

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P No.29733 of 2010
and
M.P.No.1 of 2010

1.S.Ravi
2.S.Rajanikanth ... Petitioners
vs.

State rep. by:

1.The Inspector of Police,
Thirupur North Police Station,
Thirupur.

2.M.Kuppusamy ... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records in Crime No.9137 of 2010, on the file of the 1st respondent and quash the prosecution under Section 124(A) and Sec.153(A) of IPC as illegal.

For Petitioners : Mr.R.Sankarasubbu

For Respondents : Mr.B.Ramesh Babu (for R1)
Government Advocate (Crl.Side)

JUDGMENT

The petitioner has filed this Criminal Original Petition to call for the records in Crime No.9137 of 2010, dated 24.11.10 on the file of the 1st respondent and quash the prosecution under Section 124(A) and Section 153(A) of IPC as illegal.

2.According to the petitioners, a criminal case was registered in Crime No.9137 of 2010, against them on 24.11.2010 by the 1st respondent police on the basis of a complaint given by the 2nd respondent for the alleged offences under Sections 124(A) and 153(A) of IPC. It was averred in the FIR that the petitioners during their participation in Segundanthali Murugan Memorial public meeting held on 21.11.2010 at about 6.00 p.m, which was conducted opposite to YMCA Roundaana, Thiruppur have uttered the word which according to the prosecution promoted enmity between different

groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to the maintenance of harmony.

3. According to the prosecution the Segundanthali Murugan memorial public meeting was presided by the District Organizer of Anti-Communal Association namely S.Ravi, the 1st petitioner herein and its State Secretary namely Rajinikanth the 2nd petitioner who is also an Advocate participated in the state meeting. During the meeting both of them raised voice against the Government and voiced for Anti-Parpaniyum. Their aim was to create a communal problem amongst the public of Tirupur District, besides to create Law and Order. Whereupon the 2nd respondent/ Complainant namely M.Kuppusamy, the village assistant of Rayapuram village, gave a police complaint before the 1st respondent police and the same came to be registered in Crime No.9137 of 2010 by the 1st respondent police against the petitioners herein under Sections 124(A) and 153(A) of IPC.

4. The learned counsel for the petitioners vehemently contended that the FIR registered against the petitioners herein is a false one. The petitioners have spoken in the public meeting held on 21.10.2010 at Tirupur and they only have highlighted the poverty condition of Dalith in the present scenario. In the absence of violation leading to disturbances of public order under Article 92 of Constitution of India, the words uttered by the petitioners by no strength of imagination constitute an offence under Sections 124(A) and 153(A) of IPC.

5. The learned counsel for the petitioners further strenuously contended that the alleged occurrence taken place on 21.11.2010 at 6.00 p.m., whereas the de-facto complainant after three days of the occurrence has lodged his complaint on 24.11.2010 at about 17.00 hours with a delay of 3 days. Further, the de-facto complainant was not acted on his own and acted upon by the 1st respondent police, wherein the de-facto complainant was influenced to lodge a false complaint against the petitioners.

6. Per contra, the learned Government Advocate (Criminal Side) would submit that the words uttered by the petitioners have come within the ambit of under Sections 124(A) and 153(A) of IPC and therefore they are liable to be prosecuted. Their speech has promoted enmity between classes of people and they created unrest in the society.

7. I heard Mr.R.Sankarasubbu, learned counsel appearing for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) appearing for the 1st respondent and perused the entire records.

8.I have carefully considered the rivals submission on either side. In this case admittedly the alleged occurrence took place on 21.11.2010 at Tirupur, whereas the 2nd respondent is seems to have given a complaint on 24.11.2010, three days later from the date of the alleged occurrence of offences. It is obvious that there is a delay of 3 days in making a complaint for the alleged occurrence. However, there is no say as to why the complaint was not lodged immediately and there was a delay of three days. Further the prosecution failed to establish any reason whatsoever, as to what prevented the 2nd respondent from lodging the complaint on the same day or in the very next day. Though there is a delay of 3 days, the authorities have not acted seriously in this case to make the complaint immediately, the 2nd respondent being the government servant it is his duty to report all the incidents every day. Therefore, to ensure administration of justice this Court has no other go except to quash the F.I.R. by invoking the extraordinary power conferred under Section 482 of Cr.P.C.

9. There is absolute failure on the part of the prosecution to explain the delay in lodging the complaint, despite the 2nd respondent being a Village Assistant. An unexplained delay in lodging the F.I.R. would render the Criminal Proceedings an abuse of process of law.

10. All the records are perused, but in the considered opinion of this Court, no offence is made out as per the allegations leveled in the F.I.R. At the same time, the 1st respondent also failed to take up the investigation to reach out the finality, all these reasons would show keeping the F.I.R. in pending, no useful purpose would be served.

11. Therefore, this Court is of the opinion that the F.I.R. registered against the petitioners is liable to be quashed on the sole ground of delay. If at all really the petitioners have committed any offence as alleged by the respondent police, they would have registered the F.I.R. forthwith from such occurrence.

12. In the light of the discussion made above, this Court is of the considered opinion that the prosecution has failed to explain the delay in lodging a complaint. Therefore, the F.I.R. registered against the petitioners is liable to be quashed.

13. Accordingly, the Criminal Original Petition stands allowed and the Crime No.9137 of 2010, on the file of the 1st respondent Police, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vs
To
The Inspector of Police,
Thirupur North Police Station, Thirupur.

Crl.O.P No.29733 of 2010 and
M.P.No.1 of 2010

rr(co)
ss(1/8/2017)



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