



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 1.4.2022

Delivered on : 29.4.2022

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition No.30394 of 2015
and
M.P.No.1 of 2015

Dr.Anbumani Ramadoss

Petitioner

.vs.

State of Tamil Nadu
rep. by
Inspector of Police,
Dharmapuri Police Station,
Dharmapuri District.
(Crime No.228 of 2014)

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in C.C.No.201 of 2015 on the file of
Judicial Magistrate No.I, Dharmapuri, Dharmapuri District and
quash the same.

For Petitioner : Mr.K.Balu

For Respondents : Mr.A.Gokulakrishnan, APP

ORDER

Seeking quashment of the criminal proceedings in C.C.No.201
of 2015 pending on the file of Judicial Magistrate No.I,
Dharmapuri, Dharmapuri District, the present Criminal Original
Petition has been filed.

2. The petitioner, Youth Wing Leader of Pattali Makkal Katch
(PMK) and former Union Minister of Health and Family Welfare,
who is ranked as A1 in the above Calendar Case, is facing
charges for the offences punishable under Sections 153A, 505
(ii), 188 IPC read with Section 125 of Representation of the
People act, 1951 on the allegation that he, alongwith two other
Members of his party viz., Saravanan and Arasangam had
distributed CDs containing Audio and Video materials that would
cause disharmony in the society and incite violence between two



communities.

3. Brief facts of the case are as under:-

i) A complaint dated 28.3.2014 was lodged by the de facto complaint, the Tahsildar, Dharmapuri District alleging that he had received an information from the Village Administrative Officers of the nearby villages that in their villages, some CDs named as "Sonthagalae Sinthipeer" were found to have been distributed among the public, which contain some audio and video clippings with regard to "Dharmapuri Naicken Kottai incident" and "Elavarasan Divya love affair" and on the previous day viz., on 27.3.2014 at about 12.00 noon, when he was in surveillance at Madhikonpalayam on account of election process and to enquire about distribution of the CDs, he had seen a person in possession of such CDs, alleged to have been given by one Saravanan and Arasangam and some others and seized the same and on examination of the same, he had found that the said CD, having a title as "td;dpa ,is"h;fs; KGepyt[bgUtpHh khehL. Vg;uy; 25. khky;yg[uk;" contained some video/audio information about Marakkanam Riot, Vanniar community, the intercaste marriage of Ilavarasan and Divya that took place at Naickenkottai, Dharmapuri District, the resultant riot that took place in that locality and the compensation, allegedly at exaggerated rate, paid by the Government and also the incidents that took place on the death of Ilavarasan, so as to create enmity and disharmony between the people of two different communities especially, when the conduct of conduct on account of the ensuing election was in force.

ii) On receipt of the complaint, the respondent had registered a case in Crime No.228 of 2014 against the petitioner and two others for offences punishable under Sections 153A, 505 (ii), 188 IPC read with Section 125 of Representation of the People Act, 1951 and after completion of investigation, the respondent had filed the final report against the accused.

iii) The Trial Judge, had taken cognizance for offences punishable under Sections 153A, 505(ii), 188 IPC read with Section 125 of Representation of the People Act, 1951 and as per the Charge Sheet, the petitioner is arrayed as A1.

4. Mr.K.Balu, learned counsel for the petitioner would submit that the petitioner is the Youth Wing Leader of Paattali Makkal Katchi (PMK) and former Union Minister for Health and Family Welfare and a contestant in the ensuing Parliament Election. He would further submit that the ruling party, which was antagonized against the petitioner, in order to scuttle the chance of his winning in the election, had registered a false case against the petitioner and other party functionaries and



even as per the FIR, there is no allegation against the petitioner as if he had distributed the CDs to any person. He would also submit that the respondent had cited nine list witnesses including the investigating officer, however, none of the witnesses has spoken that it is the petitioner, who had distributed the CDs and even as per the statement of LW4, the person, who is said to have been in possession of the CD, has stated that the first accused was doing campaigning and the second and third accused are the persons who have distributed the CDs. He would further submit that except the averments made that the CD contained abusive material, no certificate under section 65B of the Indian Evidence Act or the transcript of the alleged materials was produced by the prosecution and absolutely, there is no material to show that either the petitioner had produced the CD or he had personally distributed the same. He would also submit that the case filed against the petitioner is only for political vendetta and with a mala fide intention and no prior sanction has been obtained by the prosecution from the State Government under Section 196(1)(a) Cr.P.C. before proceeding against the petitioner under Section 153A of IPC and therefore, the criminal prosecution as against the petitioner is liable to be quashed.

