

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
OTTAPIDARAM**

Present :- Tmt.A.Jeyanthi. M.L.,
District Munsif Cum Judicial Magistrate, Ottapidaram

Dated this the 28th day of June 2023, Wednesday

CC.No. 67/2023

CNR.NO. TNTT001781-2022

Complainant : The State of Tamilnadu,

Rep by The Sub Inspector of Police,

Ottapidaram Police Station,

Cr.No. 30/20

Accused : Sivalingam(Age 63/2020)

S/o.Velu

Offences : U/s.294(b) and 506(II) of IPC and Section 4 of TNPHW Act.

Findings : **In the result the accused Mr.Sivalingam is found not guilty for the offences U/s. 294(b) and 506(II) of IPC and Section 4 of TNPHW Act. He is acquitted u/s.248(1) of CrPC from the charges framed against him. He is set at liberty.**

No material object has been marked in the case.

Sentence: NIL

The case was taken on file as C.C.263/2021 on 04.10.21 by the Hon'ble District Munsif cum Judicial Magistrate, Vilathikulam and the same was transferred as per the proceedings of the Hon'ble Principal District Judge, Thoothukudi in

A1.No.282/2022 dated 11.10.2022 to this court and this court assigned New No as C.C.67/2023 on 20.01.2023 which came up for final hearing on 28.06.2023 in the presence of Tr. P.Murugesan Assistant Public Prosecutor Grade I, for complainant, the Learned Advocate Mr.R.P.Maniperumal appeared for the accused and after hearing the arguments of counsel for both sides, and after careful consideration of the entire evidence, and having stood over till this day for consideration, this court delivers the following: -

JUDGEMENT

1. The Sub Inspector of Police, Ottapidaram had laid the Final Report against the accused alleging commission of the offences U/s.294(b), 506(I1) of IPC and Section 4 of TNPHW Act.

2. The prosecution case is as follows:-

That the defacto complainant Chandrakala and the accused Sivalingam are residing at North street, Ceylon colony, Panchalangurichi. The defacto complainant and the accused had a previous enmity regarding laying water pipe line which was discussed in the Grama Saba meeting held on January 26. From that date onwards the accused used to utter filthy languages whenever he saw the defacto complainant. That on 15.03.2020 at 6.00 p.m when the defacto complainant was standing in front of her house the accused came there and used filthy languages towards the defacto complainant also threatened that he would kill the defacto complainant which caused embarrassment to her. Hence the accused had committed the offences U/s.294(b), 506(II) of IPC and Section 4 of TNPHW Act.

3. On appearance of the accused before Honourable District Munsif Cum Judicial Magistrate, Vilathikulam copies of the case records in compliance of Section 207 CrPC were furnished to the accused. The accused engaged a counsel and since there was a prima facie case the accused was not discharged and the court questioned him for the offences and framed charges u/s.294(b), 506(II) of Indian Penal Code and Section 4 of TNPHW Act against him. The charges were read over and explained to him. The accused denied the offences and pleaded not guilty to the charges framed against him. Hence the court put the accused on trial.

4. Subsequently PW1 filed Cr.M.P.No.2992/2023 and sought for compounding the offences as there was an out of court settlement. Considering the fact that the offence is non compoundable, the same was dismissed.

5. After service of summons, the witnesses have appeared before the court and proceeded to examine the witnesses. The prosecution has examined PW1 and PW2 and marked Ex.P1 to Ex.P5 through relevant witnesses.

6. The accused have not examined any witnesses and marked no documents.

7. **The case on the basis of evidence of prosecution** is while on 17.03.2020 at 11.00 a.m Mr.Siva(LW7) GrI PC 918 was on duty at Ottapidaram police Station PW1 Chandrakala came to the police station and gave Exhibit P1 Complaint. The F.I.R was registered as crime number 30/2020 for the offences U/s.294(b), 506(II) of Indian Penal Code and Section 4 of TNPHW Act. The F.I.R was marked as Exhibit P3. The original complaint and the FIR were forwarded to the Hon'ble District Munsif Cum Judicial Magistrate, Vilathikulam. The true copies were sent to the

concerned higher officials. He submitted the file before Mr.Ebenezer(LW8), Investigating Officer.

