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Crl.O.P.No.4521 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.4521 of 2015

and

M.P.No.1 of 2015

1.S.Sathish

2.M.Jaisankar

3.T.Gunasekaran

4.J.S.Kishore Kumar ... Petitioners/Accused Nos.1 to 4

Vs.

State rep. by

The Sub-Inspector of Police,

B-2, R.S.Puram Law & Order Police Station,

Coimbatore District,

Crime No.49 of 2015. ... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the F.I.R. In Crime No.49 of 2015, on the file of B-2, R.S.Puram Law & Order Police Station, Coimbatore and quash the same as far as the petitioners i.e. accused Nos.1 to 4 are concerned.

For Petitioners : Mr.G.Karthikeyan



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For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

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ORDER

This Criminal Original Petition is filed to call for the records pertaining to the F.I.R. In Crime No.49 of 2015, on the file of B-2, R.S.Puram Law & Order Police Station, Coimbatore and quash the same as far as the petitioners i.e. accused Nos.1 to 4 are concerned.

2.The petitioners who are A1 to A4 in Crime No.49 of 2015 is pending trial for the offence under Sections 505 (2) and 153-A(1)(a) of the Indian Penal Code has filed this quash petition.

3.The gist of the case is that on 12.01.2015 between 07.00 p.m. and 09.45 p.m. within range of B2 Police Station, Theppakulam, Coimbatore a public meeting was convened for the birthday celebration of Swamy Vivekananda by the Hindu Munnani Organisation. During the meeting the petitioners said to have made speeches thereby promoting enmity between different groups on the ground of religion race, place of birth, residence,



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language, caste or community or any other ground whatsoever, causing disharmony or feelings of enmity, hatred or ill-will between different religious, racials, language or regional groups or castes or communities and by spreading tantrums, rumours and causing fear and alarm to the public.

4.The defacto complainant is the Senior Shorthand Reporter of the Coimbatore Police who attended the meeting, taken down the hatred speech made by the petitioners and submitted a report to the Commissioner of Police, Coimbatore, in turn the Commissioner of Police, Coimbatore forwarded the same to his Legal Advisor for getting opinion and after getting opinion he directed the respondent police to register the above case.

5.The contention of the learned counsel appearing for the petitioners is that on going through the FIR, wherein the report of the defacto complainant is extracted. By no such of imagination, there was a speech to create hatred and communal disharmony. The plight of demolition of



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temples for the purpose of expansion of road projects, on the other hand the mosques situated along with the temple left without any disturbance, confirming that all people not treated equally, thereby there is no equality. Further in Coimbatore Luvjihath spreading. The girls belonging to Hindu Community are targeted by others which is against the law and the legislation passed in the Parliament. The police acting on in a partisan manner. The places of Ukkadam, Aathupaalam, Kottaimedu, Kunniyamuthur, Pothanoor in such that where even police have to get permission to enter the above said places. Thus it shows the inaction of the police. Further after the petitioners speech no individual or group of people protested. It is the general perception and sufferings of the people highlighted and further submitted that after the meeting there is no disturbance of public peace, law and order. Since the police were criticized for their in action on various aspects. The case came to be registered. Further till today no investigation done and sanction for prosecution not obtained.

6.The learned Additional Public Prosecutor fairly submitted that



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apart from registration of FIR there is not much progress in the investigation and he admit that after the meeting there was no disturbance of peace, spread of ill will among any group. Further there was no disputes and communal harmony, disturbance and of public law and order. Further there is no other case against the petitioners.

7.On perusal of the materials and submissions, it is seen that the speakers in the public meeting only expressed their displeasure there were many others who addressed the meeting other than the petitioners. The speech delivered by them were their fundamental rights. The Hon'ble Apex Court in the case of "***Patricia Mukhim Versus State of Meghalaya reported in (2021) SCC OnLine SC 258***", following the decision in the case of "***Bilal Ahmed Kloo Versus State of Andhra Pradesh***" observed "*Free speech of the citizens of this country cannot be stifled by implicating them in criminal cases, unless such speech has the tendency to affect public order*". It is an admitted after the speech there was no disharmony, hatred and ill-will between any groups. Further after the meeting, there was no disturbance of public order.



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8.In view of the same, this Court finds that no reason or useful purpose served by keeping the FIR pending, which would amount to abuse of process. Hence this Court is inclined to quash the FIR in Cr.No.49/2015 on the file of the B-2 R.S.Puram Law and Order Police Station, Coimbatore against the petitioners.

9.Accordingly, this Criminal Original Petition stands allowed.
Consequently the connected miscellaneous petitions is closed.

13.03.2020

Index: Yes/No
Internet: Yes/No
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To

1.The Sub-Inspector of Police,
B-2, R.S.Puram Law & Order Police Station,
Coimbatore District,
Crime No.49 of 2015.

2.The Public Prosecutor,
High Court,
Madras.



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M.NIRMAL KUMAR, J.

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