



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

CRL.O.P(MD)No.8064 of 2015 and M.P(MD)Nos.1 to 3 of 2015

Abdul Rahman

... Petitioner/Accused No.1

Vs.

The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.

In Crime No.138/2014. ... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1908 praying to call for records pertaining to the proceedings in C.C.No.3 of 2015 in Crime No.138 of 2014 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai and to quash the same in respect of this petitioner.

For Petitioner	: Mr.V.Premkumar Babu
For Respondent	: Mrs.S.Prabha
	Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed praying to call for records pertaining to the proceedings in C.C.No.3 of 2015 in Crime No.138 of 2014 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai and to quash the same in respect of this petitioner.

2. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The petitioner, who is arrayed as an accused in C.C.No.3 of 2015 in pursuant to the case registered in Crime No.138 of 2014 for the alleged offences under Sections 153B(i)(a) and (2) of the Indian Penal Code and also under Section 66A(a) of Information Technology Act, 2000 read with 120(b) of the Indian Penal Code, has come forward to file this petition.

4. The learned counsel appearing for the petitioner submitted that there is no sufficient material to implicate the petitioner to the offences alleged.

5. Merely because the photographs was produced, it cannot be said that the petitioner has committed offence. Insofar as the case registered under Section 66A(a) of Information Technology Act, 2000 read with 120(b) of the Indian Penal Code is concerned, stay may be struck down unconstitutional in view of the law laid down by the Honourable Apex Court in *Shreya Singhal Vs. Union of India* reported in *III (2015) SLT 1*.

6. The learned Government Advocate (Crl.Side) based upon the vacate stay petition submitted that though Section 66A of Information Technology Act, 2000 read with 120(b) of the Indian Penal Code has been struck down, offence under Sections 153B(i)(a) and (2) of the Indian Penal Code has been made out. Therefore, no interference is required.



7. Coming to the applicability of Section 66A(a) of Information Technology Act, 2000 read with 120(b) of the Indian Penal Code is concerned, as rightly submitted by the learned counsel for the petitioner, the same has been struck down by the unconstitutional in the Judgment referred supra and therefore, this Court quash the said Section insofar as the said charge is concerned. The only other charge is said to be considered one under Sections 153B(i)(a) and (2) of the Indian Penal Code.

8. A perusal of the above said Sections shows that they are of wider amplitude and the question as to whether the said provisions are attracted to the petitioner or not will have to be decided at the time of trial.

9. Considering the same, this Court is of the view that there is a prima facie material against the petitioner, therefore, this Court is not inclined to quash the proceedings insofar as Section 153B(i)(a) and 2 of the Indian Penal Code is concerned.

10. Accordingly, this Criminal Original Petition is allowed in part by quashing the charge framed sofaras Section 66A(a) of Information Technology Act, 2000 read with 120(b) of the Indian Penal Code alone is concerned. So far as the other charge is concerned, this Criminal Original Petition is dismissed. The appearance of the petitioner is dispensed with, until and unless it is specifically required by the Court below. The trial Court will have to conclude the trial within a period of nine months from the date of receipt of a copy of this order. The trial Court is also directed to decide the issue without being influenced by the observations made in this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

1.The District Munsif cum Judicial Magistrate, Thiruvadanai.

2.The Inspector of Police,
Thondi Police Station, Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to MR.PREM KUMAR BABU, ADVOCATE IN SR : 23377

Ps

SR/KBM : 14.05.2015 : 2p/5c