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Crl.O.P.No. 13696 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

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

Crl.O.P.No.13696 of 2023
and
Crl.M.P.No.8397 of 2023

1.R.Dharmalingam
2.D.Mathanraj
3.D.Kukanraj
4.D.Manjula
5.A.Velmurugan
6.E.Rajarajan

... Petitioners

Vs.

1.The State rep by its
The Inspector of Police,
Vadaponparippi Police Station,
Kallakurichi District.
(Crime No.54 of 2023).

2.S.P.Doss

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to a case in Crime No.54 of 2023 on the file of the first respondent and quash the same.



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For Petitioners : Mr.S.Shanmugavelayutham,
Senior Counsel for
Mr.T.Balachandran

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

For R2 : No appearance.

ORDER

This petition has been filed to quash the FIR in Crime No.54 of 2023 on the file of the first respondent police, registered for the offences under Sections 147, 294(b), 352 and 506(2) of IPC.

2. The case of the prosecution is that the first accused received a sum of Rs. 50 Lakhs from the second respondent and assured him that a sale deed would be executed in respect of the property owned by the first accused. However, the first accused failed to execute the sale deed in favor of the second respondent. When the second respondent questioned the first accused about the same, the first accused allegedly assaulted the second respondent. Further, the other accused persons also allegedly threatened the second respondent with dire consequences. Based on these



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allegations, an FIR was registered against the petitioners in Crime No. 54 of 2023 for offences under Sections 147, 294(b), 352, and 506(2) of IPC.

3. The learned Senior Counsel for the petitioners submitted that the money transaction in question took place between the first petitioner and the second respondent. However, it was contended that the second respondent has falsely implicated all the family members of the first petitioner in the FIR. The Senior Counsel pointed out that there are no specific allegations as against the petitioners 2 to 6 and therefore, none of the offences as alleged by the prosecution can be attributed to them.

4. Despite notice being served on the second respondent, no one appeared before this Court either through video conferencing or in person to substantiate the allegations.

5. The learned Government Advocate (crl.side), submitted that the FIR has been registered based on the statement of the second respondent, and an investigation is underway. It was further submitted that the



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allegations against the first petitioner involve the receipt of a substantial sum of money, failure to execute the sale deed, and physical assault on the second respondent. However, the Government Advocate (Crl.side) conceded that there are no specific allegations as against the petitioners 2 to 6, who are alleged to be the family members of the first petitioner.

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

7. On perusal of FIR, it is evident that the transaction involving the sum of Rs. 50 Lakhs was between the first petitioner and the second respondent, with the promise of executing a sale deed in respect of a property owned by the first petitioner. When the second respondent questioned the failure of the execution, it is alleged that the first petitioner assaulted the second respondent and also threatened him with dire consequences. However, with regard to petitioners 2 to 6, there are no specific allegations that would attract the offences mentioned in the FIR.



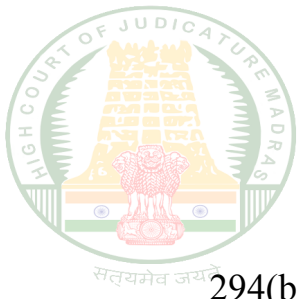
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8. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-

"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."

9. Admittedly, there is absolutely no words uttered by the petitioners 2 to 6 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 2 to 6, 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 2 to 6 annoyed others, it can not be said that the ingredients of the offence under Section



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294(b) of IPC is made out.
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10. 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 obscenity 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 petitioners 2 to 6.

11. In view of the above, this Court finds no grounds to quash the FIR in Crime No. 54 of 2023 as against the first petitioner. However, the FIR in Crime No. 54 of 2023 is hereby quashed as against petitioners 2 to 6, as there are no specific allegations against them. Accordingly, this Criminal Original Petition stands partly allowed. However, the first respondent is directed to complete the investigation and file the final



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report as against the first petitioner in Crime No.54 of 2023 within a period of twelve weeks from the date of receipt of a copy of this order.

Consequently, the connected miscellaneous petition is closed.

25.03.2025

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

To

1.The Inspector of Police,
Vadaponparippi Police Station,
Kallakurichi District.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

shk

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