



Crl.O.P.No.4433 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM:

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

Crl.O.P.No.4433 of 2024
and Crl.M.P.No.18367 of 2024

A.S.Ayub

... Petitioner

Vs

1. The State represented by
Inspector of Police,
Tirupathur Town Police Station,
Vellore.

2. Noor Jahan ... Respondents

PRAYER: Criminal Original Petition is filed under Section 428 of Cr.P.C/
Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the
records and quash the final report/chargesheet in STC.No.446/2023 the Judicial
Magistrate I, Tirupattur.

For Petitioner	: Mr.N.A.Nassir Hussain
For R1	: Mr.R.Vinothraja Government Advocate (Crl.side)
For R2	: Mr.S.Jayaseelan

ORDER

This petition has been filed challenging the charge sheet in
STC.No.446 of 2023, on the file of the Judicial Magistrate I, Tirupattur.



Crl.O.P.No.4433 of 2024

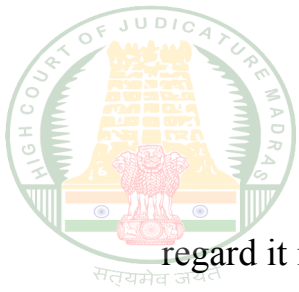
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2. Heard the learned counsel appearing on either side and perused the materials placed on record.

3. The petitioner is the sole accused in Crime No.209 of 2022, on the file of the first respondent for the offences punishable under Sections 294(b) and 506(1) of IPC, on the allegation that the petitioner came to the house of the second respondent and threatened her not to attend the Court on 04.08.2022 and if she appears before the Court, he will kill her. After completion of investigation, the final report has been filed in STC.No.446 of 2023 on the file of the Judicial Magistrate I, Tirupattur.

4. It is seen that the entire allegations are bald and vague and the second respondent did not even whisper about the date on which the petitioner came to her house and scolded her with filthy language. That apart, no specific allegation is made as against the petitioner as if he scolded with particular words.

5. To attract the offences 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."*

6. Admittedly, there is absolutely no words uttered by the petitioner 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 petitioner, 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 petitioner annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out. 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*



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CrI.O.P.No.4433 of 2024

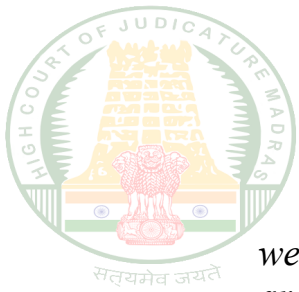
must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

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.

7. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any 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, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.

8. In this regard, It is relevant to rely upon the judgment of this Court made in ***CrI.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

"7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which



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were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings."

9. In this regard, it is 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 the accused and with a view to spite him due to private and personal grudge."



Crl.O.P.No.4433 of 2024

Therefore, the impugned complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

10. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the charge sheet in STC.No.446 of 2023 on the file of the Judicial Magistrate I, Tirupattur, is hereby quashed.

11. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

05.02.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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Crl.O.P.No.4433 of 2024

To

1. The Judicial Magistrate I, Tirupattur.
2. The Inspector of Police,
Tirupathur Town Police Station,
Vellore.
3. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.4433 of 2024

G.K.ILANTHIRAIYAN. J.

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Crl.O.P.No.4433 of 2024

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