



CrI.OP.No.24160 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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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.OP.No.24160 of 2018

and

CrI.MP.No.13658 of 2018

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

... Petitioner

Vs.

1.The Inspector of Police,
Thiruvarur Town Police Station,
Thiruppur District,
Crime No.298 of 2017.

2.Manikandan,
S/o.Uthirapathi,
1/200, Thenkarai,
Keelamanali Post,
Thiruvarur District.

... Respondents



Cr1.OP.No.24160 of 2018

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records with respect of Crime No.298/2017 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.298/2017, pending on the file of the 1st Respondent and quash the same.

2.The 2nd Respondent registered a complaint in Cr.No.298 of 2017 on 24.10.2017 under Section 294 (b), 504, 505 (1) (b) IPC on the complaint of the 2nd Respondent, who is Union Secretary of AIADMK party, Thiruvavarur. The above said case was foisted against the Petitioner for the reason that the Petitioner alleged to have abused the present ruling party members in the political party meeting conducted on 24.10.2017.



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3(a).Learned counsel for the Petitioner would submit that the Petitioner belongs to AIADMK (Amma) political party and is actively organizing the party meeting, welfare assistance to the public and etc. It is usual to get permission to conduct a political party meeting or other programs from the Respondents/Police. When the political party belongs to petitioner made an application before the Respondents/Police, claiming permission to conduct a function on behalf of the political party, the respondents/Police used to reject the application of the Petitioner.

3(b).The averments as made in the above said complaint does not attract any offence as alleged by the Respondent/Police and further, the Petitioner is no way connected with the above case, however, to harass the Petitioner only foisted the above case.

4.Heard the learned counsel for the Petitioner and the learned Government Advocate (Cr1. Side).



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5. On perusal of the complaint given by the informant viz., Mr. Manikandan, it appears that a faction from AIADMK belongs to Mr. T. T. V. Dinakaran. Section have been arranged meeting at the South Street of Thiruvarur on 24.10.2017, wherein as a guest speaker Mr. Nanjil Sampath was invited and it is further stated that the informant Mr. P. K. U. Manikandran along with Mr. R. D. Moorthy went and attended the meeting, wherein Mr. M. S. Sankar @ Sivasankar have made a criminally intimidate remarks against the then Food Minister Mr. R. Kamaraj and the contents of the alleged words spoken by Mr. M. S. Sankar in the meeting, on literal translation in English goes to mean that

“in the year 1991, one Dog came near Mannai Nagar house, but it is not a Dog it is a Fox... Kamaraj! even if you take Kavadi, you cannot wash your sins... Taking of bitten bone of the Edappadi, you are a Dog and fool, you will face the penalty and the time will come for your teaching”.

and based upon the above said alleged statement said to have been uttered by the Petitioner herein, the case was registered under Section 294(b), 504, 505 (1)(b) IPC.



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6.Learned Government Advocate draw my attention to the fact that these allegations were made with an intention to insult the complainant and provoking to commit breach of peace or an offence or knowing that it is likely to provoke the complainant to do the same. Thereby the Petitioner has committed the offence punishable under Section 504 of IPC.

7.Section 504 IPC is usefully extracted as follows:

“504. Intentional insult with intent to provoke breach of the peace — Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

and from the bare reading of the above Section, in order to attract Section 504 of IPC the following things must be established:

- a.That the accused insulted some person.
- b.That he did so intentionally.
- c.That he thereby gave provocation to some person.



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d.That he then intended or knew it to be likely that the provocation given will cause him to break public peace or commit any other offence.

8.It remains to be stated that in order to attract the offence under Section 504, the words spoken must be face to face to the complainant and it should be addressed to the complainant by way of letter or it will have the impact of provoking the complaint to do certain things. Accordingly, I find that even if you take the words said to have uttered, it does not fall within the definition of Section 504 IPC and the words alleged to have been uttered does not satisfy the essential ingredients of Sections 504 & 505 IPC. The contents of the alleged utterance of the words by the Petitioner does not expressed any fear for his life or asking for any protection, as such, the ingredients of Section 504 are conspicuously absent in the complaint. Therefore, the registration of the FIR for the offence is held to be illegal, the points that to be noted for the alleged offence under Section 504 are as follows:

1. That the accused insulted some person.
2. That he did so intentionally.



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3. That he thereby gave provocation to some person.

4. That he then intended or knew it to be likely that the provocation given will cause him to break public peace or commit any other offence.

In the instant case, there is nothing to infer that he had intention to provoke someone so also, provoke to cause public peace and hence, the essential ingredients under Section 504 is conspicuously absent and hence, continuation of proceedings against the Petitioner amounts to abuse of process of law.

9.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



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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 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.”

10. 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



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of offence under Section 505 IPC.

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11.In this view of the matter, FIR in Crime No.298/2017 pending on the file of 1st Respondent is hereby quashed as against the Petitioner.

12.With the above observation, the Criminal Original Petition is allowed.
Consequently, connected Miscellaneous Petition is closed.

08.07.2022

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

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To
The Public Prosecutor,
High Court,
Chennai 104.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

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and

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Dated: 08.07.2022