



CrI.OP.No.24162 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 14.06.2022	Date of Pronouncing Order 08.07.2022
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.O.P.No.24162 of 2018

and

CrI.M.P.No.13667 of 2018

Sivashankar, M/47,
S/o.Mahalingam
Pullavarayan Kudikadu,
Mannargudi Taluk,
Thiruvvarur District.

... Petitioner

Vs.

1.The Inspector of Police,
Mannargudi Town Police Station,
Thiruppur District,

Crime No.676 of 2017.

2.Tamilselvam,
S/o.Kamatchi,
Secretary,
AIADMK Party,
Mannargudi,
Thiruvvarur District.

... Respondents



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Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records with respect of Crime No.676/2017 pending on the file of 1st Respondent and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.C.E.Pratap (for R1)
Government Advocate (Cr1. Side)

R2 - No Appearance

ORDER

The Criminal Original Petition has been filed to call for the records in respect of Crime No.676/2017, pending on the file of 1st Respondent and to quash the same.

2(a).The learned counsel for the Petitioner would contend that the Petitioner herein is unnamed in FIR, two months after registration, the police had included his name, at the instance of political rivalries and even go by averment made in the alleged posture, that does not constitute the offence. The 1st Respondent ought not to have registered the above case against the



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Petitioner under Section 504, 505 (1) (b) IPC and 12, 14 of Press and Registration of Books Act, 1867.

2(b).The case of the Petitioner is that the Petitioner being the active member of the political party, organized all such party meetings, the respondents herein initially asked the Petitioner to come to the station house and threatened him on the influence of the present ruling party members and directed the Petitioner not to make any effort to organize any function on behalf of AIADMK (Amma) Political party, but the Petitioner not acted as per the direction of the respondents. Under such circumstances on the influence of the present ruling party, higher officials, the respondents continuously foisting false case against the Petitioner in the Thiruvavarur District at various police station.

2(c).Further case of the Petitioner is that all those FIRs were registered on the information given by the opposite party members and the allegations made out in those complaints are totally false and the respondents purposefully received those complaints and registered the same against the Petitioner only to



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harass the petitioner. In the Thiruvarur District, the police stations used to register FIR against any one of the members of AIADMK (Amma) political party and later after one month used to alter the section and arrest the Petitioner on the same day which would suffice to establish that all those cases are registered only to harass the petitioner.

3.The learned Government Advocate would contend that the matter is under investigation. The Petitioner surrendered before the Court and thereafter, released on bail and an interim stay has been granted by this Court in C.M.P.No.13667 of 2018 on 11.10.2018.

4.The records reveal that the Petitioner belongs to AIADMK (AMMA) Political party and is actively organizing the party meeting. The 1st Respondent registered a complaint in Cr.No.676 of 2017 on 10.09.2017 under Section 504, 505 (1) (b) IPC, 12, 14 of Press and Registration of Books Act on the complaint of the 2nd Respondent, who is Secretary to AIADMK Party, Mannargudi. The Petitioner is unnamed in the FIR, later, after lapse of two months, the Petitioner was included in the above case, for which political motive is attributed.



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5. On perusal of the complaint given by the 2nd Respondent, which means in a literal translation, the notice is said to have been affixed without the press name, condemning the attitude of the then Food Minister in abusing his power for falsely foisting the case, instigating the police and thereby, local police falsely foisting the case against the members of “AIADMK (Amma)” party and it was in white colour background with letters in blue colour and no name has been mentioned in the posture. In the said complaint, one person named as the person behind the scene, even to go by the statements contended in the alleged posture, I find that it does not constitute either offence under Section 12 or 14 of the Press and Registration of Books Act, 1867, which is extracted as follows:

“Section 12

Penalty for printing contrary to rule in Section 3 -

Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding [two thousand] rupees, or by simple imprisonment for a term not exceeding [six months], or by both.

Section 14

Punishment for making false statement -

Any person who shall, in making any declaration or other



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statement under the authority of this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall on conviction before a Magistrate, be punished by fine not exceeding [two thousand] rupees, and imprisonment for a term not exceeding [six months]”

and Explanation to Section 2(b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is usefully extracted as follows:

“2(b) “Objectionable Advertisement”

...

Explanation – An advertisement shall not be deemed to be objectionable merely because words or signs or visible representations are used-

(1)expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means;”

It does fall within the explanation to Section 2(b) on the objectionable advertisement of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 as the words so expressed is criticised policy of the Government with a view to obtain its alteration or in otherwise, it is a simple criticism on action of police in falsely foisting the case at the instance of the then Minister and



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seeks remedial measures. Hence it is saved under explanation to Section 2(b) and it does not fall under objectionable advertising as defined in the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

6.The Hon'ble Apex Court also in the case of ***Fiona Shrikhande Vs. State of Maharashtra and Another*** reported in ***(2013) 14 Supreme Court Cases 44*** held as follows:

“13. Section 504 IPC comprises of the following ingredients, viz., (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by



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itself to warrant a conviction under [Section 504 IPC](#).

14. *We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, prima facie, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of [Section 504 IPC](#). It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under [Section 504 IPC](#).”*

7. The contents of the statement said to have been made by the Petitioner even as per the statement in the FIR does not constitute the essential ingredients of offence under Section 505 IPC.

8. In fine, FIR as against the Petitioner cannot be allowed to be continued as the same is abuse of process of law. In this view of the matter, this Criminal



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Original Petition is allowed and accordingly, the case in Cr.No.676 of 2017 is quashed as against this Petitioner. Consequently, connected Miscellaneous Petition is closed.

08.07.2022

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

sai

To

1.The Inspector of Police,
Mannargudi Town Police Station,
Thiruppur District,

Crime No.676 of 2017.

2.The Public Prosecutor,
High Court,
Chennai 104.



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RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Order made in

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and

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Dated: 08.07.2022