



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)Nos.4115 & 4116 of 2015

and

MP(MD)Nos.1 & 1 of 2015

Arumugam ... Petitioner / Accused No.2
in both cases

Vs.

1. The Investigation Officer,
Karaikudi North Police Station,
Sivagangai District.
Cr.No.78 of 2015 ... 1st Respondent / Complainant

2. Srinivasan ... 2nd respondent /Defacto complainant
in Cr1 OP(MD)No.4115 of 2015

1. The Investigation Officer,
Kundrakudi Police Station,
Sivagangai District.
Cr.No.27 of 2015 ... 1st Respondent / Complainant

2.Alkha Sharma ... 2nd respondent /Defacto complainant
in Cr1 OP(MD)No.4116 of 2015

Common Prayer : Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in Cr.Nos.78 of 2015 & 27 of 2015 on the file of the respective first respondent police with regard to the petitioner. In both cases :

For Petitioner : Mr.Arun Swaminathan
for M/s.Chettinad Legal Solutions

For Respondents : Mr.A.Robinson
Government Advocate (crl.side) for R1
No appearance for R2

COMMON ORDER

The petitioner herein claims to be social activist. He is a member of an organization called as Karaikudi Makkal Mandram. The petitioner had posted a message in his Facebook page to the effect that the children studying in Chellappan & Leaders School have been affected as they are located right behind a chemical factory. This message was posted on 12.02.2015. In fact, a pipeline burst in the area of Tamil Nadu Chemical Products Pvt., Ltd, at Kovilur which is admittedly located proximate to the schools in question. The District Environmental Engineer had also issued a



notification in this regard. Therefore, the petitioner's message is rather factual. Both these FIRs have been registered against the petitioner on the footing that on account of the posting of the said message, their reputation has been affected.

2. The provision invoked in the FIR is Section 505 IPC. While Crime No.27 of 2015 has been registered for the offence under Section 505 (1) (b) of IPC, Crime No.78 of 2015 has been registered for the offence under Section 505(ii) of IPC. Section 505 of IPC reads as follows :

"505. Statements conducing to public mischief.-

[(1)] Whoever makes, publishes or circulates any statement, rumour or report, -

(a) With intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or

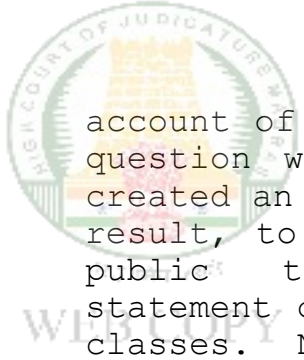
(b) With intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) With intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; Shall be punished with imprisonment which may extend to [three years], or with fine, or with both.

[(2) Statements creating or promoting enmity, hatred or ill-will between classes: - Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.: - Whoever commits an offence specified in sub-section (2) in any place of worship or in an assembly engaged in the performance or religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

3. Section 505(1)(b) will be attracted only if any person is induced to commit an offence against the State or against the public tranquility on account of causing of fear or alarm to the public. In this case, the petitioner wanted to highlight the fact that on



account of the discharge from the chemical factory, the students in question will be affected. Even though the message in question created an alarm, it is rather factual. Nobody will be induced as a result, to commit an offence either against the State or against public tranquility. Likewise, this cannot be construed as a statement creating or promoting enmity, hatred or ill-will between classes. None of the grounds set out in Section 505 of IPC will be attracted in this case. The very registration of impugned FIRs is bad in law. Therefore, both the FIRs stand quashed.

4. These criminal original petitions stand allowed. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Investigation Officer,
Karaikudi North Police Station,
Sivagangai District.
2. The Investigation Officer,
Kundrakudi Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr. RM. ARUNSWAMINATHAN, Advocate (SR-90322[F] dated 30/09/2019)

Cr1 OP(MD) Nos. 4115 & 4116 of 2015

and

MP(MD) Nos. 1 & 1 of 2015

27.09.2019

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