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Crl.OP.No.7984 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

CORAM:

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

Crl.O.P.No.7984 of 2024
and Crl.MP.No.5797 of 2024

1.Raja Rishi

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep by the Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore 641 034.

2. N. Krshitha

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Cr.No.5/2021 dated 26.03.2021 pending investigation on the file of 1st respondent police and quash the same as against the petitioner.

For Petitioner : Mr.V.P.Raman

For Respondents : Mr.A.Gopinath,
Government Advocate (Crl.Side)
for R1

ORDER



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This petition has been filed to quash the FIR registered in Cr.No.5 of 2021 dated 26.03.2021 on the file of the 1st respondent police.

2. On the complaint lodged by the second respondent, the first respondent has registered an FIR as against the petitioner in Cr.No.5 of 2022 for the offences punishable under Sections 498A, 406, 342, 294(b), 323, 506(1) of IPC, 1860 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 against all the accused. The defacto complainant viz., the second respondent herein is the wife of the first accused. They got married on 28.08.2020. During their marriage, the parents of the second respondent presented gold jewels and household articles. Even then the first accused demanded huge dowry. It is also alleged that from the date of marriage, the first accused on the instructions of the other accused harassed the defacto complainant both physically and mentally.

3. Heard the learned counsel appearing for the petitioner as well as



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the learned Government Advocate (Crl.Side) appearing for the first respondent police and perused the materials available on record.

4. It is seen from records that there are totally four accused involved in this case. A perusal of the FIR revealed that the entire allegations are made only as against the first accused viz., the husband of the second respondent. The petitioner's parents and sister have approached this Court seeking to quash the FIR against them in Crl.OP.Nos.20059, 20631 and 20093 of 2021 respectively. This Court vide order dated 01.09.2022 quashed the FIR against them and directed to proceed with the investigation as against the petitioner herein within a period of twelve weeks.

5. Further, it revealed that the first respondent has registered the FIR in a mechanical manner without any iota of evidence to attract any of the offence as alleged by the second respondent herein. On perusal of the entire allegations, it is seen that all are bald and vague and no specific allegation is made as against any of the accused persons.

6. To attract the offence under Section 294(b) of IPC, there must be an uttering of word to affect the person who lodged the



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complaint. In this regard it is relevant to extract Section 294(b) of IPC, which reads 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."*

7. 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 are made out.



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8. 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 :-

"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.

9. Insofar as the offence under Section 506(ii) of I.P.C is concerned, threat should be a real one and not just 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.

10. In this regard, it is relevant to rely upon judgment of this Court made in Crl.OP.(MD)No.11030 of 2014 in the case of **Abdul Agis / Vs/ State through Inspector of Police**, which reads as follows:-



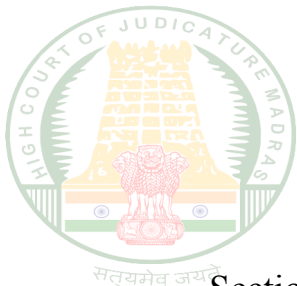
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“7. It is seen from the statements recorded under Section 161(3) of Cr.P.C of the second respondent/defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple 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 IPC, 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 IPC 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.”

11. 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. Therefore, there is no averment to attract the offence under



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Section 323 of IPC.

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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 cases 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."

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

13. In view of the above discussions, the F.I.R. in Cr.No.5 of 2021, on the file of the first respondent police is hereby quashed and accordingly, this Criminal Original Petition stands allowed.



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Consequently, the connected miscellaneous petition is closed.

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Vv

To

1.The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore 641 034.

2. The Public Prosecutor,
High Court, Madras,
Chennai.

G.K.ILANTHIRAIYAN, J.

Vv



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