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CrI.O.P.No.17175 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.17175 of 2023 and
CrI.MP.Nos.11059 & 11062 of 2023

Venkatesan

... Petitioner

Vs.

1.State Rep by
Inspector of Police,
Tholasampatty Police Station,
Salem District
(crime No.86 of 2022)

2.Boopathi

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C.
praying to call for the records in CC.No.253 of 2022 on the file of the
Judicial Magistrate Court, Omalur and quash the same.

For Petitioner : Mr.N.U.Pressanna

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : Mr.T.Ganesan

ORDER

This criminal original petition has been filed praying to
quash the proceedings in CC.No.253 of 2022 on the file of the Judicial



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2. The case of the prosecution is that due to a land dispute between the defacto complainant and the petitioner's father namely Marimuthu, there is an inimical attitude between both the families nearly for the past 25 years. While so, on 26.04.2022 at 08.30 A.M, when the defacto complainant was standing in his agricultural land along with his wife namely Dhanabakkiyam, the petitioner came in a tractor and tried to enter his patta land. On witnessing the same, his wife questioned the petitioner and stopped him from entering further. As a revenge, the petitioner abused her with filthy languages and when the same was videographed, the petitioner punched the defacto complainant on his chest and kicked on his hip. Hence, he fell down and sustained injuries on his right leg. Thereafter, he was taken to hospital for treatment. Hence, on a complaint, FIR was registered in Crime No.86 of 2022 for the offence under Sections 294(b) and 323 of IPC. Thereafter, on completion of investigation, final report was filed and the same was taken cognizance in CC.No.253 of 2022 on the file of the Judicial Magistrate Court, Omalur

3. Heard, the learned counsel appearing on either and perused all the materials placed before this Court.



4. On perusal of the records and on hearing the submissions of the learned counsel appearing on either side, it is revealed that the entire allegations are trivial in nature and there is already dispute with regards to an agricultural land between the petitioner and the second respondent. Further, to attract the offence under Section 294(b) of IPC, there must be an uttering of words in or near any public place to affect the person. In this regard it is relevant to extract Section 294(b) of IPC, as follows:-

"294. Obscene acts and songs —Whoever, to the annoyance of others—

(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."

5. Admittedly, there is absolutely no words uttered by the petitioner in a public place as such to constitute the offence under Section 294(b) of IPC, there are no averments and allegations. It is relevant to rely upon the judgment reported in **“Pawan Kumar v. State of Haryana), (1996) 4 SCC 17”** wherein the Hon’ble Supreme Court had held thus:—

“9. In order to secure a conviction, the provision



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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.”*

6. Therefore, to prove the offence under Section 294 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 also lacking in the case. The above judgment is squarely applicable to the present case and therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioner.

7. Further, in order to attract the offence under Section 323 of IPC, no injury was sustained by the second respondent and the doctor who examined the second respondent opined that the injury sustained by the second respondent was simple in nature. Therefore, in order to meet the ends of justice, this Court is inclined to quash the impugned proceedings.



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8. Accordingly, this criminal original petition is allowed and

the entire impugned proceedings is quashed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To

- 1.Judicial Magistrate Court, Omalur
- 2.State Rep by
Inspector of Police,
Tholasampatty Police Station,
Salem District
- 3.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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