



Crl.O.P.(MD)No.15377 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.15377 of 2022

and

Crl.M.P.(MD)No.10098 of 2022

- 1.Seenisamy
- 2.Bangarusamy
- 3.Kannan
- 4.Surulivel
- 5.Ponraj
- 6.Thangapandi
- 7.Kamaraj
- 8.Jeyapandi
- 9.Gubendrapandi
- 10.Mahendrapandi
- 11.Nagaraj
- 12.Ravichandran
- 13.Thangaraj

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14.Chinnaraj

15.Mani

16.Pommaiah

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
Andipatti Police Station,
Andipatti, Theni District.
(In Crime No.691 of 2014)

2.Ganesan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the C.C.No.18 of 2020 on the file of the Judicial Magistrate Court, Andipatti and quash the same as illegal.

For Petitioners : Mr.A.Sheik Abdulla,
for M/s.Ajmal Associates

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

For R2 : No Appearance



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ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.18 of 2020 on the file of the Judicial Magistrate Court, Andipatti.

2.The case of the prosecution is that due to property dispute, the petitioners abused the defacto complainant in filthy language and also brutally attacked the defacto complainant's son. Therefore, the defacto complainant lodged a complaint. During pendency of the investigation, on 18.07.2014, when the defacto complainant went to his agricultural land for irrigating water to crops, he found that his electric motor box and wire kit were missing. Hence, the defacto complainant informed about the same to the elders of the village, at that time, the petitioners picked up quarrel with the defacto complainant and abused him in filthy language, attacked him and also threatened him with dire consequences. Therefore, the defacto complainant lodged a complaint, based on which, a case in Cr.No.691 of 2014 has been registered. Upon completion of investigation, the first respondent Police filed final report, for the



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offences punishable under Sections 147, 352, 294(b) and 506(i) IPC, which was taken on file in C.C.No.18 of 2020 by the Judicial Magistrate Court, Andipatti. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioners submits that for the very same set of allegation, the second respondent already filed a complaint and the same was closed as mistake of fact. Again, it is alleged that on 18.07.2014, the accused persons abused the defacto complainant and attacked him. Though the occurrence was said to be happened on 18.07.2014, FIR was registered only on 19.12.2014 with a delay of five months and there is no proper explanation for delay in filing the complaint. He further submits that the second respondent in his complaint alleged that the petitioners joint together and attacked him, for which, no Doctor was examined and there is no wound certificate. Insofar as offence under Section 294(b) IPC is concerned, there must be uttering or reciting of any obscene songs or words in or near any public place and the same result in annoyance to others. In the present case, according to the prosecution case, the defacto complainant available in



his agricultural land and therefore, the alleged place of occurrence is not a public place and as such, there is no averment in the complaint that there was uttering of obscene words. Hence, the offence under Section 294(b) IPC is not made out. He also submits that there is no materials to attract other offences mentioned in the charge sheet and without conducting proper investigation, the first respondent Police filed final report, which is not sustainable one. Accordingly, he prayed to quash the impugned charge sheet.

4.Though notice was served on the second respondent and name was also printed in the cause list, no one appeared on behalf of the second respondent.

5.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below.



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6.Heard the learned counsel on either side and perused the materials available in the records.

7.A perusal of records reveals that the petitioners and the defacto complainant are belonging to the same village. Earlier complaint filed by the defacto complainant was closed as mistake of fact. Again the defacto complainant preferred another complaint alleging that the petitioners joint together, abused and attacked him with hands and thereby, the first respondent Police registered a case as against the petitioners. Upon completion of investigation, the first respondent Police filed final report in C.C.No.18 of 2020 for the offences punishable under Sections 147, 352, 294(b) and 506(i) IPC.

8.As per decision of the Hon'ble Supreme Court in *N.S.Madhanagopal & Anr. Vs. K.Lalitha* reported in *2022 LiveLaw (SC) 844*, in order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person annoyed others. In this case, it is alleged that the petitioners uttered abusive words against the defacto complainant, however, mere utterance



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of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC. Further, it is alleged that the petitioners attacked the defacto complainant and caused injuries, for which, there is no Doctor's evidence and no wound certificate. Insofar as other offences are concerned, there is some lacking in the present case and there is no materials to attract those offences. Therefore, this Court has no hesitation to quash the impugned proceedings. Accordingly, the impugned charge sheet in C.C.No.18 of 2020 pending on the file of the Judicial Magistrate Court, Andipatti, is hereby quashed.

9.In the result, this criminal original petition is allowed.
Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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M.DHANDAPANI,J.

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To

- 1.The Judicial Magistrate Court,
Andipatti.
- 2.The Inspector of Police,
Andipatti Police Station,
Andipatti, Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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