

Crl.OP.No.16300 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2025

CORAM:

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

Crl.O.P.No.16300 of 2023

and

Crl.MP.No.10347 of 2023

1. Kaliappan
2. K.Ramkumar
3. Palaniammal
4. Venkateshwaran

... Petitioners

Vs.

1. The State rep by
The Inspector of Police,
Kondalampatti Police Station,
Salem District.
Cr.No.279 of 2022

2. Ayyanar

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in FIR No.279 of 2022 pending investigation on the file of the first respondent, quash the same by allowing this criminal original petition.



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CrI.OP.No.16300 of 2023

For Petitioner : Mr.S.Kousik
For Respondents : Mr.R.VinothRaja
Government Advocate (CrI.Side)
for R1
: No Appearance
(Notice Served for R2)

ORDER

This petition has been filed to quash the FIR registered in Cr.No.279 of 2022 on the file of the first respondent.

2. Though notice was served on the second respondent and his name is also printed in the cause-list, no one appeared before this Court neither in person nor through counsel.

3. The case of the prosecution is that the second respondent had been using the Well measuring 10*10 feet for drinking purpose by putting a pipe line to his house. According to him, the said Well is un-partitioned Well. He has right over the said Well and its electricity connection stands in the name of his father Late Kandasamy. Further, in a portion of the said land, he and his brother namely Govindaraj



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used to park their cars by putting up the shed and while their driver comes to the said shed, the petitioners have scolded him by using filthy language. While being so, on 13.04.2022 at 12 a.m., in midnight to early morning of 14.04.2022, the petitioners had carried sands from one Natarajan's land with some tractors and had tried to close the Well at about 05.00a.m., when it is was questioned by the second respondent, the petitioners have scolded him with filthy language, restrained him and also threatened him with dire consequence. Hence, the complaint.

4. On the complaint lodged by the second respondent, the first respondent police has registered FIR in Cr.No.279 of 2022 against the petitioners for the alleged offence punishable under Sections 447, 427, 341, 294(b) and 506(i) of IPC.

5. It is seen that due to civil dispute between the petitioners and the second respondent, the above complaint has been lodged against the petitioners. They are very close relatives and already a



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civil dispute is pending between them. With regard to same, a Civil suit has been filed before the District Munsif Court, Salem in O.S.No.171 of 2023 along with I.A.No.2 of 2023 for the relief of interim injunction restraining the defendants in any manner further shedding soil and mud in the Well to obliterate the same.

6. Further, the second petitioner has already filed a Writ Petition before this Court in W.P.No.15704 of 2022 seeking a direction to the District Collector to close the dry Well situated at No.1/20 Mariamman Koil Street, Inam Vedagathampatti. This Court vide order dated 23.06.2022 permitted the second petitioner to close down the said Well on his own and no permission is required from the Collector. After the said order, the Well has been closed. Therefore, no offence is made out as against the petitioners in order to attract the offence under Section 294b and 506(i) of IPC. There is absolutely no allegations to attract the offence under Section 506(ii) IPC.



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7. 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."*

Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 294(b) of IPC, there are no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, 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



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

8. 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 as against the petitioners.

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



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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.....

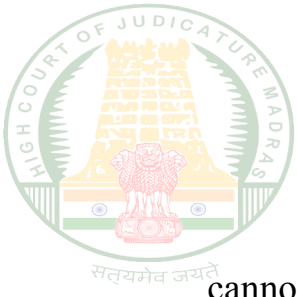
.....

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."

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

10. In so far as the offence under Sections 447, 427, 341 and 506(i) of IPC are concerned, there is no ingredient to attract the offence under Sections 447, 427 341 and 506(i) of IPC.

11. In view of the above discussion, the complaint itself is nothing but clear abuse of process of law and the entire allegations



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cannot be sustained as against the petitioners and is liable to be quashed. Accordingly, the FIR registered in Crime No.279 of 2022 on the file of the first respondent police is hereby quashed.

12. In the result, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

04.042025

Vv

To

1. The Inspector of Police,
Kondalampatti Police Station,
Salem District.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

Vv

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