



CrI.O.P.No.7033 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

CrI.O.P.No.7033 of 2023

and

CrI.M.P.Nos.4387 and 4388 of 2023

B.Vijaya

... Petitioners

Vs.

1. The State represented by
The Inspector of Police,
AWPS, Virudhachalam,
Cuddalore District.

2. Vanitha

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records in C.C.No.84 of 2016 on the file of the learned Judicial Magistrate, Thittakudi and quash the same.

For Petitioner : Mr.M.R.Thangavel,
for Mr.P.Muthukumarasamy
For Respondents : Mr.R.Vinothraja
Government Advocate (CrI.Side)
for R1
: No Appearance
(Notice Served for R2)



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ORDER

This petition has been filed to quash the proceedings in C.C.No.84 of 2016 on the file of the learned Judicial Magistrate, Thittakudi.

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2. It is alleged by the second respondent that she got married first accused on 21.08.2006 and gave a birth to a male child. While being so, the first accused is having illicit relationship with another woman. When it was questioned by the second respondent, she was brutally beaten by the accused persons and also abused.

3. Later, the first accused also filed a petition for divorce and obtained exparte decree of divorce. In the meantime, he also married the tenth accused/petitioner on 18.11.2015. On receipt of said complaint, the first respondent has registered a case for the offence under Sections 294b,506(i) r/w 494 of IPC.

4. After completion of investigation, final report has been filed and the same was taken cognizance by the trial Court in C.C.No.84 of 2016. There are totally 10 accused, in which the petitioner is arrayed as 10th accused.



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5. The learned counsel appearing for the petitioner submits that the petitioner is already a married woman, married one Selvadurai and she has followed the family way. Further, there was no marriage solemnized between the petitioner and the first accused. Even according to the second respondent, the first accused had obtained exparte decree of divorce. Therefore, even assuming that the first accused and the petitioner got married, the offence under Section 294(b) IPC is not at all attracted as against the accused. There is absolutely no evidence to show that the petitioner had knowledge about the existence of first marriage.

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

7. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

8. A perusal of records revealed that except the mother of the second respondent and two others, no one has spoken about the marriage between the petitioner and the first accused. A perusal of the records



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revealed that she got married to one Selvadurai and she is living with him. Therefore, there is no material to prove the charge under Section 494 of IPC as against the petitioner. Infact the person who allegedly solemnized the marriage between the petitioner and the first accused held that some three persons came to the temple and got married and went away and he did not know who got married to whom. Therefore, the entire proceedings is nothing but clear abuse of process of law and there is no material to attract the offence under Section 294(b) of IPC.

9. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.27 of 2025 for the offences under Sections 294(b), 420, 506(i) r/w 494 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.84 of 2016 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

10. To attract the offence under Section 294(b) of IPC, there must be uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract 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 cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.

11. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, wherein it has been held as follows :-



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"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 petitioner.

12. It is also relevant to extract the judgement reported in **(1992) SCC CrI. 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 impugned complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

13. Accordingly, the proceedings in C.C.No.84 of 2016 on the file of the learned Judicial Magistrate, Thittakudi is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are also closed.

02.04.2025

Vv

To

- 1.The Judicial Magistrate, Thittakudi
2. The Inspector of Police,
AWPS, Virudhachalam,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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