The I Additional District and Sessions Judge (PCR),
Tiruchirapalli.
2. The Deputy Superintendent of Police,
Lalgudi, Trichy 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.

Order made in
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14.11.2024