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CRL.A.(MD).No.11 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.09.2025

PRONOUNCED ON :25.10.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).No.11 of 2022

1.Vaa Raja Vaa
2.Indhira

.. Appellants/Accused 1 and 2

Vs.

The State represented by
The Inspector of Police,
Sipcot Police Station,
Sivagangai District.
(Cr.No.169 of 2013)

.. Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374 Cr.P.C, 1973 to call for the records and set aside the conviction and sentence passed in S.C.No.100 of 2015, dated 31.12.2021, by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai.

For Appellants : Mr.J.Anandkumar
for Mr.P.Manimaran

For Respondent : Mr.B.Thangaravindh
Government Advocate (Crl.Side)



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JUDGMENT

The Criminal Appeal is directed against the judgment of conviction made in S.C.No.100 of 2015, dated 31.12.2021, on the file of the Fast Track Mahila Court, Sivagangai.

2. The appellants are the accused 1 and 2 in S.C.No.100 of 2015, on the file of the Sessions Judge, Fast Track Mahila Court, Sivagangai.

3. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in the trial Court.

4. The case of the prosecution is that on 04.09.2013 at about 03.30p.m., when the defacto complainant was in her house, both the accused snapped the electric wire running to the house of the complainant, abused her in filthy language and trespassed into her house and damaged the meter box and caused criminal intimidation and they had caused loss to the tune of Rs.896/- and that thereby they had committed the offences under Sections 294(b), 448, 506(ii) I.P.C., and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.



5. The learned Additional District Munsif cum Judicial Magistrate, Manamadurai has taken the charge sheet on file in P.R.C.No.4 of 2015 and furnished the copies of the records under Section 207 Cr.P.C., on free of costs. The learned Judicial Magistrate finding that the offence under the provisions of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. are exclusively triable by the Court of Sessions, after the compliance under Sections 208 and 209 Cr.P.C., committed the case to the Sessions Court and the same was taken on file in S.C.No.100 of 2015 by the Principal Sessions Court, Sivagangai and thereafter the case was made over to the Fast Track Mahila Court.

6. After the appearance of the accused, the learned Sessions Judge, on hearing both sides and on perusal of the records, being satisfied there existed a *prima facie* case against the accused, framed the charges under Sections 294(b), 448 and 506(ii) I.P.C., and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 against the accused and the same were read over and explained to them and on being questioned, both the accused denied the charges and pleaded not guilty.

7. The prosecution, to prove its case, examined 10 witnesses as P.W.1 to P.W.10 and exhibited 8 documents as Exs.P.1 to P.8 and marked 3 material



objects as M.O.1 to M.O.3. The accused adduced neither oral nor documentary evidence.

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8. The case of the prosecution emerging from the evidence adduced by the prosecution, in brief, is as follows:

(a) The defacto complainant – Tmt.Vairavalli (P.W.1) is the wife of P.W.2 – Soundar. P.W.3 – Vijaya and P.W.6 -Sudha are their neighbours. The first accused is the brother of P.W.1 and the second accused is the wife of the first accused. There existed land disputes between the family of P.W.1 and the accused.

(b) P.W.1 is residing with her family at Kuttithinni Village, Sivagangai Taluk. Both the accused had snapped the electric wire which was proceeding from electric post to the house of P.W.1. Thereafter both of them had damaged the meter box. The second accused had abused P.W.1 in filthy language and threatened that she would be killed. P.W.2, P.W.3 and P.W.6 were present and witnessed the occurrence. P.W.1 and P.W.2 went to the SIPCOT Police Station on 05.09.2013 and lodged a complaint under Ex.P.1. P.W.7, the then Sub-Inspector of Police received the complaint from P.W.1 and registered a case in Cr.No.169 of 2013, under Sections 294(b), 448, and 506(ii) I.P.C., and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 and prepared the F.I.R., under Ex.P.5. He sent the complaint and F.I.R., to the

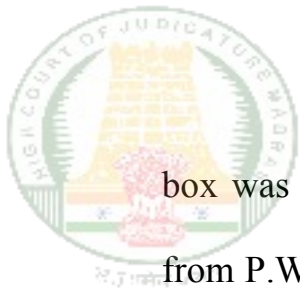


jurisdictional Magistrate Court and copies to the higher officials and also placed the case file before the then Inspector of Police, SIPCOT Police Station.

