



Crl.O.P.No.17634 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.17634 of 2023

and

Crl.M.P.No.11561 of 2023

1. Meenatchi
2. Vasatharaja
3. Rajmeena

... Petitioners

Versus

- 1.The Inspector of Police,
Poraiyar Police Station,
Mayiladuthruai District.
(Crime No.267 of 2022)

- 2.Sivasankari

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, 1973, to call for the records in Crime No.267 of 2022 on the file of the Inspector of Police, Poraiyar Police Station, Mayiladuthruai District and quash the same by allowing the present Criminal Original Petition.

For Petitioners : Mr. K. Suresh Babu, for Mr. M. Balaji

For Respondents : Mr. R. VinothRaja, (for R1)
Government Advocate (Criminal Side)
: Mr. T. M. Naveen (for R2)

ORDER



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2. The brief facts of the case are as follows:

(i) Initially, the defacto complainant/second respondent lodged a private complaint under Section 156(3) of the Criminal Procedure Code, (Cr.P.C), 1973, which was dismissed as withdrawn by herself on 22.03.2022. Thereafter, for an alleged occurrence that took place on 25.03.2022, the second respondent lodged a complaint before the first respondent. Based on this complaint, the first respondent registered a case in Crime No.267 of 2022 for the offences under Sections 147, 148, 294(b), 506(ii) and 420 of the Indian Penal Code, (IPC), 1860.

(ii) The allegations are that one Selvaraj, the husband of the 1st petitioner and the father of the 2nd and 3rd petitioners, approached the second respondent and represented that a land situated at Kalamanallur in Chinngakudi Village, belonging to the family of one Gnanasekaran, S/o. Chandrakasu of Sembanarkoil, Tharangambadi Taluk, Mayiladuthurai



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District, was for sale. The land's value was allegedly more than Rs.60 Lakhs, and the said Selvaraj proposed that if the second respondent invested Rs.30 Lakhs, he would invest the remaining amount to purchase the said land to start a real estate business.

(iii) On such representation, the second respondent paid Rs.30 Lakhs. Subsequently, the said Selvaraj demanded an additional sum of Rs.21,48,000/- to purchase the said land, the second respondent also paid the said sum. It is alleged by the second respondent/defacto complainant that the said Selvaraj received a total sum of Rs.51,48,000/- from her for this purpose.

(iv) Though there was an agreement made between the second respondent and the said Selvaraj, to execute the sale deed in favour of the second respondent, the sale deed was executed in favour of the 2nd and 3rd petitioners by the first petitioner. After the demise of the said Selvaraj, when the second respondent went to the house of the petitioners and asked the petitioners to return the money, they allegedly threatened her with dire consequences. Consequently, the said First Information Report



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in Crime No.267 of 2022 came to be registered for the offence punishable under Sections 147, 148, 294(b), 506(ii) and 420 of IPC, as against the petitioners by the first respondent.

(v) According to the petitioners, there are absolutely no ingredients to attract any of the offences as alleged by the second respondent. Hence, the petitioners have filed the present petition.

3. Heard the learned counsel for the petitioner, the learned Government Advocate (Criminal side) appearing for the first respondent and the learned counsel appearing for the second respondent and also perused the materials available on record.

4. Considering the submissions made by the learned counsel for the petitioner and upon perusal of the records, this Court is of the view that the money which is said to have been paid by the second respondent to the said Selvaraj, when he was alive. After the demise of the said Selvaraj on 27.02.2020, the second respondent lodged a private complaint and at a later point of time, it was withdrawn by herself on 22.03.2022. Without



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taking any action against the deceased Selvaraj, the second respondent had lodged a complaint in the year 2022. Moreover, there is no sufficient proof to establish the entire transactions between the second respondent and the deceased Selvaraj. Furthermore, there are no specific allegations that the petitioners scolded the second respondent/defacto complainant or used filthy language.

5. Admittedly, to attract the offences under Sections 147 and 148 of IPC, there must be more than five persons involved. However, in this case, there are only three accused, with the petitioners arrayed as A1 to A3. Therefore, the offences under Sections 147 and 148 of IPC are not made out as against these petitioners.

6. Insofar as the allegation under Section 294(b) of IPC, is concerned, 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



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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."

In view of the above, 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 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 others, it can not 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.**, which held as follows :-

"To prove the offence under Section 294 of IPC



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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 these petitioners.

8. 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 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.

9. As far as the offence under Section 420 of IPC., is concerned, even according to the second respondent, the entire amount has been received by the first petitioner's husband and the petitioners were no way connected with the said transactions. However, the sale deed was executed in favour of the 2nd and 3rd petitioners by the first petitioner.



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Therefore, the petitioners never induced the second respondent to pay such an amount.

10. In this context, it is relevant to extract the provisions of Section 420 of the Indian Penal Code, 1860, which read as follows :-

420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

11. The ingredients to constitute an offence under Section 420 of IPC are as follows :-

(i) A person must commit the offence of cheating under Section 415 and



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(ii) The person cheated must be dishonestly induced to

(a) deliver property to any person or

(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420 of IPC.

12. In view of the above, no offences are made out against these petitioners, and the First Information Report in Crime No.267 of 2022 cannot be sustained. Therefore, it is liable to be set aside.

13. Accordingly, this Criminal Original Petition is allowed, and the First Information Report in Crime No.267 of 2022 pending on the file of the Inspector of Police, Poraiyar Police Station, Mayiladuthurai District, is hereby quashed. Consequently, the connected miscellaneous petition is also closed.



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

klt

To

1.The Inspector of Police,
Poraiyar Police Station,
Mayiladuthruai District.
(Crime No.267 of 2022)

2. The Public Prosecutor,
High Court, Madras.



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