



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-01-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No. 18803 of 2022

and CrI.M.P.No. 12436 of 2022

1. M.Beermohamed

2. B.Betha Begam

..Petitioners

Vs

A.Velmurugan

..Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to quash the entire proceedings pursuant to the C.C. No.103/2021 for the alleged offences under Sections 294 (b), 341, 323 and 506(i) of IPC, pending on the file of the Judicial Magistrate Court at Sangarapuram.

For Petitioners : Mr. T.Balachandran

For Respondent : No appearance

ORDER

The present Criminal Original Petition is filed to quash the entire proceedings in C.C. No.103/2021 pending on the file of the Judicial Magistrate Court at Sangarapuram, for the alleged offences under Sections 294 (b), 341, 323 and 506(i) of IPC.

2. The learned counsel for the petitioners submitted that the private complaint is an offshoot of a matrimonial dispute pending between the



petitioners and the respondent/complainant. Even taking into consideration the entire materials available on record at their face value, the offences under Sections 294(b), 341, 323 and 506(ii) of IPC cannot be made out as against the petitioners. He further submitted that in order to make out a case for offence under Section 294(b) of IPC, the place of occurrence should be a public place or near a public place. As per the complaint, admittedly, the occurrence is said to have taken place inside the house. Further, absolutely, there was no material to show that the respondent/complainant suffered any injury during the occurrence. Further, in order to make out a case for offence under Section 506 (ii) of IPC, the threat should be a real one and not a mere word when the person uttering it does exactly mean what he says and also when the person at whom the threat is launched does not feel threatened actually. He further submitted that empty threat does not *prima facie* mean that the case under Section 506 of IPC is made out against the petitioners and hence, the entire proceedings is nothing but an abuse of process of law and it is liable to be quashed.

3. In support of the above submission, the learned counsel for the petitioners placed reliance on the decision of the Apex Court in **Pawan Kumar vs. State of Haryana and another** in (1996) 4 SCC 17 and also the decisions of this Court in **Murugavel vs. State represented by the Inspector of Police, All Women Police Station** in 2019 SCC OnLine Mad 26824 and also in **Thavalingam and another vs. State by Inspector of Police** in 2019 SCC



OnLine Mad 33284.

4. The learned counsel further submitted that the petitioners are the brother-in-law and wife of the brother-in-law of the complainant. He further submitted that there was no requirement for the complainant to come to the house of the petitioners and it is the complainant who had come to the house of the petitioners, created ruckus and filed a false complaint against the petitioners. Further, the second petitioner's sister, who is married to the complainant, was harassed and tortured by the complainant and that she has filed O.S.No.149 of 2019 before the Principal District Munsif Court, Sankarapuram, seeking divorce and the complainant has filed H.M.O.P.No.64 of 2019 seeking restitution of conjugal rights.

5. Despite service of notice and printing the name of the respondent/complainant, there was no representation for the respondent on 12.01.2025 and on subsequent dates and hence, this Court had directed the matter to be listed under the caption "for orders" today. Even today, there was no representation for the respondent.

6. Admittedly, the complainant is the brother-in-law of the second petitioner who married the second petitioner's sister. There are matrimonial disputes pending between the complainant and the second petitioner's sister. Even admittedly, as per the complainant, the complainant is said to have come



to the house of the petitioners and the occurrence is said to have taken place inside the house of the petitioners. Though the complainant claims that he was assaulted, due to which he suffered injuries, no material had been placed by the complainant to substantiate the allegations that he was assaulted. Further, the incident had taken place inside the house and the petitioners are said to have intimidated him.

7. The Hon-ble Apex Court, in **Pawan Kumar Vs State of Haryana and another**, (1996) 4 SCC 17, at Paragraph Nos.8 & 9, has held as follows:-

“8. Section 294 of the Indian Penal Code reads 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 utter 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.

9. In order to secure a conviction the provision requires two particulars to be proved by the prosecution, i.e., (i) the offender has done any obscene act in any public place or has sung, recited or uttered any obscene songs or words in or near any public place; and (ii) has so caused annoyance to others. If the act complained of is not obscene, or is not sung, recited or uttered in or near any public place, or that it causes no annoyance to others, the offence is not committed.”