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(c) P.W.9, the then Inspector of Police took the case for investigation and visited the occurrence place at about 10.50a.m., on 05.09.2013 and prepared the observation mahazar under Ex.P.8 in the presence of P.W.4 and P.W.5 and drew a rough sketch under Ex.P.7. Thereafter, he recovered M.O.1 – broken meter box, M.O.2 – broken pieces of fuse carrier and M.O.3- electric wire of a small quantity in the presence of same witnesses through seizure mahazar under Ex.P. 3. P.W9 examined the witnesses and recorded their statements. Thereafter, he arrested both the accused at 05.00 p.m., on the same date and sent them for remand. He sent the recovered case properties to the concerned Court through Form -95. He sent a requisition to the Assistant Engineer attached to the TNEB to get a damage certificate.

(d) Since P.W.9 was transferred, his successor P.W.10 had taken up the case for further investigation, visited the occurrence spot and examined the witnesses and since they had reiterated the same version given before P.W.9 – Inspector, he has not chosen to record their statements again. P.W.8 – the then Assistant Engineer – TANGEDCO, Sivagangai, as per the requisition of the concerned police, gave a certificate stating that the value of the damaged meter



box was Rs.896/- under Ex.P.6. P.W.10 obtained the certificate under Ex.P.6 from P.W.8 Assistant Engineer, examined her and recorded the statement. After completing the investigation, he laid the charge sheet against the accused on 08.05.2014 for the offences under Sections 294(b), 448 and 506(ii) I.P.C., and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. With the examination of P.W.10, the prosecution has closed their side evidence.

9. When the accused were examined under Section 313(1) (b) Cr.P.C with regard to the incriminating aspects found as against them in the evidence adduced by the prosecution, they denied the same as false and informed that they are having defence evidence, but no defence evidence came to be adduced subsequently.

10. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both sides, passed the impugned judgment dated 31.12.2021, convicting both the accused for the offence under Section 294(b) I.P.C., and sentenced them to undergo 3 months Simple Imprisonment and to pay a fine of Rs.500/- each in default to undergo 2 months Simple Imprisonment, convicting both the accused for the offence under Section 506(ii) I.P.C., and sentenced to undergo one year imprisonment and to pay a fine of Rs.



1,000/- in default to undergo one month Simple Imprisonment and convicting both the accused for the offence under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/- each , in default to undergo one month Simple Imprisonment and both the accused were acquitted for the offence under Section 448 I.P.C. Aggrieved by the impugned judgment of conviction and sentence, both the accused have preferred the present appeal.

11. Heard the learned Counsel appearing for the appellants and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

12. Whether the impugned judgment of conviction and sentence imposed in S.C.No.100 of 2015, dated 31.12.2021, on the file of the Fast Track Mahila Court, Sivagangai is liable to be set aside? is the point of consideration?

13. The learned Counsel for the appellants/accused would submit that the defacto complainant – P.W.1 is the own sister of the first accused and there was a land dispute between P.W.1 and the first accused, due to which, a false case was foisted against the accused, that the case of the prosecution is that only these two accused came and quarrelled with P.W.1, but P.W.1 admitted that the father



of the first accused was also present at the place of occurrence, that P.W.1 and P.W.3 in their evidence would say that P.W.2 – husband of P.W.1 was very much available at the place of occurrence, but P.W.2 himself would say that he was not available at the scene of occurrence and came to know about the occurrence only from P.W.1 subsequently, that though the defacto complainant in her complaint and evidence would say that the incident was occurrence at 03.30p.m., the Investigating Officer laid the final report as if the incident was occurred at 03.30 hours in the early morning and that P.W.2 and P.W.10 – Inspector of Police would disown that M.O.1 is not the one that was recovered from the scene of occurrence and that these aspects collectively would suggest that the occurrence itself is highly doubtful. He would further submit that there are material contradictions in the evidence of the alleged eyewitnesses, including the defacto complainant regarding the occurrence and the case properties recovered and that the learned trial Judge, without appreciating the materials contradictions, erred in convicting the accused.

