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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2025

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

CrI.O.P.(MD).No.22871 of 2022

and

CRL.M.P(MD)No.16184 of 2022

K.R.M Radhakrishnan

...Petitioner/Sole Accused

Vs.

1. The State, Rep. by Inspector of Police,
Arumuganeri Police Station, Thiruchendur Taluk,
Thoothukudi District (Crime No. 46 of 2022) ...1st Respondent/Complainant

2. Kalayasundaram ...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.79 of 2022 so 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 petitioner.

For Petitioner : M/s.S.Sarvagan Prabhu

For Respondents : M/s.E.Antony Sahaya Prabahar

Additional Public Prosecutor for R1



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ORDER

This Criminal Original Petition is filed to quash the impugned charge sheet in C.C.No.79 of 2022 so far as the petitioner is concerned pending on the file of the learned Judicial Magistrate-I, Tiruchendur.

2. The brief facts of the case are that the defacto complainant contested the local body election, in which the petitioner emerged as the winner. On 15.02.2022, at about 7.45 p.m., the petitioner allegedly threatened the defacto complainant in filthy language with dire consequences, if the defacto complainant contest the election. Based on the said complaint, a First Information Report was registered under Sections 294(b) and 506(ii) of the IPC. Subsequently, the FIR was altered and the offence was modified to Section 506(i) of the IPC. After completion of the investigation, a charge sheet was filed.

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



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“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 on the roadside near DMK's own building which was functioning as Head Office for Local Body Election. When the defacto complainant was standing near the party office, the petitioner was travelling in a car. While crossing the said party office, he allegedly uttered the offending words. But the specific contention of the petitioner is that no such incident happened at all.

5. On perusing the final report, it is seen the case of the prosecution is that the alleged occurrence happened on the roadside near the DMK's office. But the final report has not stated whether there were several persons in the office 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



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caused annoyance to others. When the final report is not stating any ingredient of “annoyance”, then the section 294(b) is not attracted.

6. Further it is seen that the occurrence happened near party office. It can neither be treated as a public place nor as being inside the party office. Therefore, the benefit of doubt can be extended to the accused.

7. 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



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lustful desires". Mr. Justice Harian 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 S.294(b) IPC."

8. 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. Further the occurrence arose out of a political election. Therefore, the same cannot be construed as an offence under Section 294(b) of the IPC.



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9. As far as Section 506(ii) of the IPC is concerned, the same was altered in the final report to Section 506(i) of the IPC. The alleged words uttered by the petitioner may constitute filthy language and defamatory, but there is no criminal intimidation. Hence, there are no materials available to show that there is criminal intimidation, hence the said section may not be applicable.

10. 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. No costs. Consequently, connected miscellaneous petition is closed.

25.10.2025

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NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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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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