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Crl.O.P.(MD)No.11284 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 20/12/2023

Date of Pronounced : 13/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP (MD)No.11284 of 2023
and
CrlMP (MD)No.8925 of 2023

1.Ravindran
2.Kalaiyarasan
3.Rosariya @ Arul Rozario : Petitioners/Accused

Vs.

1.State represented through
The Superintendent of Police,
Trichy District. : 1st Respondent/
Complainant

2.The Inspector of Police,
Samayapuram Police Station,
Trichy.
(Crime No.188 of 2023) : R1 and R2/Complainants

3.Chithra Kala : 3rd Respondent/De-facto
Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of the impugned FIR in Crime No.188 of 2023, dated 01/06/2023 on the file of the 1st Respondent Police and quash the proceedings in so far as it relates to the petitioners herein.



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For Petitioners : Mr.N.Shyllappa Kalyan
For R1 and R2 : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)
For 3rd Respondent : Mr.T.Lenin Kumar

O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.188 of 2023, dated 01/06/2023 on the file of the 1st Respondent Police.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that on 02/02/2023 at about 03.15 pm along with her husband went to Sri Bala Vidhya Mandir Matriculation school where their son is studying. The Principal refused to see them. But also abused them in filthy language and criminally intimidated. They were waiting in the Principal office for the arrival of the correspondent. But the Principal asked the employee to remove the de-facto complainant and her husband from that office. Later they were informed that the correspondent will meet them in the next day. On the next day at about 10.00 am, the de-facto complainant went to see the correspondent. At about 11.00 am, the correspondent came to the office. He also refused to accept the demand draft for the payment of fees. One Resariya also



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criminally intimidated her. They also took the photographs without their consent. On the basis of the above said occurrence, she sent a complaint. Based upon which, the case in Crime No.188 of 2023 was registered for the offences under sections 294(b), 506(i) of IPC r/w 3(1)(r) of SC/ST Act, 1989 and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

3. Seeking quashment of the same, this petition is filed by the petitioners on the ground that registration of the FIR under the special Act is bad in law, because absolutely there is no allegation in the complaint by the de-facto complainant that these petitioners abused the de-facto complainant and her husband by calling their caste name.

4. There was an issue between the parents and the school administration over the collection of excess school fees. When that was questioned by the de-facto complainant, it appears that trouble has arisen between the school administration and the de-facto complainant's party. Upon which only, this complaint came to be filed.

5. Heard both sides.



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6. Prima facie the complaint does not indicate the offence punishable under section 3(1)(r) of the SC/ST Act, 1989 and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. If at all the offences under sections 294(b) and 506(i) of IPC, FIR ought to have been registered. But what occasioned for a specific special act is also included in the FIR is not clear on record.

7. The learned counsel appearing for the petitioners would submit that the de-facto complainant's son who was studying in the school did not pay proper fees. When it was insisted upon the payment of fee, the de-facto complainant picked up quarrel. Their son was studying in 9th Standard for the Academic year 2022-2023. Writ petition was filed by the de-facto complainant against the school administration in WP(MD)No.4010 of 2023 wherein it has been stated by her that during the Covid-19 Pandemic period, the Government has issued guidelines to the school administration not to collect the fee for that particular academic year. But the petitioners school did not comply the Government instructions. Seeking to direct the Government authorities to take action against the school authorities, she filed the writ petition. What was the order passed in that petition is not known. The order



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copy is also not produced before this court. Now the interim order passed in that writ petition is also placed before this court. Wherein we find that the following observation is made:-

"The seventh respondent had forwarded the transfer certificate by registered post on 21.06.2023. It is made clear that this Court will not enquire into any further allegation. The grievance of the 7-9th respondents that the petitioner is filing complaint after complaint before the police authorities is taken note of and a direction is given that only such of those complaints which is make out an offence can be taken of by the jurisdictional police authorities. Once the transfer certificate is issued, the relationship of student vis-a-vis school stands frustrated and there is no necessity to continue a juridical relation between the 7-9 respondents and the petitioner herein.



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List the matter once again on 06.07.2023. There is no cause for the petitioner to further complaint against the 7-9 respondents herein. Only because the learned Counsel for the petitioner seeks to get instructions about the transfer certificate, which had been issued. The matter is adjourned to 06.07.2023."

8. So this observation clearly indicates that the de-facto complainant is in the habit of giving complaint against the school authorities. Now the Transfer Certificate is also issued to the de-facto complaint's son and also received it. That writ petition was filed on 21/02/2023 as stated above. Now the present complaint is registered on 01/06/2023. Interim order was passed as stated above on 22/06/2023. So this indicates that during the pendency of the writ petition, the present complaint has been registered. So why there is a long delay, there is no explanation. But it appears that the de-facto complainant filed a complaint before the Special Court in Cr.MP No.1664 of 2023, dated 06/04/2023. But the date of the complaint preferred by the de-facto complainant before the Special Court is not clear on



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record. Now whatever it may be, from the narration of facts, it is seen that the issue arose between them over the payment or non payment of fee and Transfer Certificate was also obtained by the de-facto complainant. Over a small issue, on payment of school fee, repeated complaints were given. As mentioned above, absolutely, there is no indication in the complaint that the offence under section 3(1)(r) of the SC/ST Act, 1989 and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act are attracted.

9. Section 294(b) IPC reads as follows:-

"294(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

10. Now coming to the legal ground, the statement of law on this issue has been clarified by the Hon'ble Supreme Court the Hon'ble Supreme Court in the case of **N.S.Madhanagopal and another Vs. K.Lalitha (2022 LiveLaw (SC) 844)**. Let me extract the settlement of law for better appreciation.



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".....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."

11. So when we apply the above said statement of law, I am of the considered view that not even the obscene words alleged to have been spoken by the petitioners has been stated by the de-facto complainant. But mere allegation that the petitioners used the abusive word does not satisfy to attract the offence under section 294(b) IPC. So when we read the final report, in the context of the Hon'ble Supreme Court decision in the case



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of N.S.Madhanagopal and another Vs. K.Lalitha (2002 LiveLaw (SC) 844), it is seen that the ingredients of section 294(b) IPC are not attracted.

12.With regard to the offence under section 506(i) IPC, it has been simply stated in that complaint that the accused threatened the de-facto complainant with dire consequences

13.Section 503 IPC reads as follows:-

"503.Criminal intimidation.-

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

14.When we draw the allegation mentioned in the complaint to the ingredients, it is also seen that it is



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not attracted. A simple abusive word alleged to have been exaggerated as if he was criminally intimidated and abused in filthy language. The parties ought to have settled the issue by themselves. A trivial issue has been given exaggeration.

15.In the light of the above, I am of considered view that continuation of the investigation may not be in the interest of the school administration as well as children.

16.In the result, this criminal original petition is **allowed**. The FIR in Crime No.188 of 2023 on the file of the 2nd respondent is quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No
Internet:Yes/No
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To,

1.The Superintendent of Police,
Trichy District.

2.The Inspector of Police,
Samayapuram Police Station,
Trichy.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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