14. The learned Government Advocate (Crl.Side) would submit that the defacto complainant/ P.W.1 gave evidence reiterating the complaint contentions, that the other occurrence witnesses P.W.2 to P.W.4 have given evidence in tune with the evidence of P.W.1, that the recovery of case properties from the scene of occurrence was proved through the evidence of P.W.4 and P.W.5 and P.W.9



and through Ex.P.3 and M.Os 1 to 3 and that the learned trial Judge, rightly appreciating the evidence, has correctly convicted them and as such, the judgment of the trial Court does not require any interference.

15. Admittedly, there existed land disputes between P.W.1's family and the accused and the consequent enmity between them. It is also not in dispute that the first accused is the own brother of P.W.1 and the second accused is the wife of the first accused. According to the prosecution, the occurrence allegedly held at 03.30p.m., on 04.09.2013 was witnessed by P.W.2 – husband of P.W.1 and their neighbours P.W.3-Vijaya and P.W.6-Sudha. As rightly pointed out by the learned Counsel for the accused, P.W.1 and P.W.3 in their evidence would say that P.W.2 – husband of P.W.1 was very much available at the occurrence place and allegedly witnessed the occurrence, but P.W.2 in his evidence would admit that he was at work on the date of occurrence and was not present at the scene. In contrast, P.W.1 in her cross-examination would say that she did not know her husband's work place that day.

16. Given this discrepancy, as rightly contended by the learned Counsel for the accused, it is clear that P.W.2 did not witness the occurrence and only knew it through his wife – P.W.1 and as such, the evidence of P.W.2 is hearsay and deserves no weight.



17. P.W.1 in her initial chief examination would say that P.W.3- Vijaya and P.W.6 Sudha witnessed the occurrence. But in her cross examination, she would say that both P.W.3 and P.W.6 came to the occurrence place after hearing the noise, but immediately she took 'U' turn and would say that P.W.6 was available at that time and only P.W.3 – Vijaya on hearing the noise came to the scene of occurrence and the relevant portion is extracted hereunder:

“எங்கள் வீட்டிற்கு பக்கத்தில் சுதா வீடு அப்பாது நேந்தது. விஜயா வீடும் பக்கத்தில் நேந்தது. சுதாவும்இ விஜயாவும் சத்தம் ுகட்டு வந்தார்கள். சுதா ரொம்ப பக்கத்தில் அந்த ுநரம் நேந்தார். விஜயாதான் சத்தம் ுகட்டு வந்தார்கள்.”

18. P.W.3 – Vijaya in her cross-examination would admit that “நேத சம்பவம் மாலை 03.00 மணிக்குத்தான் நடந்தது. நேத சம்பவம் நடந்து சத்தம் ுகட்டுத்தான் சம்பவ டேம் வந்துதாம்.”

19. As already pointed out, P.W.1 would also reiterate the same version that P.W.3 – Vijaya after hearing the noise, came to the occurrence place, but P.W.6-Sudha allegedly witnessed the entire occurrence has not supported the case of the prosecution and as such, she was treated as hostile. P.W.4, one of the witnesses for preparation of observation mahazar and the recovery of case properties through seizure mahazar in his cross-examination, would say that he was available at the occurrence place and time and according to him, 10 to 15



persons were present at the scene of occurrence. But it is not the case of the prosecution or P.W.1 that P.W.4 witnessed the occurrence. P.W.1, in her evidence would say that the accused were not on talking terms with the families of P.W.3 and P.W.6.

