

**In Re: S. Gopal**

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**SooperKanoon Citation :** [sooperkanoon.com/793145](http://sooperkanoon.com/793145)

**Court :** Chennai

**Decided On :** Nov-14-1951

**Reported in :** AIR1953Mad413; (1952)1MLJ470

**Judge :** Ramaswami, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 504

**Appeal No. :** Criminal Revn. Case No. 299 of 1951 and Criminal Revn. Petn. No. 298 of 1951

**Appellant :** In Re: S. Gopal

**Advocate for Def. :** Narayanan Nair, Adv. for State Prosecutor

**Advocate for Pet/Ap. :** M.C. Sreedharan, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**Ramaswami, J.**

1. The criminal revision petitioner lost his temper and abused the complainant a woman in grossly abusive and deliberately insulting language, and the argument put forward on his behalf is that the essentials of the section have not been made

out. I regret my inability to accept this contention. Section 504, I. P. C., requires two essentials. There must be intentional insult of a person and thereby due provocation to him or to her and secondly the person insulting must intend or know it to be likely that such provocation would cause prejudice to the public peace. But it has been laid down by a long line of decisions that the offence may be committed under the section without the person likely to commit the breach of peace being not provoked. In order to sustain the conviction under this section it is sufficient for the complainant to prove that the abusive language was such as would ordinarily provoke the man or woman of his or her position to commit a breach of the peace.

2. The mere forbearance of the person insulted being provoked is not sufficient to protect the offender. The only two points necessary are that the person insulted must be present and such insult must give provocation to the person so insulted then or soon after to commit a breach of the peace. In this case these requirements have been completely fulfilled and the fact that the woman in the position of the complainant has not committed a breach of the peace is certainly not material.

3. Finally it was pointed out that there is no finding of the Magistrate in regard to the elements of the offence committed. But it can be gathered from the concluding portion of the Judgment of the learned Magistrate that in this case the prosecution evidence has proved the elements of the offence and he has convicted the accused accordingly. I do not say that it would not have been better if the learned Magistrate had been a little more explicit. But this is far from saying that the learned Magistrate on the fundamental issue did not come to the right conclusion that the offence has been made out.

4. I, therefore, dismiss this petition.