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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

CrI.O.P.(MD).No.23099 of 2022

and CRL.M.P(MD)No.16388 of 2022

1. K.R.M Radhakrishnan

2. Jegatheesan

...Petitioners / Accused No.1 and 2

Vs.

1. The State, Rep. by Inspector of Police,

Arumuganeri Police Station, Thiruchendur Taluk,

Thoothukudi District (Crime No. 241 of 2022)

...1st Respondent/Complainant

2. Sivasakthivel

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with the impugned charge sheet in C.C.No.73 of 2022 so



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far as the petitioner is concerned pending on the file of the learned Judicial Magistrate-I, Tiruchendur and Quash the same in so far as the petitioners.

For Petitioner : M/s.S.Sarvagan Prabhu

For Respondents : M/s.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R1

ORDER

This Criminal Original Petition is filed to quash the impugned charge sheet in C.C.No.73 of 2022 so far as the petitioners are concerned pending on the file of the learned Judicial Magistrate-I, Tiruchendur.

2. The case of the prosecution is that the defacto complainant having a landed property near Seenaththoopu. 1st petitioner is the adjacent land owner. The 1st petitioner was levelling his land with JCB and encroached upon the land of the defacto complainant. When the same was questioned by the defacto complainant, the petitioner used filthy language against the defacto complainant and attacked the defacto complainant. Based on the complaint from the defacto complainant case was



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registered against the petitioners for the alleged offences under section 294(b), 323 and 506(i) of IPC.

3. The primary contention of the petitioner is that Section 294(b) of the IPC is not attracted. The said provision is reproduced hereunder:

“294(b) singing, reciting, or uttering any obscene song, ballad, or words in or near a 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.”

4. As per the prosecution the alleged occurrence took place near Ayyanar temple. When the survey of the land was conducted, the defacto complainant had asked whether the land in Seenaththoopu was purchased by the petitioners, the petitioners standing near the temple allegedly uttered the offending words. But the specific contention of the petitioners, that no such incident happened at all and further the alleged utterance would not constitute an offence under section 294(b).

5. On perusing the final report, it is seen the case of the prosecution is that the alleged occurrence happened near temple. But the final report has not stated whether



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there were several persons in the place of occurrence and further has not stated whether it causes annoyance to others. The prosecution ought to prove that the offender has done any obscene act or uttered the word in any public place and has caused annoyance to others. When the final report is not stating any ingredient of “annoyance”, then the section 294(b) is not attracted.

6. It has to be examined whether the act had the effect of corrupting the mind of the defacto complainant and others. The same issue was considered by the Hon’ble Supreme Court of India in the case of *N.S. Madhanagopal and Another v. K. Lalitha [(2022) LiveLaw (SC) 844]*, and the relevant portion is extracted hereunder:

“ 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 Harian observed that in order to be 'obscene' the matter must 'tend is sexually impure thoughts’. I do not think



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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 S.294(b) IPC.”

7. Even in the present case, the alleged uttered words would not have such a tendency, it may be that the words are defamatory of the defacto complainant, but the same cannot consider as 'obscene' to constitute an offence punishable under S. 294(b) IPC. Infact the alleged words uttered has become causal utterance now-a-days. Therefore, this Court is of the considered opinion that such an utterance would not corrupt the mind of the defacto complainant. Therefore, the same cannot be construed as an offence under Section 294(b) of the IPC.

8. As far as the allegation under section 323 of IPC is concerned, learned counsel appearing for the petitioner submitted on the bare reading of the provision, it would be evident the said provision would not be attracted. The Section 323 of the IPC is extracted hereunder:



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*“Section 323 of the Indian Penal Code (IPC) deals with the punishment for **voluntarily causing simple hurt**. Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both”.*

9. In support of this contention, the petitioner has relied upon the case of *Abhishek Saxena v. The State of Uttar Pradesh and Another*, Criminal Appeal No. 3628 of 2023. The relevant portion is extracted hereunder:

“9. As noted earlier, except the statement that “they beat up me”, by the complainant no material whatsoever is available on record in regard to the commission of the said offence. The incident allegedly occurred on 12.06.2016. In the recorded statement of the second respondent-complainant or in the counter affidavit filed by the first respondent there is not even a whisper that after the incident she went to a doctor or underwent any kind of treatment. Needless to say, that there is no statement- at least that injury report was prepared. In this context, it is also to be seen in respect of the incident, the FIR got registered only on 04.09.2016, that too much after the filing of petition No. 13/2016 by the appellant herein. Above all, as noted earlier, basic in-



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gredients to constitute an offence under section 323 IPC is lacking in the charge sheet.”

10. In the present case, the learned counsel appearing for the defacto complainant submitted that the complainant had sustained an injury. However, when he went to the hospital, he merely stated that he was experiencing pain and subsequently left without undergoing any treatment, stating that he would seek treatment elsewhere. Moreover, no wound certificate has been produced. It is also noted that the nature of the alleged offence does not necessarily result in a visible wound therefore, a wound certificate may not be essential in the present case. Nevertheless, there is no other evidence to substantiate that the defacto complainant actually suffered any injury. Therefore, this Court is of the considered opinion that the ingredients stated in Section 323 of the IPC is not attracted.

11. As far as Section 506(i) of the IPC is concerned, the alleged words uttered by the petitioner may constitute filthy language and defamatory, but there is no crim-



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inal intimidation. Hence, there are no materials available to show that there is criminal intimidation, hence the said section may not be applicable.

12. Therefore, this Court is inclined to allow the present petition. Accordingly, this Criminal Original Petition is allowed and the impugned charge sheet in C.C.No. 79 of 2022 on the file of the learned Judicial Magistrate-I, Tiruchendur, is hereby quashed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No

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Index : Yes / No

Internet : Yes/ No

KSA



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To

1. The Judicial Magistrate Court-I, Tiruchendur, Thoothukudi
2. The Inspector of Police, Arumuganeri Police Station, Thiruchendur Taluk, Thoothukudi District
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



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S.SRIMATHY, J.

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