



CrI.O.P(MD).No.1859 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 17.04.2023

Delivered On : 07.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

CrI.O.P(MD).No.1859 of 2021

and

CrI.M.P.(MD)No.927 of 2021

1.Saravana Karthick

2.Esakki Raja

3.Anand

4.Vijayaguru

...Petitioners

Vs.

1.State Rep. By,

The Inspector of Police,

Rajapalayam South Police Station,

Virudhunagar District.

Crime No.815 of 2015

...1st respondent /complainant

2.Thirumal Alagu

... 2nd Respondent/ defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in S.T.C.No. 5114 of 2018 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District and quash the same.



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For Petitioners : Mrs.S.Ragaventhre for Mr.K.Prabhu
For 1st Respondent : Mrs.M.Aasha
Government Advocate (CrI. Side)
For 2nd Respondent : No Appearance

ORDER

This petition is filed to quash the proceedings in S.T.C.No.5114 of 2018, on the file of the Judicial Magistrate, Rajapalayam.

2. The allegation against the petitioners is that on 16.12.2015 at about 11.00 a.m., when the petitioners were standing near the Rajapalayam Gandhi Statue Roundana, they used some words against the persons following a particular religion and they raised slogans and they distribute sweets celebrating Baber Matid Anniversary and that caused prejudice to the maintenance of harmony between different religions. Hence, the first respondent registered a case in Crime No.815 of 2015 under Sections 153(A), 504, 505(i)(b) of IPC which was taken on file as S.T.C.No.5114 of 2018 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District.

3. On the side of the petitioners, it is stated that except police officials no independent witness was examined or cited. None of the witnesses



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speaks about the disturbance to the public tranquillity and hence, Section 153A of IPC is not made out. None of the witnesses have given statement about the intentional insult or breach of peace and hence, Section 504 of IPC is not made out. None of the witness speaks about the fear or alarm in the minds of the public and hence, Section 505(1)(b) of IPC was not made out. Only with a political motive, a false case was registered. There was no complaint from any individual person. The defacto complainant is a police inspector. He is one of the Investigating Officer and hence, a case in S.T.C.No. 5114 of 2018 is to be quashed.

4. On the side of the prosecution, it is stated that the petitioner was distributing sweets and he raised slogans supporting the Baber Matid demolition and thereby disturbing the public tranquillity with an intention to create enmity between two religions sector of people. The petitioners have acted illegally. The defacto complainant was not the Investigating Officer. The chargesheet was filed by some other Investigating Officer, after a lapse of three years. Nine witnesses were examined. The defacto complainant is the Inspector of Police by name Thirumal Alagu whereas the chargesheet was filed by another Inspector of Police by name Mariappan and that the issue raised by the petitioners is not maintainable.



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5. Major part of the investigation was done by the same Investigation Officer. In short, in this case, the complaint was given by the Investigating Officer and the very same Investigation Officer registered the F.I.R and he conducted major portion of the investigation. Charge sheet was filed under Section 153A, 504 and 505 (1)(b) of I.P.C.

6. In view of the same, this petition is allowed and the case against the petitioners in S.T.C.No.5114 of 2018 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

07.06.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
mrn/Ls



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To



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- 1.The Judicial Magistrate,
Rajapalayam,
Virudhunagar District.
- 2.The Inspector of Police,
Thalavaipuram Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R. THARANI,J.

Ls

Pre-delivery order made in
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