8. On 17.03.2020 at 12.00 hrs Mr Ebenezer, (LW8) Sub Inspector of Police Ottapidaram Police Station(IO) took the file for investigation and he went to the place of occurrence and inspected the place of occurrence in front Anushya(LW5) and Sumathi(LW6) and prepared Rough Sketch Exhibit P4 and Observation Mahazar Exhibit P5.After that he examined PW1Chandrakala, Ramkumar(LW2), Dhanalakshmi(LW3),Arunkavi (LW4),Anushya (LW5), Sumathi(LW6), Siva(LW7) individually and recorded their statements.On 17.03.2020 at 14.30 hrs the accused was arrested after stating the reason for arrest at Ottapidaram Bazar and he was forwarded to the judicial custody. After completing the investigation on 19.03.2020 LW8(IO) had laid the positive final report against the accused.

9. On the closing of evidence by the prosecution the accused was questioned u/s.313(1)(b) of CrPC on the incriminating evidence available on record and the accused denied the evidences as false and had not examined any defence witnesses.

10. The learned Assistant Public Prosecutor submitted that the evidence are upto the mark for convicting the accused and prayed to convict the accused.

11. The learned counsel for the accused argued that there was contradiction and infirmities in the prosecution evidence. The evidence are contrary and not trust worthy. Hence the prosecution did not prove the case beyond reasonable doubt and prayed for acquittal.

12. Upon hearing the arguments of Learned Assistant Public Prosecutor and the Learned Advocate for the accused **the points for determination is:**

a) Whether the prosecution has proved their case against the accused beyond any reasonable doubt ?

13. Discussions and Decisions :-

The prosecution case is that the accused used filthy language towards PW1, criminally intimidated her which caused embarrassment to PW1.

14. In order to prove the occurrence, the Investigation Officer has cited 8 witnesses including the defacto complainant. Out of the 8 witnesses, PW1 and PW2 were examined.

15. PW1 Chandrakala in her chief examination deposed that she is residing at Ceylon colony. She was acquainted with the accused. Three years before recording her evidence on January 26 she and accused had an altercation regarding waterline dispute. Hence she gave Ex.P1 complaint with exaggeration. She also admitted the matter was settled with the accused and she has no further complaints against the accused. She has also filed Compromise petition Ex.P2. She was declared as hostile witness by the prosecution and also prosecution cross examined her. In her cross examination by the prosecution she did not admit the prosecution case.

16. On analyzing the entire evidence, in the trial, PW1 turned hostile and did not support the prosecution case and she had deposed against the prosecution. Noticing the PW1's somersault against the prosecution, the learned Public Prosecutor declared her as hostile witness. The permission was given to the

learned APP to put questions to PW1, at the time of cross examination of the prosecution also she totally rejected the prosecution case. However it is made out by the prosecution that there is a compromise arrived between the parties, she is suppressing the truth. The Complaint namely Ex.P1 thus could not be proved through its author. In the absence of meaningful evidence from Complainant herself this court cannot hold the accused had involved in the incident as narrated by the prosecution.

17. The Learned Assistant Public Prosecutor by noticing the hostile evidence of PW1 ,and also as the compromise petition was filed he dispensed with the examination of material witnesses and the Investigation Officer. However Mr. Mariappan Special Sub Inspector of police,Ottapidaram police station was examined as PW2 to speak about the registration of FIR and the manner in which the investigation was done. Ex.P3 to Ex.P5 had also been marked through PW2. Fact remains that the prosecution could not get reliable evidence to prove the charges against the accused and while so, examination of PW2 would not serve any purpose.

