



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 19.08.2021

Pronounced on :04.10.2021

CORAM:

THE HONOURABLE MR JUSTICE G.ILANGOVA

Crl.O.P.(MD) No.11832 of 2021

and Crl.M.P(MD)Nos.6046 and 6048 of 2021

WEB COPY

1.Surendran

2.Vinoth

... Petitioners/Accused No.1 & 2

Vs.

The State Represented by
The Inspector of Police,
Karur Town Police Station,
Karur.

(Crime No.153 of 2019)

...Respondent/Complainant

PRAYER: Criminal Original Peititon is filed under Section 482 of Cr.P.C to call for the records in C.C.No.146 of 2019 pending before the Learned Judicial Magistrate-I, Karur in connection with Cr.No.153 of 2019 dated 22.02.2019 for the offences under Sections 505(1)(b), 353 & 506(i) of I.P.C on the file of the respondent police and quash the same as against the petitioners as illegal.

For Petitioners : Mr.R.Ganesh Prabu

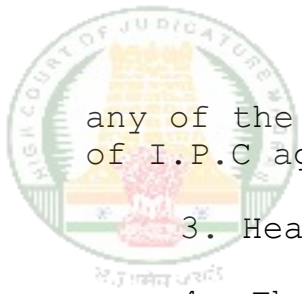
For Respondent : Mr.K.Sanjai Gandhi

Government Advocate(Crl side)

O R D E R

This petition is filed seeking quashment of C.C.No.146 of 2019 pending before the Learned Judicial Magistrate No.1, Karur in connection with Crime No.153 of 2019 dated 22.02.2019 for the offences under Sections 505(1)(b), 353 & 506(i) of I.P.C on the file of the respondent police.

2. The case of the prosecution in brief: On 22.02.2019, at about 8.30 a.m, in the Karur bus stand the accused person, who belong to 'Puratchikara Manavar Ilaigararni' assembled illegally and shouted slogans against the Central Government. When the police asked them to disperse, they did not heed to their instruction and they also abused the police in filthy language and the police was also criminally intimidated. On the basis of the complaint given by the second respondent herein, a case in Crime No.153 of 2019 was registered against the petitioner for the offences under Sections 505(1)(b), 353 & 506(i) of I.P.C. After completing the investigation, final report was also filed before the concerned court, which was also taken on file as stated above. Seeking quashment of the same, this petition is filed mainly on the ground that none of the allegation mentioned in the final report attracted



any of the offences punishable under Section 505(1)(b), 353 & 506(i) of I.P.C against these petitioners.

3. Heard both sides.

4. The learned counsel for the petitioners would submit that for the offence punishable under Section 505(1)(b) IPC sanction from the State Government or Central Government or the District Magistrate ought to have been obtained before filing final report. But here, such sanction has not been obtained. So cognizance taken by the trial court is illegal. Section 505(1)(b) IPC reads as under:

505. Statements conducing to public mischief –

(1) Whoever makes, publishes or circulates any statement, rumour or report, – ..

(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

5. Section 196 Cr.P.C reads as under:

196. Prosecution for offences against the State and for criminal conspiracy to commit such offence

(1) No Court shall take cognizance of –

(a) any offence punishable under Chapter VI or under section 153A, section 295A or subsection

(1) of section 505 of the Indian Penal Code (45 of 1860), or (b) a criminal conspiracy to commit such offence, or (c) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860), except with the previous sanction of the Central Government or of the State Government

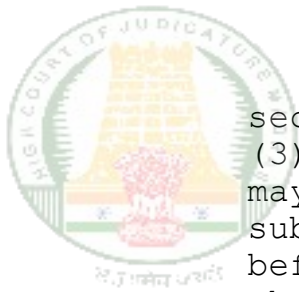
(1A) No Court shall take cognizance of –

(a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code (45 of 1860), or

(b) a criminal conspiracy to commit such offence, except with the previous sanction of the Central Government or of the State Government or of the District Magistrate

(2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal Code (45 of 1860), other than a criminal conspiracy to commit

an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceeding: Provided that where the criminal conspiracy is one to which the provisions of



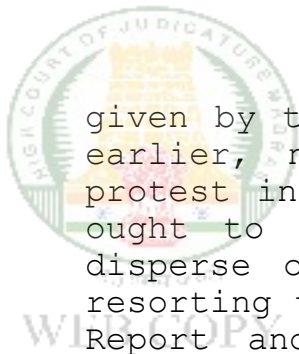
section 195 apply, no such consent shall be necessary
(3) The Central Government or the State Government may, before according sanction under subsection (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A) and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in subsection (3) of section 155.

6. A combined reading of those two provisions would show that the offence under Section 505(1)(b) IPC requires prior sanction by the Government and investigation can be taken only upon the order passed by the competent authority. Here absolutely there is no such procedure that has been adopted by the Inquiry Officer. Based upon the information given by the second respondent, who is also police officer, the case has been registered and final report has also been filed. So this is nothing but illegal.

7. Even if we go through the contents of the First Information Report as well as the final report, it is seen that the petitioner shouted slogans protesting against the policies of the Government. So this is no way involved in the criminal offence promoting the feeling of enmity or hatred or ill-will between different religious, racial, language and communities.

8. A reading of the complaint as well as the nature of the protest that has been undertaken by the petitioner cannot be termed as illegal assembly and protest is guaranteed right under Constitution of India. However, they ought to have sought permission from the competent authority before staging protest but it is not the case of the prosecution that they did not get any permission before staging protest. It is also seen that they issued pamphlets criticizing the Government about its policy. So this is no way involved in breach of peace or inciting violence among the public. The police however would have warned the people to disperse or atleast they would have been arrest under Section 41 CrI.P.C to prevent them from causing further nuisance to the public instead of that they have registered a case and laid a final report also which may not be appropriate.

9. Similarly, the other offences under Section 353 IPC is concerned, mere shouting of slogans and issuance of pamphlets will not amount to preventing the public officers from discharging their official duty. Here, Section 353 IPC is also not attracted. Similarly, the offence under Section 506(i) IPC is also not attracted because mere verbal utterances will not attract the offence under Section 506(i) IPC. More over vague allegations have been made with



given by the defacto complainant about the occurrence. As I stated earlier, no doubt they did not get proper permission to stage protest in a public place from the competent authority. The police ought to have, as I mentioned earlier, asked the petitioner to disperse or to take action under Section 41 Cr.P.C, but without resorting to the lawful means, registration of the First Information Report and filing of final report with exaggerated version is illegal . Moreover I am of the considered view that the continuation of the proceedings may amount to abuse of court and law. On that ground, the proceedings in C.C.No.146 of 2019 pending before the Learned Judicial Magistrate No.1, Karur is liable to be quashed and the same is quashed.

10. In fine, this petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To,

1.The Judicial Magistrate-I,
Karur.

2.The Inspector of Police,
Karur Town Police Station,
Karur.

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

Crl.O.P. (MD) No.11832 of 2021
and Crl.M.P (MD) Nos.6046,6048 of 2021
04.10.2021

PS (CO)

KB(25.10.2021) 4P 4C