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Crl.O.P.No. 17945 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

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

Crl.O.P.No.17945 of 2023 and
Crl.M.P.Nos.11843 of 2023 and 7400 of 2024

1.A.Rajasekar
2.Selvakumar
3.Chandrasekar
4.Mohan

... Petitioners

Vs.

1.State by Inspector of Police,
K-5 Peravallur Police Station,
Chennai 600 082.
(Crime No.291 of 2022)

2.Vaijyanthimala

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in C.C.No.16687 of 2022 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai and quash the proceedings therein.

For Petitioners : Mr.K.Murugananthan

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



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For R2

: Mr.N.Kolandaivelu

ORDER

This petition has been filed to quash the proceedings in C.C. No. 16687 of 2022 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

2. The learned counsel for the petitioners would submit that the allegations in the complaint do not *prima facie* disclose the commission of offences under Sections 294(b) and 506(1) of IPC, and the proceedings in the case are based on a family dispute, thus warranting quashing.

3. The learned Government Advocate (Crl. Side) submits that the FIR was duly registered after proper investigation, and the charges framed against the petitioners are supported by the material on record, thus opposing the quashing of the proceedings.



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Court.

4. Heard both sides and perused the materials placed before this

5. On perusal of records, it is evident that on a complaint lodged by the second respondent, the first respondent registered an FIR in Crime No. 291 of 2022, for the offences punishable under Sections 147, 294(b), 323, 427, and 506(1) of IPC. During the course of the investigation, the first respondent altered the offences to Sections 294(b) and 506(1) of IPC. In the complaint, the second respondent alleged that on 13.04.2022, the petitioners abused the second respondent using obscene language and also physically assaulted her. It was further alleged that the petitioners threatened her with dire consequences. After completion of the investigation, a final report was filed by the first respondent, and the same was taken cognizance by the learned V Metropolitan Magistrate, Egmore, Chennai in C.C. No. 16687 of 2022, for the offences under Sections 294(b) and 506(1) of IPC. In the said case, the petitioners are arrayed as Accused 1 to 4.



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6. The second petitioner is, in fact, the son-in-law of the second respondent. It is pertinent to note that there are pre-existing family disputes between the petitioners and the second respondent, and multiple cases are pending concerning the same. However, upon a careful examination of the complaint and the materials available on record, it is observed that there are no specific allegations that would attract the offences under Sections 294(b) and 506(1) of IPC.

7. In order 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."



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8. 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 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.

9. 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



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as against the petitioners.
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10. Insofar as the offence under Section 506(i) of I.P.C is concerned, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioners was only empty threats and they had no effect on the complainant.

11. In this regard, it is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7. It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened



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the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

12. In the light of the above and considering the nature of the allegations made, it is clear that the charges framed against the petitioners do not *prima facie* disclose commission of an offence under the provisions invoked. The material placed before this Court does not appear to sustain the charges and the same lacks specific details to establish the alleged offences.



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13. In view of the foregoing discussion, the entire proceeding in C.C.No.16687 of 2022 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai is hereby quashed as against the petitioners. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

26.03.2025

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



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To

1. V Metropolitan Magistrate, Egmore, Chennai
2. The Inspector of Police,
K-5 Peravallur Police Station,
Chennai 600 082.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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