



Crl.O.P.No.5365 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5365 of 2021

and

Crl.M.P.Nos.3479 and 3480 of 2021

1.D.Andrew Samraja Pandian

2.Deepha

... Petitioners

Vs.

1.The Inspector of Police,
B2 R.S.Puram PS,
Coimbatore.

2.M.Sundararajan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, calling for the records in respect of charge sheet in C.C.No.2157 of 2020 on the file of the Judicial Magistrate – I, Coimbatore and quash the same.



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For Petitioners : Mr.N.Ramesh
For R1 : Mr.A.Gopinath,
Public Prosecutor
For R2 : Mr.K.Magesh

ORDER

This petition has been filed to quash the proceedings in C.C.No.2157 of 2020 on the file of the Judicial Magistrate – I, Coimbatore.

2. On the complaint lodged by the second respondent / defacto complainant, the respondent police had registered FIR in Crime No.654 of 2020 for the offences under Sections 188, 505(1)(b) of IPC and 3 of the Epidemic Diseases Act, 1897 for allegedly disobeying the regulations by causing publications in a news website viz., “SimpliCity” about the protest by medical students and trainee Doctors at Coimbatore Medical College Hospital over lack of food and complaints from the residents of Coimbatore, over pilferage in ration shops during the lockdown. After completion of investigation, the first respondent police had filed a final report and the same



has been taken cognizance in C.C.No.2157 of 2020 on the file of the
I Judicial Magistrate, Coimbatore.

3. The articles published in the news website “SimpliCity” reads as
under:-

The First Article:-

*“ No timely and adequate food, allege UG
and PG student Doctors at CMCH Hostel”
([http://simplicity.in/coimbatore/english/news/64010/
food](http://simplicity.in/coimbatore/english/news/64010/food))-published on 14.04.2020, covered a protest by
medical students and trainee doctors at the
Coimbatore Medical College Hospital over lack of
food.”*

The Second Article:-

*“Looting at rations shops during lockdown,
govt's grant of Rs.1000 swindled, lament public”
(<http://simplicity.in/coimbatore/english/news/64144/>)
published on 18.04.2020 covered complaints from*



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the residents of Coimbatore over pilferage in ration shops during the lockdown.”

4. There are two accused in which the petitioners / A1 & A2 are the husband and wife and being journalists, they have published the news in their website. In order to attract the offences under Section 505(1)(b) of IPC, there must be an intention to incite public mischief and mutiny among others.

5. Section 505(1)(b) of IPC reads as under:-

“ 505 ...

(a) ...

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility;”



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6. It is seen from the above news articles that no offence under Section 505(1)(b) is made out. In fact, the FIR has been registered during the COVID-19 lockdown. That apart, there is a bar under Section 196(1) of Cr.P.C from taking cognizance of offence under Section 505(1)(b) of IPC without previous sanction of Government. As per Section 196(1) of Cr.P.C, no Court shall take cognizance without sanction from the Government. The learned counsel for the second respondent has produced the Governmental orders in G.O.Ms.No.572, Public (Law and Order-H) Department dated 07.11.2020 in order to prosecute the petitioner. Though the sanction obtained by the second respondent to prosecute the petitioners as stated above, no ingredients or offence is made out under Section 505(1)(b) of IPC. Now, the petitioners have been charged for the offences under Sections 505(1)(b), 153, 504, 120B of IPC and Sections 3 and 12 of Press and Registration of Books Act, 1867. In order to attract provisions under Section 153 of IPC, wantonly giving provocation with intent to cause riot-if rioting be committed-if not committed.



7. Section 153 of the IPC reads as under:-

“ 153. Wantonly giving provocation with intent to cause riot - if rioting be committed - if not committed
- Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

8. Thus, it is clear that there are three ingredients to be presented that the act must be illegal, such illegal act must be malignantly done and as a result of such illegal act, there must be a situation, which may cause riot.



Though except publishing the said news article in their website, no intention had been taken place. That apart, the public news cannot be said to be an illegal act. Further, the true publication of a happening or dissemination thus published in good faith, the agitation that took place cannot be said to be an illegal act. Therefore, publication of news article in the website would not attract offences under Section 153 of IPC.

9. In order to attract offences under Section 504 of IPC, there must be an intentional insult and the insult must be such as to give provocation to the person insulted and the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence.

10. The above ingredients are not at all barred against the petitioner in order to attract offences under Section 504 of IPC. The prosecution failed to provide any materials to attract offences under Section 504 of IPC against the petitioners. The publishing the news articles should have to provoke the person to break the public peace or to commit any other offences.



Admittedly, the above said news article were published in a good faith and no evidence to show that the public peace has been broken and no one has committed any other offence in pursuant to the publication of news items in the website. There is no intentional insult to anybody and therefore, offences under Section 504 is not at all barred as against the petitioners.

11. Insofar as offences under the Press and Registration of Books Act, 1867 is concerned, the same is also not applicable to the case on hand, since the petitioners have not printed legibly the name of the printer and the name and place of the publication. The book or paper referred to under Section 3 of the Press and Registration of Books Act, 1867 refers to printed materials. If the printer has not printed the name of the press or place, he is liable to be prosecuted under Section 3 and 12 of the Press and Registration of Books Act, 1867. There is no provision for Press and Registration of Books Act, 1867 under the said Act. Therefore, no offence is made as against the petitioners and the entire proceedings is liable to be quashed.



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12. In view of the above, C.C.No.2157 of 2020 on the file of the Judicial Magistrate – I, Coimbatore is quashed and accordingly, this Petition stands **allowed**. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Inspector of Police,
B2 R.S.Puram Police Station,
Coimbatore.



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G.K.ILANTHIRAIYAN, J.

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