5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor would fairly submit that except taking part in the campaigns for the elections, no offence has been alleged against A1 and it is only A2 and A3 are the persons, who have distributed the CDS and there is no material to show that A1 had distributed the CDS.

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. The allegation levelled against the petitioner, being A1 in the case and two of his party cadre being A2 and A3, is that during the election campaign and when the code of conduct was in force, they had distributed some CDs containing audio and video materials on the issues of Marakkanam Riot, Vanniar community, the intercaste marriage of Ilavarasan and Divya that took place at Naickenkottai, Dharmapuri District, the resultant riot that took place in that locality and the compensation, allegedly at exaggerated rate, paid by the Government and also the incidents that took place on the death of Ilavarasan and to prevent any untoward incident or further riot, the Tahsildar, Dharmapuri District had lodged the complaint with the respondent police by handing over a CD, which he had seized from a public.

8. A careful reading of the complaint and other relevant materials would reveals that it was only as a preventive measure, the Tahsildar, Dharmapuri District had lodged the complaint which ended in registration of a case against the



petitioner and two of his party cadre and as rightly pointed out by the learned counsel appearing for the petitioner, there is no specific allegation as against the petitioner that he had produced the CD or personally distributed the same.

WEB COPY

9. Further, Section 196(1)(a) Cr.P.C mandates that prior sanction is necessary for proceeding against any person under for the offence punishable Section 153A of IPC. It 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, of Indian Penal Code, or Section 295 A or sub section (1) of section 505] of the Indian Penal Code (45 of 1860) or

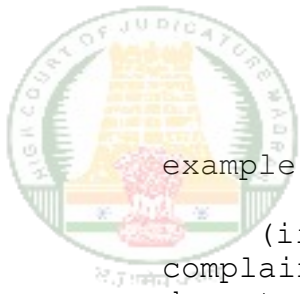
(b) a criminal conspiracy to commit such offence, or

(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."

10. In the case on hand, except a mentioning in the list of witnesses annexed with the charge sheet that a witness speaks about the prior sanction obtained, there is nothing on record to establish that prior sanction from the State Government has been obtained under Section 196(1)(a) of Cr.P.C before proceeding against the petitioner under Section 153A of IPC. It is the settled law that to prosecute any person for the offence under Section 153A of I.P.C., prior sanction of the Central Government or of the State Government is required under Section 196(1)(a) Cr.P.C and unless prior sanction is obtained from the competent authority, no person can be prosecuted for the offence under Section 153A of I.P.C.

11. Further, there is nothing on record to connect the petitioner with the offences alleged against him. In R.P.Kapoor vs. State of Punjab (AIR 1960 SC 866), the Apex Court has summarized some categories of cases where inherent power can and should be exercised to quash the proceedings as under:-

(i) where it distinctly appears that there is a legal bar against the institution or continuation of a proceeding for



example for want of sanction;

(ii) where the allegation in the first information report or complaint taken at its face value and accepted in its entirety do not constitute the offence alleged;

(iii) where the allegation constitutes an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

12. The relevant portion of the decision in R.P.Kapoor case is extracted hereunder for ready reference:-

"There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge."

13. Further, in State of Haryana and others vs. Bhajanlal



and others reported in (1992 Supp (1) SCC 335), the Hon'ble Apex Court has given the category of cases where, inherent powers under Section 482 of Cr.P.C. can be invoked to quash the criminal proceedings. The relevant para is extracted hereunder:-

WEB COPY

"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 exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 guidelines or rigid formulae and to give an exhaustive list of 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 FIR 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.



WEB COPY

(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."

14. In the case on hand, this court does not find any incriminating material against the petitioner to connect him with the offences alleged against him. The present case falls within clauses (1), (3) and (5) to (7) of para 102 of the decision in State of Haryana and others vs. Bhajanlal and others (cited supra).

15. Therefore, this court is of the view that it may not be proper to continue the prosecution in the present case against the petitioner and thereby it is liable to be quashed. Accordingly, it is quashed. The Criminal Original Petition is allowed. The connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

//True Copy//

Sub-Assistant Registrar

ssk

To

1. Judicial Magistrate No.I,
Dharmapuri,
Dharmapuri District.



2. Inspector of Police,
Dharmapuri Police Station,
Dharmapuri District.

3. The Public Prosecutor,
High Court,
Madras.

Crl.O.P.No.30394 of 2015

GMR (CO)
RN (23/05/2022)