18. There is no materials available on record which connect the fact that the accused used filthy languages towards the defacto complainant, threatened her and caused embarrassment to her. There is nil evidence as against accused in so far as the prosecution case as projected by the prosecution and this court unable to hold that the prosecution have even made out any offence even for suspect in the accused. Hence this court holds that, the prosecution is literally failed to prove the charges levelled against the accused.

19. Hence this court has no other option except to hold that the prosecution has miserably failed to prove the case against the accused beyond reasonable doubt and having said so, this court is only complying the ratio of the **Honourable Supreme Court in State of UP //Vs// Naresh and others (2011) 4 SCC 324, holding the presumption regarding innocence of the accused is a human right.** Hence this court is unable to hold that the accused is guilty of the offences as there is no material to connect the offence with the accused.

20. In the result the accused Mr.Sivalingam is found not guilty for the offences U/s. 294(b) and 506(II) of IPC and Section 4 of TNPHW Act. He is acquitted u/s.248(1) of CrPC from the charges framed against him. He is set at liberty.

No material object has been marked in the case.

This Judgment directly typed by me in my laptop corrected and pronounced by me in the open court on the 28th day of June 2023.

District Munsif Cum Judicial Magistrate,
Ottapidaram

ANNEXURE

LIST OF PROSECUTION WITNESSES :-

- PW1 - Tr.Chandrakala(Defacto complainant)
- PW2 - Mr.Mariappan(The Special Sub Inspector of police)

LIST OF EXHIBITS MARKED BY PROSECUTION :-

- Ex.P1 - Complaint statement

Ex.P2 - Compromise petition

Ex.P3 - First Information Report

Ex.P4 - Rough Sketch

Ex.P5 - Accident Register

LIST OF M.O MARKED BY PROSECUTION :- Nil

LIST OF DEFENCE WITNESSES : - Nil

LIST OF EXHIBITS MARKED BY DEFENCE :- Nil

District Munsif Cum Judicial Magistrate,
Ottapidaram

Case Summary Instructions

Case No.67/2023

Name of the Police Station:Ottapidaram

Cr.No. 30/2020

u/s: U/s.294(b) and 506(I1) of IPC and Section 4 of TNPHW Act.

(i)	The period of remand of the accused	17.03.2020		
(ii)	The date of filing of the Complaint/Final Report in the Court	17.03.2020/04.10.21		
(iii)	The date of committal of the case to the court of sessions	Nil		
(iv)	The date of questioning of the accused u/s.228,240,246 and 251 of Cr.P.C, 1973	13.07.22		
(v)	Filing of all miscellaneous petitions and their results including results on challenge before superior court except 317 petitions	311 CrPC – Allowed 320 CrPC - Dismissed		
(vi)	Date of examination in chief and cross examination of a witness	Name of the witnesses examined	Chief	Cross
		Chandrakala	20.06.23	20.06.23

		Mariappan	24.06.23	24.06.23
(vii)	Date of examination of the accused u/s.313 of the code	28.06.23		
(viii)	Details of abscondance of the accused and his appearance/production	Nil		
(ix)	Grant of stay by superior courts and the result	Nil		

District Munsif Cum Judicial Magistrate,
Ottapidaram

Form No.61

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Sentence: NIL

Description of the Accused

No (1)	Name (2)	Father's Name (3)	Caste or Race (4)	Occupation (5)	Residence (6)	Age (7)
1.	Sivalingam	Velu	Hindu	Coolie	1/233, North street, Cylone colony	63/20

Date

Occurrence (8)	Complaint (9)	Apprehension or appearance (10)	Release on bail (11)	Commencement of Trial (12)	Close of trial (13)	Sentence or Order (14)	Explanation of Delay (15)
15.03.20	17.03.20	17.03.20	24.03.20	13.07.22	24.06.23	28.06.23	-

District Munsif Cum Judicial Magistrate,
Ottapidaram.