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CrI.O.P.No. 4930 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

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

CrI.O.P.No.4930 of 2024 and
CrI.M.P.No.3578 of 2024

1.Selvakumar

2.Sangeetha

... Petitioners

Vs.

1.State rep. by,
The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Crime No.70 of 2024).

2.Parvathi

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the proceedings as against the petitioner in Crime No.70 of 2024, pending on the file of the first respondent.

For Petitioners : Mr.M.Mohamed Riyaz



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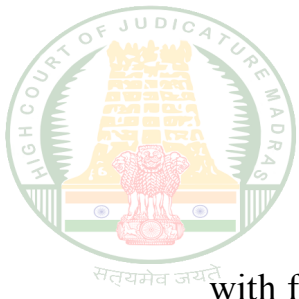
For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.70 of 2024 on the file of the first respondent registered for the offences under Sections 447, 427, 294(b) and 506(ii) of IPC.

2. The case of the prosecution is that de-facto complainant resides and engaged in agricultural activities at Door No. 1/193, Vasanthapuram, Namakkal District, and also owns an ancestral property in Vasanthapuram. The de-facto complainant and her husband's brother, one Mr. Kalimuthu, had entered into an oral partition and both are enjoying their respective portions in the ancestral property. As per the oral partition, Kalimuthu was allotted two tiled-roof houses, while the de-facto complainant was allotted two tiled-roof houses . Adjacent to her house was a small storeroom, where she stored her lorry's engine and parts. While being so, on 23.01.2024, at 8:30 p.m., the petitioners, along



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with four others, trespassed into her property, using a JCB to damage the storeroom. The complainant confronted them and the petitioners abused her and threatened her. They also stolen the lorry's engine and parts, valued at Rs. 3.5 lakhs. An FIR was registered against the petitioners in Crime No. 70 of 2024 under sections 294(b), 427, 447, and 506(ii) IPC.

3. The learned counsel for the petitioners submits that the properties comprised in Survey Nos. 201/7A, 202/7B, and 202/6 originally belonged to one Kaliasammal, the aunt of the first petitioner's father, Kalimuthu, and one Palanisamy, the husband of the second respondent. The said properties were purchased by them through a sale deed dated 30.01.1974. Thereafter, a partition deed was executed on 27.03.1995, whereby half share in the property was allotted to Kaliasammal and the other half share to Palanisamy. It is further submitted that on 29.03.2010, Kaliasammal executed a power of attorney in favor of the first petitioner. Acting under the authority of the power of attorney, the first petitioner executed a sale deed in favor of the second petitioner on 07.04.2011. Simultaneously, the second respondent and her two sons,



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Gopinath and Premnath, executed sale deeds on 12.07.2017 in favor of Vijay Kumar and Loganathan, vide Document Nos. 1791 and 1792 of 2017. After the purchase, Loganathan executed a $\frac{1}{4}$ share to Vijay Kumar through a sale deed dated 06.09.2022. Following the purchase, the second petitioner and Vijay Kumar entered into a partition deed, wherein “A” schedule of the property was allotted to the second petitioner.

4. The learned counsel further submits that, in an attempt to interfere with the peaceful possession and enjoyment of the property already sold by the second respondent, the second respondent has attempted to unlawfully interfere with the second petitioner’s possession. Consequently, the second petitioner was compelled to file a suit in O.S. No. 23 of 2024 before the District Munsif Court, Namakkal, against the second respondent and her two sons, which is currently pending for adjudication. Thereafter, the second respondent lodged a complaint, falsely claiming title over the property and alleging that the petitioners trespassed into the property.



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5. Though notice was served on the second respondent, no one appeared before this Court, either through video conferencing or in person.

6. The learned Government Advocate (CrI. Side) submits that the allegations in the FIR are serious in nature and warrant investigation. The nature of the offences alleged under Sections 294(b), 427, 447, and 506(ii) IPC requires a detailed examination. Therefore, the matter may be referred for further enquiry and appropriate action.

7. Heard both sides and perused the materials placed before this Court.

8. On perusal of records, it is evident that the second petitioner, who is the wife of the first petitioner, is in possession and enjoyment of the property in question. The second respondent, however, is not in possession of the property. As per the partition deed and the sale deed executed by the second respondent, she does not possess title over the



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property. In light of these facts, the offence under Section 447 of the IPC is not at all attracted. To invoke the said offence, there must be criminal trespass into the possession of another person's property. Since the second respondent is not the owner of the property, there is no question of any damage to the property that would invoke the provisions of Section 427 of the IPC.

9. In order 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 :-

"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."

10. Admittedly, there is absolutely no words uttered by the



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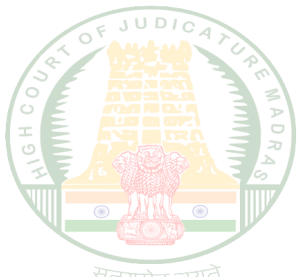
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petitioner as such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioner, the witnesses felt annoyed. 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 can not 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.**, 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



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as against the petitioner.
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12. Insofar as the offence under Section 506(ii) of IPC is concerned, a mere threat is not enough and there must be an act in pursuance to the said threat, without which an offence of criminal intimidation is not attracted.. A bare perusal of the contents of the FIR it is apparent that there is no specific ingredients so as to attract the offences under section 506(ii) of IPC. The Hon'ble Supreme Court in ***Manik Taneja v. State of Karnataka***, reported in (2015) 7 SCC 423: (2015) 3 SCC (Cri) 132: 2015 SCC Online SC 51 at page 427

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:

"503.Criminal intimidation. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is



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legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation. A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

A reading of the definition of "criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

13. In view of the above, it is apparent that the entire FIR constitutes a clear abuse of the process of law. It has been manifestly instituted with malicious intent, driven by an ulterior motive to wreak vengeance upon the petitioners. Such a course of action is not only unjustified but also impermissible under the law. Therefore, the FIR in Crime No. 70 of 2024 is hereby quashed as against the petitioners.



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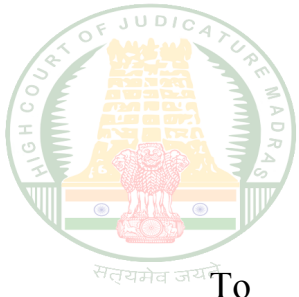
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14. Accordingly, this Criminal Original Petition stands allowed.

Consequently, connected miscellaneous petition is closed.

27.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk



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1. The Inspector of Police,
Namakkal Police Station,
Namakkal District.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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