

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.22693 of 2017
and Crl.M.P.Nos.13246 & 13247 of 2017

Ramaraja

... Petitioner

Vs.

1. The Inspector of Police,
Kottakuppam Police Station,
Villuppuram District.
(Crime No. 451 of 2016)

2. Rajendiran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pending on the file of the learned District Munsif-cum-Judicial Magistrate, Vanur, Villuppuram District in C.C.No.106 of 2016 and quash the criminal proceeding.

For Petitioners : Mr.E.Kannadasan

For Respondents

For R1 : Mr.Mohammed Riyaz
Additional Public Prosecutor.

For R2 : Mr.D.Veerasekaran

O R D E R

This Criminal Original Petition has been filed to quash the criminal proceeding in C.C.No.106 of 2016 for the offences under Sections 153-A(1)(a), 294(b), 506(ii) of IPC on the file of the learned District Munsif-cum-Judicial Magistrate, Vanur, Villuppuram District.

2. The learned counsel appearing for the petitioner submitted that the petitioner did not involve any crime as alleged by the prosecution. Even according to the prosecution, no offence has been made out as against the petitioner for the offence under Sections 153-A(1)(a), 294(b), 506(ii) of IPC. There is absolutely no ingredients made out as against the petitioner. Further he submitted that to proceed under Section 153-A(1)(a) of IPC, there must be averments in respect of

promoting enmity between different groups on the grounds of religious, race, place of birth, residence, language, etc. Therefore, the ingredients of the said Section is not at all made out as against the petitioner. As far as the offences under Sections 294(b) and 506(ii) of IPC are concerned, even as per the charge sheet filed by the prosecution, on 08.07.2016 at about 9.00 p.m., when the defacto complainant questioned about the shouting made by the petitioner, the petitioner scolded the defacto complainant with filthy language and also threatened him with dire consequences. Even according to the case of the prosecution, the petitioner scolded the defacto complainant not in the front of any public and no one is there on the place of occurrence. Therefore, he sought for quashing the entire proceedings.

3. The learned counsel appearing for the second respondent/defacto complainant would submit that the petitioner always creating problem and disputes between the public. On the date of occurrence, i.e., 08.07.2016 at about 09.00 p.m., when the petitioner shouting among the public and also creating nuisance, the defacto complainant questioned the same. For which, the petitioner scolded the defacto complainant with filthy language and also threatened him with dire consequences. Therefore, the ingredients for the offence under Section 153-A(1)(a) are clearly made out as against the petitioner. Therefore, he sought for dismissal of the quash petition.

4. The learned Additional Public Prosecutor would submit that the first respondent police filed a charge sheet as against the petitioner for the offence under Sections 153-A(1)(a), 294(b), 506(ii) of IPC and the trial Court has taken cognizance for the said offence in C.C.No.106 of 2016. The list of total witnesses is 10 and the trial Court would complete the entire proceedings within a period of three months. He fairly submitted that to prosecute a person under Section 153-A(1)(a) of IPC, as per the Section 196 of Cr.P.C, no Court shall take cognizance for the offence under Section 153-A(1)(a) of IPC except the previous sanctioned of the Central Government or the State Government. But in this case, no sanction was obtained from the Central Government or the State Government.

5. Heard Mr.E.Kannadasan, learned counsel appearing for the petitioners, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and and Mr.D.Veerasekaran, learned counsel appearing for the second respondent.

6. The petitioner has been charged for the offences under Sections 153-A(1)(a), 294(b), 506(ii) of IPC and same has been taken cognizance in C.C.No.106 of 2016 by the learned District

Munsif-cum-Judicial Magistrate, Vanur, Villupuram District. The allegation as against the petitioner is that on 08.07.2016 at about 9.00 p.m., the petitioner was standing near Megathamman Tempel at Nadukuppam and directing all the public to obey his words or otherwise he would create big problem in the village and thereby prevailing tension from the public. On seeing him, the defacto complainant went there and requested him not to create tension. In turn, the petitioner abused him with filthy language and also threatened him with dire consequences. Hence the case has been registered under Sections 153-A(1)(a), 294(b), 506(ii) of IPC.

7. At this juncture, it is relevant to read the offence under Section 153-A of IPC which is as follows :-

"153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony -(1) Whoever- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or (c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason

whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

8. As per Section 196 of Cr.P.C. to prosecute a person under these offences, a previous sanction from the Central Government or the State Government has to be obtained. Section 196 of Cr.P.C. reads as follows :-

"196. Prosecution for offences against the State and for criminal conspiracy to commit such offence(1) No Court shall take cognizance of- (a) any offence punishable under Chapter VI or under section 153A, section 295A or sub-section (1) of section 505 of the Indian Penal Code (45 of 1860), or (b) a criminal conspiracy to commit such offence, or (c) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860), except with the previous sanction of the Central Government or of the State Government"

Admittedly, in the present case no sanction has been obtained from the Central Government or the State Government by the first respondent to prosecute the petitioner under Section 153A(1)(a) of IPC. Insofar as the other offences are concerned, the allegations are vague in nature and the ingredients of these offences under Sections 294(b) and 506(ii) of IPC, would not attract as against petitioner.

9. In view of the above discussions, this Court is inclined to grant the relief sought for in this petition. Accordingly, the criminal proceedings in C.C.No.106 of 2016 on the file of the learned District-cum-Judicial Magistrate, Vanur, Villuppuram District is quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif-cum-Judicial Magistrate,
Vanur, Villupuram District
2. The Inspector of Police,
Kottakuppam Police Station,
Villuppuram District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.

+lcc o Mr.E.Kannadasan, Advocate Sr.11098

+lcc to Mr.D.Veerasekaran, Advocate Sr.11091

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Crl.M.P.Nos.13246 & 13247 of 2017

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