



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.O.P (MD) .No.22177 of 2015

and

M.P. (MD) No.1 of 2015

1.P.Jayapandi
2.F.Jeevaraj
3.D.Srinivasan
4.M.Selvakumar

... Petitioners/Accused No
1 to 4

Vs

1.State Rep. by
The Inspector of Police,
Pandalgudi Police Station,
Virudhunagar District.

...1st Respondent/
Complainant

2.J.Jeyaraj

...2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the FIR in Crime No.139 of 2015, on the file of the first respondent police, dated 11.08.2015 and quash the same as illegal.

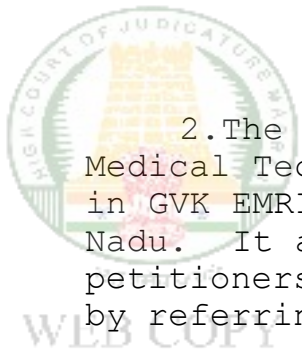
For Petitioners : Mr.K.P.S.Palanivelrajan

For R1 : Mr.A.Robinson
Government Advocate (Crl. side)

For R2 : Mr.A.Rahul

ORDER

The petitioners are shown as accused in Crime No.139 of 2015, registered on the file of the Inspector of Police, Pandalgudi Police Station, Virudhunagar District, for the offences under Sections 294 (b), 506(i) IPC r/w Section 3(1)(X) of SC/ST Act.



2.The de-facto complainant herein is employed as an Emergency Medical Technician. The petitioners are superior officials employed in GVK EMRI scheme run in collaboration with the Government of Tamil Nadu. It appears that the de-facto complainant had alleged that the petitioners herein came in a conference call with him and abused him by referring to his community.

3.The learned counsel appearing for the petitioners would state that the offence under Section 3(1)(X) of SC/ST Act, 1989 will be attracted, only if the utterance had taken place in a public place or in a public view. The expression "public view" has been interpreted in a catena of decisions.

4.The learned counsel would draw my attention to the decision reported in **(2019) 1 MLJ (Cr1.) 692**. A learned Single Judge of this Court has held that the fundamental ingredient is that the public must view the person being insulted. If that ingredient is absent, the provision of under Section 3(1)(x) SC/ST Act will not be attracted. In this case, even according to the de-facto complainant, the alleged utterance took place only in a conference call. Thus, nothing took place in public view. Therefore, the offence under Section 3(1)(X) of SC/ST Act is not at all attracted.

5.It is not in dispute that the petitioners are superior officials to whom, the de-facto complainant is subordinate. It appears that the de-facto complainant was transferred from Pandalgudi to Kariyapatti and unable to accept the same, he went to the extent of even consuming a noxious substance.

6.Therefore, I hold that the very lodging of the impugned FIR is an abuse of legal process. I am of the view that the proceedings in Crime No.139 of 2015 can be quashed and this petition may be allowed.

7.At this stage, the learned counsel for the de-facto complainant states that the de-facto complainant/second respondent has been acting as a sincere employee and that due to certain inner disturbances, these developments had taken place. Hence, he apprehends that if the First Information Report is quashed, the second respondent may be thrown out of service.

8.The learned counsel appearing for the petitioner on instructions, fairly stated that till date, the second respondent has not been disturbed from his employment and that therefore, the second respondent may not have any cause for worry.

9.I make it clear that the second respondent will not be victimized or affected in any manner and so long as he continues to be an obedient and sincere employee, his service should not be disturbed.



10. With the above observation, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1. The Inspector of Police,
Pandalgudi Police Station,
Virudhunagar District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SHANMUGASELVAM, Advocate (SR-116[F] dated 03/01/2020)

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AP(03/06/2020) 3P 4C