



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.05.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.16557 of 2016

and

Crl MP (MD)No.8130 of 2016

P.Jeyavel

... Petitioner

-vs-

1. State represented by
Inspector of Police,
Aruppukottai Police Station,
Aruppukottai,
Virudhunagar District.
(In Crime No.346 of 2016)

... 1st Respondent/Complainant

2.Sudhakar

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to FIR in Crime No.346 of 2016 on the file of first respondent police dated 04.05.2016 and quash the same.

For Petitioners	: Mr.C.Jeyaprakash
For 1 st Respondent	: Mr.K.Anbarasan Government Advocate (Crl.side)
For 2 nd Respondent	: No appearance

O R D E R

This matter has been posted today in the Special Sitting for hearing based on the request letter dated 25.04.2017 given by the learned counsel for the petitioner. It is seen that notice has been served on the defacto complainant/R2 and he has not chosen to enter appearance and therefore, his name has been printed in the cause list.

2. On the complaint given by the second respondent, the first respondent police registered a case in Crime No.346 of 2016 on 04.05.2016 under Sections 294(b), 506(1) of IPC and Section 66-A of the Information Technology Act, 2000, challenging which the sole accused is before this Court.



3. On reading of the FIR, it is averred by the defacto complainant that as he is holding a very high position in various Organizations and that in order to defame him, the petitioner/accused had posted certain comments in his Face Book account, which are said to be uncharitable and in bad taste. The defacto complainant has not even stated as to what those comments are, to the Police. He has merely stated that the Face Book posts are offensive in nature and nothing more. The Hon'ble Supreme Court in the case of **Shreya Singhal vs. Union of India**, reported in **(2015) 5 SCC 1** has struck down Section 66-A of the Information Technology Act, 2000 in its entirety as unconstitutional. Further, the FIR does not contain any averment to sustain the prosecution of the petitioner under Sections 294(b) and 506(1) IPC.

4. In the result, this petition is allowed and the case in Crime No.346 of 2016 on the file of first respondent Police is hereby quashed.

5. At this juncture, it is stated that the petitioner's mobile phone has been seized by the Police and if that is so, the petitioner shall make necessary application before the Trial Court for return of the property under Section 452 Cr.P.C. and on such application being made, the same shall be returned to the petitioner without any condition, but after proper identification. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Aruppukottai Police Station,
Aruppukottai,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

vsg/ar
js/SV/9.05.2017/2P-3C

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and
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