

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl.RC.No.1534 of 2017
& Crl.M.P.No.15355 of 2017

P.A.Shahabudeen
President
Perunthaliyur Sunnath Janmath Pallivasal
Perunthaliyur Village, Bhavani Taluk,
Erode District.

.. Petitioner/Petitioner/Accused

Vs.

State Represented by
The Sub Inspector of Police
Kavundapadi Police Station
Erode District.

..Respondent/Respondent/Complainant

(Crime NO.89 of 2012)

PRAYER: Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C against the order in C.M.P.No.2464 of 2014 in S.T.C.No.64 of 2014 dated 26.09.2017 on the file of the learned Judicial Magistrate No.2, Gobichettipalayam.

For Petitioner : Mr.S.Kumara Devan

For Respondent : Mr.V.Arul,
Additional Public Prosecutor

ORDER

The petitioner is the accused in S.T.C.No.64 of 2014 for having committed offence under Section 153(A)(i)(a) and 506(1) of I.P.C. The petitioner filed the C.M.P.No.2462 of 2014 under Section 239 of Cr.P.C to discharge him from the case. According to the petitioner, the case was filed by the respondent against the petitioner without proper sanction from the District Collector and no document has been filed to that effect. There is no prima facie material to frame the charges either under 153 (A) or 506 (1) I.P.C. According to the petitioner, from the document filed by the petitioner, it can be proved that defacto complainant is only the vendor. From the information obtained under Right to Information Act, there was no electricity connection from 6.30 a.m to 9.00 a.m on 31.03.2012 and the same will disprove the case of the respondent.

2.The learned counsel for the petitioner relied on the judgment reported in ***1995 0 AIR (SC) 1785 (Balwant Singh and another Vs. State of Punjab)***:

"9.In so far as the offence under Section 153A IPC is concerned, it provides for punishment for promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, case or

community or any other ground whatsoever or brings about disharmony or feeling of hatred or ill-will between different religions, racial, language or regional groups or castes or communities. In our opinion only where the written or spoken words have the tendency or intention of creating public disorder or disturbance of law and order or affect public, tranquillity that the law needs to step in to prevent such an activity. The facts and circumstances of this case unmistakably show that there was no disturbance or semblance of disturbance of law and order or of public order or peace and tranquillity in the area from where the appellants were apprehended while raising slogans on account of the activities of the appellants. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153A IPC and the prosecution has to prove the existence of mens rea in order to succeed. In this case, the prosecution has not been able to establish any mens rea on the part of the appellants, as envisaged by the provisions of Section 153A I.P.C, by their raising casually the three slogans a couple of time. The offence under Section 153A IPC is, therefore, not made out."

3.The learned Additional Public Prosecutor contended that the statement recorded was that the petitioner was instigating enmity between Hindu Muslim and created law and order problem. The document has been filed to prove that proper sanction has been

obtained as per G.O.Ms.No.1352 dated 05.12.2013 – Public (Law and Order-H) Department and filed on 24.02.2014.

4.The learned Judge taking note of G.O.Ms.No.1352 dated 05.12.2013, rejected the contention of the petitioner that there is no proper sanction obtained from the District Collector and held that petitioner can prove that there was no electricity connection from 6.30 a.m to 9.00 a.m on 31.03.2012 by filing document at the time of trial. The learned Judge, considering the statement of witnesses, concluded that there is a prima facie case against the petitioner.

5.Considering the materials on record, I find there is no reason to interfere with the order of the learned Judge dated 26.09.2017. In the result, this Criminal Revision is dismissed. No costs. Consequently, connected Criminal Miscellaneous Petition is closed.

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Index: Yes/No
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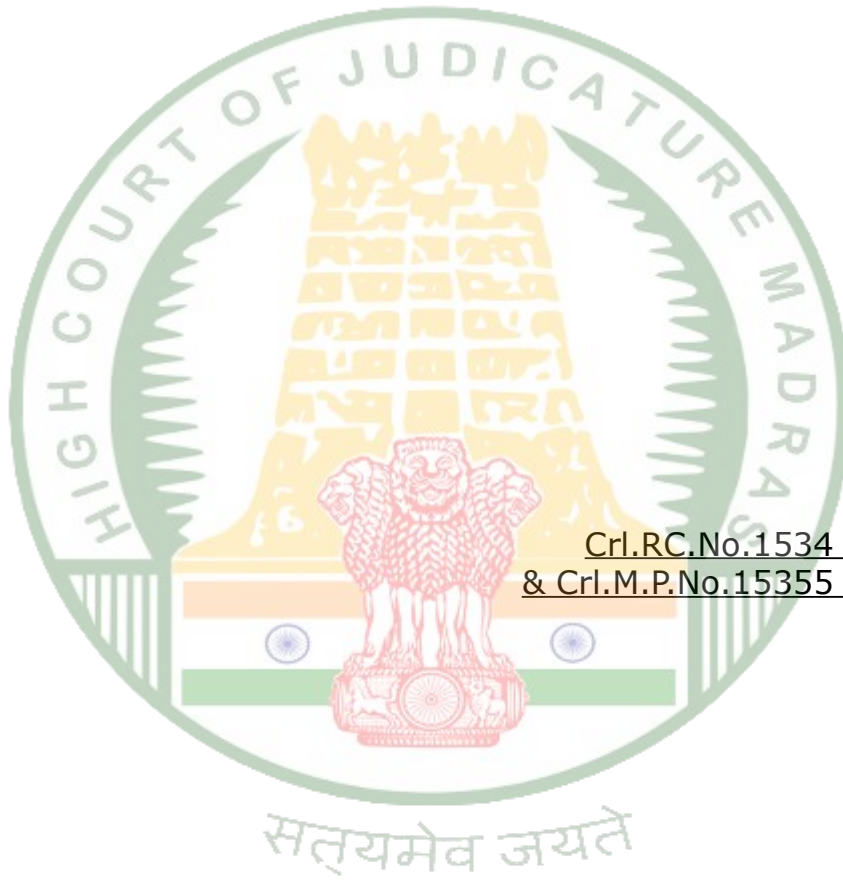
The Judicial Magistrate No.2,
Gobichettipalayam.



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V.M.VELUMANI,J.

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