



Crl.OP.No.7364 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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

Crl.O.P.No.7364 of 2024
and
Crl.MP.No.5347 of 2024

L.Mariappan

... Petitioner

Vs.

1. The State Rep. by
The Sub-Inspector of Police
D3 Sooramangalam Police Station
Salem District.

2.K.Gunasekar
Superintendent of Sanitary
Zonal-21, Sooramangalam ward's office
Salem District

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the C.C.No.498 of 2019 on the file of the learned Judicial Magistrate II at Salem and quash the same as illegal.



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For Petitioner : Mr.Munuraj.G
For Respondents : Mr.R.Vinothraja
Govt.Advocate (Crl.Side) - R1
: No appearance for R2
(Notice Served)

ORDER

This petition has been filed to quash the proceedings in C.C.No. 498 of 2019 on the file of the learned Judicial Magistrate II, Salem.

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

3. The case of the prosecution, as per the defacto complainant K. Gunasekaran, is that he is the Superintendent of Sanitation, Zonal-21, Sooramangalam Ward Office, Salem District. On 16.07.2019, while he had engaged some municipal sanitary workers to clear the bushes that had grown adjacent to the road and were causing inconvenience to commuters, the petitioner allegedly abused him in filthy language and also obstructed the workers from discharging their official duties.

4. On receipt of the said complaint, the first respondent has



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registered an FIR in Cr.No.387 of 2019 for the offence under Sections 294(b) and 353 of IPC. After completion of investigation, the first respondent filed final report before the learned Judicial Magistrate II, Salem and the same has been taken cognizance in C.C.No.498 of 2019 and it is pending. To quash the said criminal proceedings, the petitioner has filed the present petition.

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

6. A perusal of entire proceedings revealed that there is no ingredients to attract the offence under Section 294(b) of IPC. 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 :-

*"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,*



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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 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 petitioners annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.

7.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



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establish that it was to the annoyance of others, which is lacking in the case."

The above judgement 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.

8. Further, the petitioner merely questioned the location where the second respondent had engaged workers for cleaning, which does not amount to obstruction of the official duties of the second respondent and his employees. Hence, no offence is made out under Section 353 of the IPC.

9. 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.:

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

10. Accordingly, the proceedings in C.C.No.498 of 2019 on the file of the learned Judicial Magistrate-II, Salem is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions is closed.

21.04.2025

Vv

To

1.The Judicial Magistrate II
Salem.

2.The Sub-Inspector of Police

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Salem District

3. The Public Prosecutor
High Court of Madras
Chennai 600 104

G.K.ILANTHIRAIYAN, J.

Vv



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