

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.28678 of 2015

and M.P.No.1 of 2015

Dr.Anbumani Ramadoss

... Petitioner

Vs.

State of Tamil Nadu
Rep. by Inspector of Police
Bhramadesam Police Station
Villupuram District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.30 of 2015 on the file of the learned Judicial Magistrate No.II, Tindivanam, Villupuram District and quash the same.

For Petitioner

: Mr.P.S.Raman
Senior Counsel for
Mr.K.Balu

For Respondent

: Mr.A.Natarajan,
State Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.30 of 2015, pending on the file of the Judicial Magistrate No.II, Tindivanam, Villupuram District.

2. The case of the prosecution is that on 01.05.2013, the petitioner gave a statement in the press meet, as if some people, having abused other caste people, were freely moving in the society. In view of such statement, there was a communal tension, which culminated into riot, resulting damage to the Government buses and also leading to a death of one lorry driver. Hence, a compliant was made and FIR in Crime No.185 of 2013 was also registered against the petitioner for the offences under Sections 153 and 153(A) of IPC. After investigation, the same was taken on file in C.C.No.30 of 2015 by the learned Judicial Magistrate No.II, Tindivanam, Villupuram District. Hence, the petitioner came forward to file this Criminal Original Petition to quash the same.

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3. The learned Senior Counsel appearing for the petitioner would submit that the entire allegations are baseless and politically motivated. In order to curtail the political movements of the petitioner, this false case has been foisted against

him. He further submits that there is no material to substantiate the alleged offences under Sections 153 and 153(A) IPC against the petitioner and therefore, the initiation of the prosecution is totally liable to be quashed and the sanction order also accorded after lapse of one year and therefore, it is liable to be quashed.

4. The learned State Public Prosecutor appearing for the respondent concedes that the materials collected by the prosecution would clearly indicate that the offences under Sections 153 and 153(A) IPC have not been made out and therefore, charge sheet as against the petitioner can be quashed. Hence, prays for dismissal of this Criminal Original Petition.

5. This Court has considered the rival submissions made by the learned counsel appearing on both sides and perused the materials.

6. It is well settled Law that the power of quashing of a criminal proceedings should be exercised sparingly, with circumspection and in rarest of rare cases. The court, is not justified in embarking upon an enquiry as to the reliability or genuineness of the allegations made in the FIR or the complaint on the basis of the evidence collected during investigation.

7. The Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Bhajan Lal and others*** reported in ***1992 Supp (1) SCC 335***, has held as follows:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercising of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide- i7 myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. Similarly, it is also well settled that while exercising the power under Section 482 Cr.P.C., the Court is not expected to express any views on merits related to the realm of appreciation of evidence to decide the credibility of the case

put forward.

9. When the allegations in the FIR and the materials collected by the prosecution does not disclose the commission of any offence and make out a case against the accused and the prosecution itself is instituted with an ulterior motive for wreaking vengeance, this Court can exercise power under Section 482 Cr.P.C.

10. It is also to be noted that in a catena of judgments reported in **[(2015)8 SCC 239 RAJDEEP SARDESAI VS. STATE OF ANDHRA PRADESH AND OTHERS]** and **[1993 Supp (1) SCC 499]**, the Apex Court held that judicial process should not be an instrument of oppression or needless harassment. In **PEPSI FOODS LIMITED VS. SPECIAL JUDICIAL MAGISTRATE** reported in **(1998) 5 SCC 749**, the Hon'ble Supreme Court has held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course.

11. The main charge as against the petitioner is that he gave a statement in the press meet that some people were freely moving in the society, despite they have abused the other community people. The entire allegation itself indicates

that he has given a statement expressing his dissent against the Government for not taking steps against some elements, who have abused the other dominant communities. Therefore, this Court is of the view that when a person is expressing his dissent for non-action of the Government against some bad elements such statement cannot be construed to mean that it is incited the violence and gave provocation with intent to cause riot. Similarly, the same also cannot be construed to mean that there was a statement leading to promote any enmity between different groups on the grounds of religion, race, place of birth, residence, language, etc. Further, on a perusal of the entire materials collected by the prosecution, it is seen that only the statements of the Police Constables have been recorded. If the entire statements have been taken together as such, there is no evidence available to continue the prosecution for the offences under Sections 153 and 153(A) IPC against the petitioner. Further, the petitioner gave a statement in the press meet on 01.05.2013 and the sanction was granted by the State only on 20.08.2014, with the delay. For all the above reasons, I am of the view that continuing the prosecution for the offences under Sections 153 and 153 (A) IPC is an abuse of process of law.

12. Hence, this Court is inclined to quash the proceedings in C.C.No.30 of 2015, on the file of the Judicial Magistrate No.II, Tindivanam, Villupuram District,

as against the petitioner herein. Accordingly, the proceedings in C.C.No.30 of 2015, on the file of the Judicial Magistrate No.II, Tindivanam, Villupuram District, is hereby quashed as against the petitioner herein.

13. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
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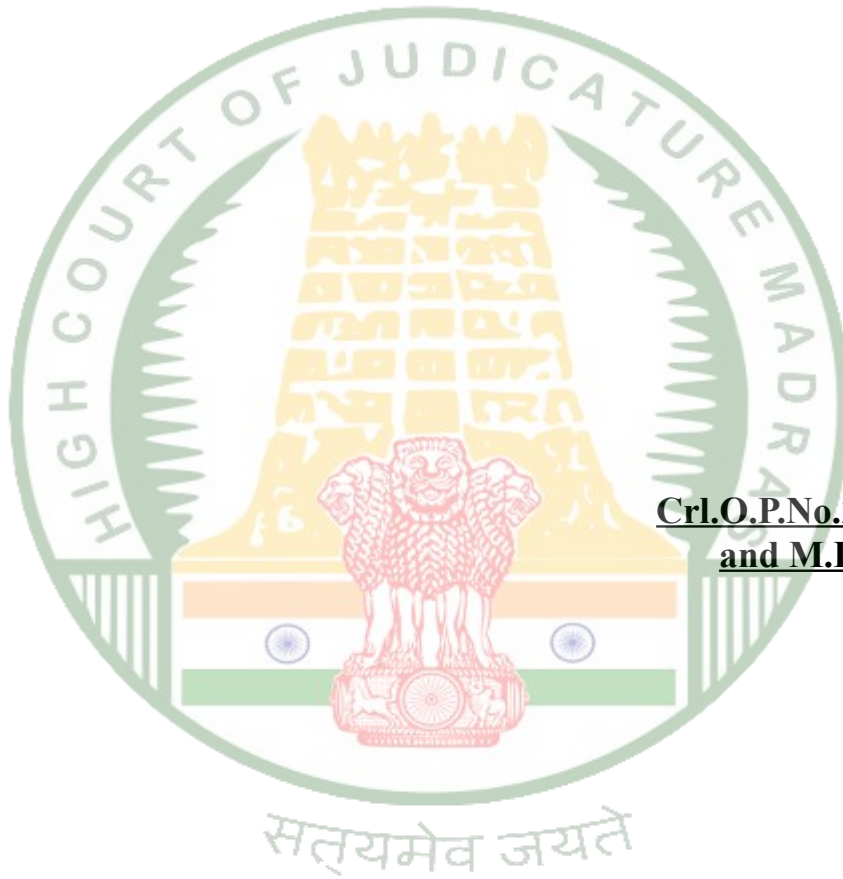
- 1.The Judicial Magistrate No.II, Tindivanam,
Villupuram District.
- 2.The Inspector of Police
Bhramadesam Police Station
Villupuram District.
- 3.The Public Prosecutor,
Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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