



WEB COPY



CrI.O.P.No.7682 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

CrI.O.P.No.7682 of 2021
and CrI.M.P.No.5092 of 2021

M.Kamal Basha

.. Petitioner

Vs.

1.State by:

The Inspector of Police,
Thirupathur Town Police Station,
Vellore District
now Thirupathur District.

2. Pyaro Johan

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the FIR in Cr.No.95 of 2020 on the file of the Thirupathur Town Police Station, Vellore.

For Petitioner : Mr. N.A.Nissar Ahmed

For Respondent-1 : Mr.A.Damodaran, APP

ORDER

This Criminal Original Petition has been filed to call for the records and quash the FIR in Cr.No.95 of 2020 on the file of the Thirupathur Town Police Station, Vellore.



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2. Heard Mr. N.A.Nissar Ahmed, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the first respondent.

3. The case of the prosecution is that the petitioner who is an EX-MC of DMK political party is spreading false news against the Muslim community through Whatsapp and is acting as a henchman of AIADMK political party and thereby threatening the second respondent and his family. On the above said allegation, a case has been registered against the petitioner under Sections 153 A, 505(1)(a) I.P.C.

4. The learned counsel for the petitioner submitted that the case has been registered against the petitioner under Sections 505(1)(a) and 153 A I.P.C.; the petitioner is an EX- MC of DMK political who had just forwarded the message only through his Whatsapp account; therefore, the above action will not attract the offence committed by the petitioner.

5. Though it is stated in the complaint that the accused involved in spreading rumours about Muslim community, no details have been given about the kind of the rumour that was spread by the petitioner and how it caused disturbance to any officer to perform his duty or promoted enmity between different groups of people, on the ground of religion. Though the FIR



need not be elaborate with minute details, there should be some fundamental material facts available to make out a case.

6. The accused has been charged for the offence under Sections 153A I.P.C. In order to charge the person for the offence under Section 505(1)(a), the mischief committed by the person should be proved. In the instant case, not even a single material is produced to show that the accused has intentionally promoted enmity between different groups of people on the ground of religion, thereby committed the offence under Section 153 A IPC. In so far as the offence under Section 505(1)(a) IPC is concerned, the complaint should have the essential ingredients to show that the accused was doing some acts intentionally to cause an officer not to perform his duty. On the face of the complaint, no such ingredients are seen to be present.

7. The complaint should contain the basic materials to make out an offence under the said provision. On the face of the complaint, it does not state anything that the petitioner did something that had resulted in the failure of duty by an officer or that the petitioner promoted enmity between people in the name of religion. Unless there is *prima facie* material produced to show that the petitioner was doing some overt act in the above manner, no case can be made out for the offences under Sections 505(1)(a) & 153 A IPC.



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8. Hence, I feel that the continuation of the investigation against the petitioner will not serve any useful purpose. Hence, I feel it is appropriate to invoke the powers of this Court under Section 482 Cr.P.C. for quashing the FIR.

9. In the result, the Criminal Original Petition is allowed and the FIR in Crime No.95 of 2020, on the file of the respondent police is quashed. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
bkn

16.09.2022



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To

WEB COPY

1. The Inspector of Police,
Thirupathur Town Police Station,
Vellore District
now Thirupathur District
2. The Public Prosecutor,
High Court of Madras.



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R.N.MANJULA, J.

bkn

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