



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.19623 of 2021

and

Cr1 MP(MD)No.10987 of 2021

WEB COPY

1.Sindhu

2.Ramkumar

... Petitioners/ Accused No.1&2

vs.

1.The Inspector of Police,
Kaliakavilai Police Station,
Kanyakumari District.
(Cr.No.295 of 2019)

... Respondent No.1/
Complainant

2.The Village Administrative Officer,
Kulapuram Village,
Kiliyur Taluk, Kanyakumari District.

... Respondent No.2/
Defacto Complainant

PRAYER: Criminal Original Petition petition filed under Section 482 of Cr.Pc, to call for the records in respect of the registration of FIR in Crime No.295 of 2019 dated 28.12.2019 on the file of the respondent police and quash the same as illegal and not maintainable.

For Petitioners : Mr.N.Ramesh

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

The second respondent herein lodged information before the first respondent police station leading to registration of the impugned FIR for the offences under Sections 447, 188 & 505(1)(b) of IPC. To quash the same, this criminal original petition has been filed.

2.The case of the prosecution is that the petitioners herein entered the camp housing Srilankan refugees without getting prior permission from the jurisdictional Tahsildhar. They are said to have styled themselves as journalists of Junior Vikatan and spoken to the inmates of the camp in a manner so as to create disorder.



3.The learned counsel for the petitioners reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned FIR. Per contra, the learned Additional Public Prosecutor appearing for the respondents submitted that no case for quashing has been made out.

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4.I carefully considered the rival contentions and went through the materials on record. There can be no dispute that the petitioners are journalists working in the news magazine Junior Vikatan. The respondent police on their own could not have registered the FIR under Section 188 of IPC. That runs counter to the decision reported in 2018-2-L.W(Crl.) 606 (Jeevanandham vs. State). The offences under Section 505(1)(b) of IPC are not attracted because the petitioners had only interviewed the inmates of the camp. It is the part of their job to conduct such interviews. One is a reporter and the other is a press photographer. What the petitioners did was an integral part of their journalistic duties. They are entitled to the protection of not only Article 19(1)(a) but also Article 19(1)(g) of the Constitution of India. This provision can be invoked only if the offending act induces or is likely to induce any person to commit an offence against the State or against the public tranquility. It is atrocious to invoke such a provision against media personnel engaged in their usual and regular fieldwork. In this case, there is no involvement of two rival groups. The essential ingredients set out in Section 505(1)(b) of IPC also not present.

5.As regards Section 447 of IPC, the first respondent ought to have taken a liberal view. The petitioners are journalists of the magazine in question. It is a part of their avocation to conduct such interviews. Section 447 will be attracted only for committing criminal trespass. Section 441 of IPC defines what is criminal trespass. It states that whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass". The petitioners did not have any such intention. None of the ingredients set out in Section 441 of IPC are present. Very registration of the impugned FIR is illegal. It stands quashed. This criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

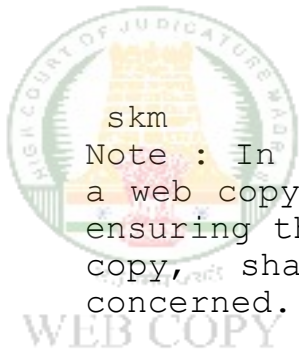
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



skm

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 Inspector of Police,
Kaliakavilai Police Station,
Kanyakumari District.
- 2.The Village Administrative Officer,
Kulapuram Village,
Kiliyur Taluk, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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