20. P.W.1, in her chief examination would say that the second accused abused her in filthy language and caused criminal intimidation. However, in the complaint (Ex.P.1), she alleged that both accused were responsible for the acts. P.W.3's testimony differs, stating that she and P.W.6 questioned the accused, who responded by shouting, throwing stones, and damaging the meter box, before abusing P.W.1. Notably, P.W.1's complaint and testimony omit any mention of P.W.3 and P.W.6 confronting the accused.

21. It is the specific case of the prosecution that P.W.10 – Investigating Officer had recovered the damaged meter box, broken two pieces of fuse carrier and a portion of snapped electrical wire under M.O.1 to M.O.3 respectively under the cover of Ex.P.3 – seizure mahazar in the presence of P.W.4 and P.W.5. It is pertinent to note that when M.O.1 and M.O.3 were shown to P.W.2 – husband of the defacto complainant, in his chief examination itself, he would admit that M.O.1 – meter box and M.O.3 – wire were not belonging to them and in cross-examination also he would reiterate that M.O.1 – meter box was not



theirs. More importantly P.W.9 – the Investigating Officer who admitted in the chief examination that he recovered the damaged meter box, two broken pieces of fuse carrier and small quantity of wire, but in cross-examination when M.O.1 was shown, he would admit that it was not the recovered box, as it was undamaged. Though P.W.1 would say that the accused snapped the wire connecting the electric post to their house, P.W.9 in her evidence would say that the electric wire was intact and according to him, meter box which was recovered in a damaged condition with broken glass, was fixed outside P.W.1's house. While P.W.1 corroborated this, P.W.2 contradicted, stating the meter box was made of plastic and did not have glass.

22. As rightly pointed out by the learned counsel for the appellants, P.W.1 to P.W.5 and P.W.9 provided inconsistent accounts of the length of wire allegedly recovered. P.W.1 would testify that half of the snapped wire was produced before the police, while the accused took the other half. However, the prosecution's case is further undermined by P.W.4's testimony that the police recovered two intact fuse carriers, contradicting the alleged recovery of broken pieces (M.O.2). Additionally, P.W.4 and P.W.5 would claim that they were not on talking terms with the accused, while P.W.5 admitted to being related to P.W.1.



23. Considering the testimonies of P.W.1 to P.W.5 and P.W.9, the same would reveal significant contradictions, casting serious doubt on the prosecution's case, as rightly contended by learned counsel for the accused.

24. Now turning to the offence under Section 294(b) I.P.C., P.W.1 would say that the second accused had abused her in filthy language (தவறியாஇ அபிமானி). But she lodged a complaint under Ex.P.1 as if both the accused had abused her in filthy language in using one word (தவறியா).

25. The learned counsel appearing for the petitioners would rely on a judgment of the Hon'ble Supreme Court in ***N.S.Madhanagopal and others Vs. K.Lalitha*** reported in ***MANU/SC/1805/2022***, wherein, the Hon'ble Apex Court has specifically held that mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC and the relevant passages are extracted hereunder:-

“7.Section 294(b) of the IPC talks about the obscene acts and songs. Section 294 of the IPC as a whole reads thus:

"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.It is to be noted that the test of obscenity under Section 294(b) of the I.P.C. is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences. The following passage from the judgment authored by Justice K.K. Mathew (as his Lordship then was) reported in P.T. Chacko v. Nainan (1967 KLT 799) explains as follows:

"The only point argued was that the 1st accused has not committed an offence punishable under Section 294(b) IPC., by uttering the words above-mentioned. The courts below have held that the words uttered were obscene and the utterance caused annoyance to the public. I am not inclined to take this view. In the Queen v. Hicklin, [L.R.] 3 Q.B. 360 at 371 Cockburn C.J. Laid down the test of 'obscenity' in these words:

"..... the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences" This test has been uniformly followed in India. The Supreme Court has accepted the correctness of the test in Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881. In Samuel Roth v. U.S.A., 354 US 476 (1957), Chief Justice Warren said that the test of 'obscenity' is the "substantial tendency to corrupt by arousing lustful desires". Mr. Justice Harlan observed that in order to be 'obscene' the matter must "tend to



sexually impure thoughts”. I do not think that the words uttered in this case have such a tendency. It may be that the words are defamatory of the complainant, but I do not think that the words are ‘obscene’ and the utterance would constitute an offence punishable under Section 294(b) IPC”.