8. This Court, in **Murugavel Vs State represented by the Inspector of Police, All Women Police Station**, 2019 SCC Online Mad 26824, has held as under:-



“4.

9. This Court in a decision in *Noble Mohandass Vs State*. 1989 Crl.J 669 has held as follows:

Further for being an offence under Section 506(ii) which is rather important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually. In Fact PW 1 when she filed the complaint to the police office, did not express any fear for her life nor asked for any protection.

10. In a similar offence, the Punjab and Haryana High Court quashed the proceedings in respect of the offence under Section 506(ii) IPC in a case in *Usha Bala v.State of Pubjab (P&H)*, 2002(2) C.C. Cases 320(P&H), that

“Empty threat does not prima facie mean that the case U/s.506, IPC is made out against the petitioner. Hence, in face no case is made out against the petitioner.

Consequently FIR No.313 dated 15.07.1999 U/s.406/498(A) IPC of Police Station, Sadar, Patiala is quashed qua the petitioner only“

5. He also relied on the judgment of the Apex Court in the case of *Vikram Johnar vs State of Uttar Pradesh* and another in Criminal Appeal No.759 of 2019.

“27. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by *Fiona Shrikhande (supra)* has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegations is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are ingredients which have to be proved by the prosecution? *Ratanlal & Dhirajlal on Law of Crimes*, 27th Edition with regard to proof of offence states following:

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 of some one in whom he was interested

(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."



9. In **Thavalingam and another Vs State by Inspector of Police,**

2019 SCC OnLine Mad 33284, this court has held as under:-

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"26. Further, in order to prove the offence under Section 294(b) of IPC, the Prosecution should prove the necessary ingredients of Section 294(b) of IPC, viz. (i) an obscene act must have been done in a public place, or (ii) acts were done by the accused causing annoyance to others.

27. In (1996) 4 SCC 17 (Pawan Kumar v. State of Haryana), the Honourable Supreme Court had held thus:-

9. In order to secure a conviction the provision requires two particulars to be proved by the prosecution, i.e. (i) the offender has done any obscene act in any public place or has sung, recited or uttered any obscene songs or words in or near any public place; and (ii) has so caused annoyance to others. If the act complained of is not obscene, or is not done in any public place, or the song recited or uttered is not obscene, or is not sung, recited or uttered in or near any public place, or that it causes no annoyance to others, the offence is not committed. ..."

28. In (2010) 8 SCC 628 (Madan Mohan Singh v. State of Gujarat), it was held that where FIR itself did not have any material or was not capable of being viewed as having material for offence under Sections 306 and 294(b) IPC, the First Information Report was liable to be quashed.

29. In 2019 SCC OnLine Ker 2112 (James Jose v. State of Kerala), it was held as under:-

"6. On a perusal of Annexure A2, it would reveal that none of



the ingredients under Section 294(b) of the Penal Code, 1860 is attracted. The vague allegation or general statement that there was utterance of obscene words in the FIR is not enough to constitute an offence under Section 294(b) of the Penal Code, 1860. In order to attract Section 294(b) IPC, the place of occurrence should be a 'public place' or near a 'public place'. The allegation against the petitioner is that he has threatened the victim and uttered obscene words by using mobile phone and that will not tantamount to prove that he called obscene words in a public place or near a public place. So, the ingredients as contemplated under Section 294(b) of the IPC is not attracted"

10. In view of the settled principles laid down in the above decisions, this Court finds that the allegations against the petitioners are not made out and the further proceedings against the petitioners in C.C.No.103 of 2021 on the file of the learned Judicial Magistrate at Sangarapuram, is nothing but an abuse of process of law and is liable to be quashed and accordingly, it is quashed. The Criminal Original Petition stands allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

12-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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A.D.JAGADISH CHANDIRA, J.

SRM

To

The Judicial Magistrate,
Sangarapuram.

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