



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL OP(MD) No. 13942 of 2020

and Crl.M.P.(MD) No. 6391 of 2020

WEB COPY

Viknesh

... Petitioner/Sole accused

Vs.

1. The Deputy Superintendent of Police,
Valliyur Range, Tirunelveli District.

2. The State through,
Inspector of Police
Thisayanvilai Police Station,
Tirunelveli District.
(Crime No. 8 of 2019)

...R-1 & R-2/Complainant

3. Chinnathambi

...R-3/Defacto complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned FIR in Crime No.8 of 2019, dated 07.01.2019, on the file of the 2nd respondent police and quash the same as illegal.

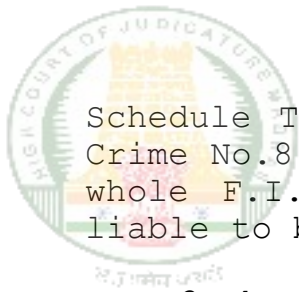
For Petitioner : Mr.K. Sivabalan

For R-1 & R-2 : M/s.S.E. Veronica Vincent
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in in Crime No. 8 of 2019, dated 07.01.2019 on the file of the 2nd respondent police, for the offences under Sections 294(b), 153A(1)a, 505(1)(c), 506(2) of IPC and Section 3(1)(r), 3(1)(s), 3(1)(u) of Schedule Caste and the Schedule Tribes (Prevention of Attrocities) Amendment Act, 2015, as against the petitioner.

2. The learned counsel appearing for the petitioner would state that on 07.01.2019 at about 09.00 p.m., the defacto complainant/R-3 and his brother, namely; Murugan when to the Nannikulam Kulakkarai at that time his brother, namely; Selvakumar showed a vide clip which was received through WhatsApp where, the petitioner herein talked the hatred speech against a particular Scheduled caste community and talked with a filthy language. He would further state that on the basis of the above said allegation, the second respondent police registered a complaint against the petitioner for the offences under Sections 294(b), 153A(1)a, 505(1)(c), 506(2) of IPC and Section 3(1)(r), 3(1)(s), 3(1)(u) of Schedule Caste and the



Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015 in Crime No.8 of 2019. The learned counsel would further state that the whole F.I.R is based on malafide action and hence, the same is liable to be quashed.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police, on instructions, would state that there are serious allegations against the petitioner. He would further state that the petitioner herein talked the hatred speech against a particular Schedule caste community.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent police and perused the materials available on record. Since no adverse order going to be passed against the third respondent, notice to him is not necessary.

5.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

6. Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and therefore, the grounds raised in this petition can be gone into now. However, considering the facts and circumstances of the case, the respondent/Police is directed to file charge sheet within a period of three months from the date of receipt of a copy of this order.

7.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

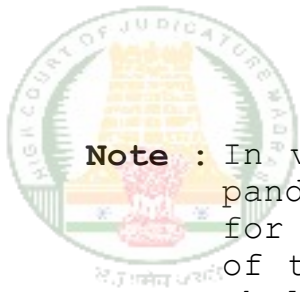
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:-

1. The Deputy Superintendent of Police,
Valliyur Range,
Tirunelveli District.
2. The State through,
Inspector of Police
Thisayanvilai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL OP. (MD) No.13942 of 2020
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MJ
KV(10.02.2021) 3P 4C