



Crl.O.P.(MD) No.15698 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.15698 of 2021

and

Crl.M.P.(MD) Nos.8462 & 8464 of 2021

Kathirvel

... Petitioner

Vs.

1.The Sub-Inspector of Police,
Karur Town Police Station,
Karur District.

2.Raja

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the charge sheet in S.T.C.No.316 of 2020 on the file of the Judicial Magistrate Court No.I, Karur and quash the same.

For Petitioner : Mr.S.Gokul Raj

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

For R2 : No appearance



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ORDER

WEB COPY Seeking to quash the final report in S.T.C.No.316 of 2020 on the file of the Judicial Magistrate Court No.1, Karur, the present Criminal Original Petition is filed.

2. Though notice was served on the second respondent (*de facto* complainant) and his name is printed in the cause list, there is no representation for the second respondent (*de facto* complainant).

3. The case of the prosecution is that the second respondent (*de facto* complainant) was abused in filthy language and assaulted by the petitioner (accused) on 13.08.2019. Based on the complaint given by the second respondent (*de facto* complainant), F.I.R. in Crime No.496/2019 was registered by the Sub-Inspector of Police, Karur Town Police Station. After concluding investigation, the Sub-Inspector of Police filed a final report before the Judicial Magistrate Court No.1, Karur in S.T.C.No.316 of 2020.

4. The offences alleged against the petitioners are under Sections 294(b) & 323 of IPC and the date of occurrence is 13.08.2019. In the case



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of **N.S.Madhanagopal & Another Vs. K.Lalitha**, reported in **2022 SC**

OnLine SC 2030 : 2022 INSC 1323, the Hon'ble Supreme Court has

observed thus:

It is to be noted that the test of obscenity under Section 294(b) of the I.P.C. is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences. The following passage from the judgment authored by Justice K.K. Mathew (as his Lordship then was) reported in *P.T. Chacko v. Nainan* (1967 KLT 799) explains as follows:

“The only point argued was that the 1st accused has not committed an offence punishable under Section 294(b) IPC., by uttering the words above-mentioned. The courts below have held that the words uttered were obscene and the utterance caused annoyance to the public. I am not inclined to take this view. In the *Queen v. Hicklin*, [L.R.] 3 Q.B. 360 at 371 Cockburn C.J. Laid down the test of ‘obscenity’ in these words:

“..... 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 Harlan 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



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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”.

It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. **Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC. 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. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out.**

5. The above decision of the Hon'ble Supreme Court squarely applies to the facts of the present case. The offences alleged in Crime No. 496/2019 are trivial in nature and in fact, the second respondent (*de facto complainant*) did not sustain any injury. In the circumstances,, the final report in S.T.C.No.316 of 2020 on the file of the Judicial Magistrate Court No.1, Karur is quashed.



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WEB COPY 6. Accordingly, the present Criminal Original Petition is allowed.

Consequently, connected Miscellaneous Petitions are closed.

15.02.2024

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

To

- 1.The Judicial Magistrate No.I,
Karur, Karur District.
- 2.The Sub-Inspector of Police,
Karur Town Police Station,
Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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