9.It has to be noted that in the instance 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(b) 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. 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.”

26. It is also necessary to refer the judgment of the Kerala High Court in ***Latheef Vs. State of Kerala*** reported in **2014 (2) KLT 987**, wherein also, it



has been held that abusive words or humiliating words or defamatory words will not as such amount to obscenity as envisaged in Section 292 and 294(b) IPC and that to make it punishable under Section 294(b) IPC, the alleged words must be in a sense lascivious, or it must be appeal to the prurient interest, or will deprave or corrupt persons.

27. Even assuming for arguments sake that the petitioners had uttered abusive or filthy words, there is no material to show that it was to the annoyance of other. It is not the case of the prosecution that the witnesses have stated that they felt annoyed. Considering the above, this Court has no hesitation to hold that the ingredients of the offence under Section 294(b) IPC are not made out.

28. Regarding the offence Section 506(ii) I.P.C., according to the prosecution, the accused had threatened “உங்கள் வீட்டில் எல்லாரையும் கொன்றாத்தான்ம நம்மது”. But P.W.1 in her evidence would say that the second accused had threatened that she would be killed. At the outset, in order to attract the offence under Section 506 I.P.C., the prosecution must prove (i) that the accused threatened some person, (ii) that such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested and (iii) that he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not



legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.

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29. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in *Manik Taneja and another Vs. State of Karnataka and another* reported in **2015 7 SCC 423**,

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that 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, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the



person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC."

30. In the present case, the defacto complainant's testimony doesn't align with her complaint's contentions. Moreover, there is no evidence that she felt



criminally intimidated by the alleged threats. As rightly contended by the learned counsel appearing for the accused, there is no material to suggest the threats were real and substantial. Given this, this Court has no hesitation in holding that the ingredients of the offence under Section 506 IPC are not established.

31. Regarding the offence under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, as already pointed out, there are material contradictions in the recovery of case properties M.O.1 to M.O.3. Crucially, P.W.2 and P.W.9 disputed the identity of M.O.1, stating it was not the one recovered from P.W.1's house. Furthermore, the prosecution alleged that P.W.9 recovered only the damaged meter box, but it was not produced before the jurisdictional court. The recovery of M.O.3 is also questionable, with witnesses providing varying lengths of the recovered wire. Additionally, P.W.5's evidence that two unbroken fuse carriers were recovered contradicts the actual M.O.2, which consists of two broken pieces of fuse carriers.

32. Given the above, as rightly contended by the learned counsel for the accused, the prosecution's case that the accused damaged the wire, fuse carrier, and meter box at P.W.1's house is highly doubtful. The prosecution has failed to address or clarify the material contradictions. But the learned trial Judge's conviction of the accused, without considering these aspects is flawed, and the



judgment is therefore liable to be set aside.

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33. In the result, the Criminal Appeal is allowed and the impugned judgment of conviction and sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai in S.C.No.100 of 2015, dated 31.12.2021 is set aside and the appellants/accused are acquitted from the charges levelled against them.

25.10.2025

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Internet : Yes/No

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To

1. The Sessions Court, Fast Track Mahila Court, Sivagangai.
2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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CRL.A.(MD).No.11 of

K.MURALI SHANKAR, J.

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PRE-DELIVERY JUDGMENT MADE IN

CRL.A(MD).No.11 of 2022

25.10.2025