

Crl.OP.No.16312 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.04.2025

CORAM:

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

Crl.O.P.No.16312 of 2023

and

Crl.MP.No.10365 of 2023

1. Subramani
2. Annakili
3. Divagar
4. Saranya
5. Lakshmi Prabha
6. Santhiya

... Petitioners

Vs.

1. State Represented by
Special Sub Inspector of Police,
DCB, Villupuram.

2. Ponnusamy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the FIR filed in Cr.No.5 of 2023 on the file of the first respondent.

For Petitioners : Mr.R.C.Paul Kanagaraj

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



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ORDER

This petition has been filed to quash the FIR registered in Cr.No.5 of 2023 on the file of the respondent police .

2. The case of the prosecution as per the defacto complainant/second respondent one Ponnusamy is that he has filed an application under Section 156(3) of Cr.P.C before the Special Court for prevention of land grabbing in C.M.P.No.25 of 2022 in D.No.14 of 2023 dated 25.01.2023. The defacto complainant has filed a sworn affidavit in the above mentioned case stating that his native place is Peravur Village, Vanur Taluk, Villupuram District and currently residing at No.223/61, Subramani Thottam, Perambur, Chennai. The defacto complainant mother is Chinnamal and his father is Samayapuram. Subramani (A1), Ponnusamy (defacto complainant), Mangalalakshmi and Uthirammal were four children born to the defacto complainant's parents. The 10 acres of land in Survey No.345/1, 83/1A, 83/1C, 131/3, 349/6, 164/1 in Peravur Village belongs to the father of the defacto complainant. The defacto

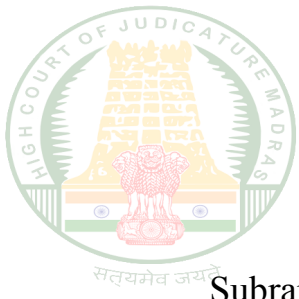


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complainant's father died intestate leaving behind the above said legal heirs along with their mother Chinnamal. The defacto complainant's mother has filed a suit in O.S.No.66 of 1986 before the District Munsif Court, Tindivanam and obtained an order regarding the property in the survey numbers described above. The brother of the defacto complainant Subramani (A1) challenging the said order filed an appeal in A.S.No.16/1995 before the Additional District Court, Tindivanam and an order came to be passed in the appeal allotting equal shares between the defacto complainant and Subramani(A1). As per the order, equal shares of lands were enjoyed by the defacto complainant and his brother. After the demise of the defacto complainant's mother in the year 2006, the defacto complainant has approached his brother Subramani for entering into a partnership deed, but his brother kept on delaying it.

3. The further prosecution of the case is that the defacto complainant believed in his brother's words remained silent for a while and got suspicious due to the activities of the brother



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Subramani(A1) and applied for an encumbrance certificate, the defacto complainant came to know that his brother had created a false documents along with his children had executed a release deed in favour of another daughter Santhiya vide D.No.2161/2007 dated 27.09.2007 in II-Joint Registrar,Tindivanam.In the said release deed, in Page No.2, Line , the defacto complainant's share has been admitted. Thereafter, the defacto complainant went to the father's house in Peravur Village, Subramani(A1) and his wife (A2) had uttered obscene words against the defacto complainant and stated that the defacto complainant was not born to his father Samayapuram and told him to get out the property or otherwise threatened to murder and bury the defacto complainant and chased him out of the property. Hence, the complaint has been lodged by the second respondent before the first respondent police. C.S.No.13286 of 2022 was issued on 22.06.2022. The defacto complainant submitted his documents relating to the properties to the then Sub Inspector attached to the said police station. The said Inspector did not take any action against above mentioned persons and asked the defacto



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complainant to approach the Civil Court. Hence as per order dated 25.01.2023 in C.M.P.No.25 of 2022 vide D.No.14/2023, a case in Cr.No.5 of 2023 was registered under Section 294(b), 506(ii), 423, 465, 467, 468 and 81 of IPC and Section 81 of Registration Act.

4. A perusal of the entire FIR revealed that the first petitioner and the second respondent are brothers. Their father owned property comprised in Survey Nos. No.345/1, 83/1A, 83/1C, 131/3, 349/6, 164/1 to an extent of 10 acres of land situated at Peravur Village, Ulagapuram Post, Vanur Taluk, Villupuram District. Their father has executed a Will in favour of his wife ie., the mother of the first petitioner and the second respondent and after her life time, the property goes to the first petitioner and second respondent. After his demise of their mother, the first petitioner along with his children had executed a release deed in favour of another daughter namely Santhiya in so far as the first petitioner's share is concerned. The specific case of the second respondent is that without her consent and knowledge, the first petitioner had executed a sale deed without



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partitioned the property. Therefore, the entire allegations are civil in nature and no offences under Sections 464, 467, 468 and 471 of IPC are attracted. In so far as the offence under Section 294b and 506(ii) of IPC

5. 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, 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."*

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



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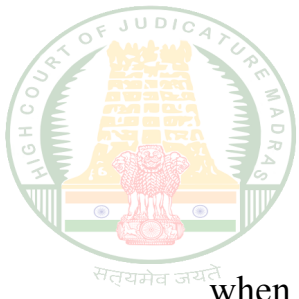
on hearing the obscene words, which were allegedly uttered by the petitioner, the witnesses felt annoyed. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioner annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC are made out.

6. 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 petitioner. Likewise there is no ingredients available to attract the offence under Section 506(ii) of IPC.

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



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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.

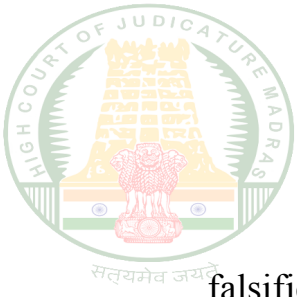
8. It is also relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"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."

9. The offence under Section 81 of Registration Act is not attracted, since the petitioners have not committed any forgery or



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falsification or records. Therefore, the impugned FIR is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners and liable to be quashed.

10. In view of the the FIR registered in Crime No.5 of 2023 on the file of the first respondent police is hereby quashed and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

08.04.2025

Vv

To

1. The Special Sub Inspector of Police,
DCB, Villupuram.
2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.



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