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Crl.R.C.No.23 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.23 of 2025

Punniyakotti

... Petitioner/Accused

Vs.

State by
The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.
(Cr.No.95 of 2021)

... Respondent

Prayer: Criminal Revision Petition filed under Sections 438 (1) r/w 442 of BNSS, praying to call for the records and set aside the judgment dated 29.11.2024 on the file of the learned Principal Sessions Judge, Vellore in C.A.No.46 of 2024, which was confirming the judgment of the learned Judicial Magistrate No.1, Vellore, Vellore District dated 12.09.2024 in STC No.439 of 2022 and acquit the petitioner by allowing this revision.

For Petitioner : Mr.D.Senthur Rangan
for Mr.K.Sasindran

For Respondents : Mr.S.Udaya Kumar (for R4)
Government Advocate (Crl. Side)

ORDER

The revision challenges the conviction and sentence imposed on the petitioner vide judgment dated 12.09.2024 passed in STC No.439 of



2022 by the learned Judicial Magistrate No.1, Vellore, Vellore District and confirmed by the learned Principal Sessions Judge, Vellore, vide judgment dated 29.11.2024 in C.A.No.46 of 2024.

2. The case of the prosecution is that during the State Election conducted in the year 2021, when the defacto complainant was given flying squad duty on 02.04.2021 to disperse a group of persons who were standing to distribute bribe to the voters, he saw the petitioner attempting to escape on seeing the flying squad; that when the defacto complainant and her team prevented the petitioner, the petitioner abused the defacto complainant and her team in filthy and obscene language and also prevented them from doing their official duty besides committing the offence of criminal intimidation; and that therefore, the petitioner was charged for the offence under Sections 294(b), 353, 506(1) and 171(E) of the IPC.

3. The prosecution had examined 6 witnesses as PW1 to PW6 and marked 9 documents as Ex.P1 to Ex.P9. The petitioner neither examined any witness nor marked any document on his side. The trial Court after considering the oral and documentary evidence held that the prosecution



had failed to establish the offence under Sections 171 (E) and 506(i) of the IPC and convicted the petitioner for the offence under Sections 294(b) and 353 of the IPC and sentenced him as follows:

Offence under Section	Sentence imposed
353 IPC	To pay fine of Rs.1000/-, in default to undergo simple imprisonment for one month.
294(b) IPC	To pay fine of Rs.500/-, in default to undergo simple imprisonment for one month.

On appeal, the appellate Court confirmed the judgment of conviction and sentence.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side), appearing for the respondent/State.

5. The case rests on the evidence of PW1 and PW2. The evidence of PW1 as seen from the judgment of the trial Court is that the petitioner obstructed the public servant besides abusing her. It is also seen that PW4 and PW5 turned hostile.

6. As rightly contended by the learned counsel for the petitioner in order to attract the offence under Section 353 of the IPC, there must be



not only obstruction on but actual use of criminal force or assault on the public servant is necessary, which admittedly is not the allegation or evidence against the petitioner. The Hon'ble Supreme Court in ***B.N.John vs. State of U.P. and another***, reported in **2025 SCC OnLine SC 7**, had held as follows:

23. For a prohibited act to come within the scope of the offence under [Section 353](#) of the IPC, such an act must qualify either as an assault or criminal force meant to deter public servant from discharge of his duty. Obviously, such an act cannot be a mere act of obstruction which is an offence under [Section 186](#) of the IPC. The offence contemplated under [Section 353](#) of the IPC is of a more serious nature involving criminal force, or assault which attracts more stringent punishment that may extend to two years. On the other hand, the offence of obstruction covered under [Section 186](#) of the IPC is punishable by imprisonment, which may extend to three months at the maximum.

A close examination of [Section 353](#) of the IPC would indicate that to invoke the aforesaid offence, there must be use of criminal force or assault on any public servant in the execution of his official duty or with the intent to prevent or deter such public servant from discharging his duty. It would be clear from a reading of the provisions of [Section 186](#) as well as [Section 353](#) of the IPC that [Section 353](#) of the IPC is the aggravated form of offence where criminal force or assault is involved. Unlike in the case of [Section 186](#) of the IPC where voluntarily obstructing any public servant in discharge of his official function is sufficient to invoke the said section, in the case of offence under [Section 353](#) of the IPC as mentioned above, not only obstruction but actual use of criminal force or assault on the public servant is necessary.



7. Similarly, it is well settled that in order to attract the offence under Section 294(b) of the IPC, the words uttered by the accused must be obscene. The Hon'ble Supreme Court in *N.S.Madhanagopal and Another Vs. K.Lalitha* reported in **2022 LiveLaw (SC) 844**, had held that mere bad words would not attract the offence under Section 294(b) of the IPC and the relevant observation reads as follows:

“It has to be noted that in the instant case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC. To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof of establish that it was to the annoyance of others, which is lacking in the case. 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 appellants accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.”

8. In such circumstances, this Court is of the view that on the evidence adduced by the prosecution, neither the offence under Section 294(b) nor the offence under Section 353 of the IPC, is made out.



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9. Therefore, the Criminal Revision Case is allowed. The conviction and sentence imposed on the petitioner vide judgment dated 12.09.2024 passed in STC No.439 of 2022 by the learned Judicial Magistrate No.1, Vellore, Vellore District and confirmed by the learned Principal Sessions Judge, Vellore, vide judgment dated 29.11.2024 in C.A.No.46 of 2024, are set aside. The petitioner is acquitted of all the charges levelled against him. The fine amount, if any, paid by the petitioner shall be refunded. Bail bond, if any, executed shall stand discharged.

30.01.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To
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1. The Principal Sessions Judge,
Vellore.

2. The Judicial Magistrate No.1,
Vellore, Vellore District

3. The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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