



Crl.OP.No.746 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.746 of 2024

and

Crl.MP.No.485 & 487 of 2024

1.Vijay

2.Arul Kumar

... Petitioners

Vs.

1. The State Represented by
The Deputy Superintendent of Police,
Katpadi, Vellore District.

2. The Inspector of Police
Katpadi Police Station,
Vellore District.

3. Ram Gayathri

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pending on the file of the learned Special Court for Trial of Cases under SC/ST (POA) Act, Vellore, Vellore District in Spl.SC.No.24/2023 and quash the Criminal proceeding.



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For Petitioner : Mr.E.Kannadasan
For Respondents : Mr.R.Vinothraja
Government Advocate (Crl.Side)
for R1 & R2
: No Appearance for R3

ORDER

This petition has been filed to quash the proceedings in Spl.SC.No.24 of 2023 on the file of the learned Special Court for Trial of Cases under SC/ST(POA) Act, Vellore, Vellore District.

2. On the complaint lodged by the third respondent, the second respondent has registered an FIR in Cr.No.170 of 2023 for the offences punishable under Sections 294(b), 498A, 506(ii) of IPC, r/w Section 3(1)(r), 3(1)(s), 3(1)(va) of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) amended Act 2015 r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. It is alleged that the third respondent/defacto complainant had fell in love with the first petitioner. The third respondent/defacto complainant belongs to Schedule Caste (Arunthathiyar) Community and



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the first petitioner belongs to other community. Both got married after getting consent from both the family members and the same was also registered before the registering authority. From the wedlock, she gave a birth to a male child in the year 2019.

4. While being so, the third respondent/defacto complainant had heard that the first petitioner is having illegal intimacy with his office colleague, when the same was informed to his family members, all the family members scolded her with filthy language and said that the petitioner has to adjust. Thereafter, the first petitioner also scolded her with filthy language, abused her with caste name and also attacked her with hands. He also threatened with dire consequence. Thereafter, she was driven out from the matrimonial home.

5. This matter was informed to the first petitioner's friend namely Arul Kumar/second respondent and he also encouraged the first petitioner and did not take any steps to solve the issues.



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6. Though notice was served on the third respondent and her name was also printed in the cause-list, no one appeared before this Court either in person or through Advocate.

7. It is informed that the third respondent/defacto complainant got married with another person and living abroad.

8. Heard both sides and perused the materials available on record.

9. On perusal of the records reveals that after quarrel between the first petitioner and the third respondent, the third respondent went to her parents house and deserted the first petitioner. Therefore, the first petitioner filed a petition for divorce on the ground of adultery in F.C.O.P.No.90 of 2023 before the Family Court, Vellore.

10. On receipt of notice, the third respondent lodged a complaint on 13.06.2023. Therefore, the entire proceedings is nothing but counter blast to the divorce petition filed by the first petitioner.



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11. That apart, on perusal of the statements and the records and other documents reveals that all the allegations are general in nature and vague. Without specific allegations and without even mentioning the date and time of any occurrence, the third respondent lodged a complaint to wreck vengeance as against the first petitioner.

12. Further, even according to the third respondent, the first petitioner in the matrimonial house has scolded her and abused her by using caste name. Therefore, the offences under 3(1)(r), 3(1)(s), 3(1)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amended Act 2015 are not attracted, since the occurrence had happened inside the house of the first petitioner and in order to attract those offences, the occurrence should have occurred in public..

13. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-



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*"294. Obscene acts and songs —
Whoever, to the annoyance of others— (a)
does any obscene act in any public place, or
(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."*

Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses felt annoyed. 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 petitioners annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC is made out.



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14. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which 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."

The above judgment is squarely applicable to the present case and therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

15. Insofar as the offence under Section 506(ii) of I.P.C is concerned, threat should be a real one and not just a mere words when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Whereas, in the case on hand, there is no averment to attract the offence under Section 506(ii) of I.P.C.



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16. The essential ingredient to attract the offence under Section 323 of I.P.C is that any act with the intention of thereby causing hurt to any person or with the knowledge that he is likely thereby to cause hurt to any person. In the case on hand, even according to the case of the second respondent, she heard about that the petitioner hit her sons by his hands and he also scolded with filthy language. Therefore, there is no averment to attract the offence under Section 323 of I.P.C.

17. It is also relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on



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the accused and with a view to spite him due to private and personal grudge."

Therefore, the entire proceedings is nothing, but clear abuse of process of law and therefore, they are not at all attracted as against the petitioner.

18. In view of the above, the proceedings in Spl.SC.No.24 of 2023 on the file of the learned Special Court for Trial of Cases under SC/ST(POA) Act, Vellore, Vellore District, cannot be sustained as against the petitioners and is liable to be quashed. Accordingly, it is hereby quashed.

19. In the result, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

19.03.2025

Vv



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To
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1. The Special Court for Trial of Cases
under SC/ST (POA) Act, Vellore,
Vellore District
2. The Deputy Superintendent of Police,
Katpadi, Vellore District.
3. The Inspector of Police
Katpadi Police Station,
Vellore District.
4. The Public Prosecutor,
Madras High Court,
Chennai.



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