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CRL.OP.(MD)No.12553 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.11.2022

DELIVERED ON : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)No.12553 of 2022

and

CRL.MP.(MD).No.7954 of 2022

Veeramuthu

: Petitioner

Vs.

1. State Rep. By

The Inspector of Police,
Arimalam Police Station,
Pudukkottai,
Pudukkottai District.
(In Crime No.55 of 2022)

2. N.Pravina Mary

3. The Superintendent of Police,
Pudukkottai District.

: Respondents

(Respondent No.3 is *suo motu* impleaded as per Order of the Court dated 03.11.2022 in CrI.O.P.(MD).No.12553 of 2022 by SSKJ)

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in FIR in Crime No.55 of 2022 on the file of the first Respondent and quash the same.

For Petitioner

: Mr.S.Krishnan

For Respondents
1 and 2

: Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER



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This Criminal Original Petition had been filed seeking to quash the FIR in Crime No.55 of 2022 on the file of the Inspector of Police, Arimalam Police Station, Pudukkottai, Pudukkottai District/first Respondent herein.

2. The learned Counsel for the Petitioner would submit that the De-facto Complainant/second Respondent is the Tahsildar of Thirumayam Taluk. She is also an Executive Magistrate of Thirumayam. It is the contention of the learned Counsel for the Petitioner that the Petitioner is practising as a Lawyer and also involving in social work. The Petitioner, as a social worker, had given complaint to the District Collector that the villagers of Perungudi, Kadayakudi Village Panchayat were protesting against the illegal removal of sand from Vellaru which is the source of water for the villagers of those places. When the villagers protested, the Drivers of the lorry, who were removing and transporting the river sand, stated that it was done on behalf of the Tahsildar, Thirumayam Taluk. Therefore, the Petitioner had preferred a Complaint against the Tahsildar, Thirumayam Taluk with the District Collector, Pudukkottai, regarding illegal removal of sand (theft of river sand). Aggrieved by the same, the Tahsildar of Thirumayam Taluk had lodged a complaint with the Respondent Police, based on which, First Information Report in Crime No.



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55 of 2022 was registered against the Petitioner for the offences under Sections 505 (1) (b), 501(b) and 506 (I) IPC. It is the contention of the learned Counsel for the Petitioner that what are all the offences alleged against the Petitioner are not as per the provisions of the Indian Penal Code because what are abusive words and what are the words used to defame her are not clearly explained and it is vague. Therefore, the FIR is to be quashed.

3. The learned Counsel appearing for the Petitioner relied on the decision of the Hon'ble Supreme Court in the case of ***Bilal Ahmed Kaloo -vs- State of Andhra Pradesh*** reported in (1997) 7 SCC 431 wherein it has been held as under:

“A.Penal Code, 1860 – Ss.153-A(1)(a) &(b) and 505 (2) – Distinction between – Mens rea essential ingredients for both the offences – They cover two different fields of similar colour – Words “whoever makes, publishes or circulates” in S.505(2) must be interpreted as supplementary to each other and not disjunctively – Appellant spreading the news that Kashmiri Muslims were being subjected to atrocities by the Indian Army Personnel – Held, none of the two sections attracted.”

4. Mr.B.Nambi Selvan, learned Additional Public Prosecutor appeared for the Investigating Officer as well as the second Respondent. Since the De-facto Complainant/second Respondent preferred Complaint in her status as Executive Magistrate, Mr.B.Nambi Selvan is also appearing



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for the second Respondent. The learned Additional Public Prosecutor would submit that the De-facto Complainant/second Respondent herein, on receipt of discreet information made surprise inspection in the patta land of one Inbavalli. There she found sand dumped in patta land of Inbavalli. As Tahsildar, she had seized the sand and ordered the PWD contractor to remove the same. Aggrieved by the same, on behalf of the said Inbavalli, the Petitioner had printed pamphlets and pasted in and around Thirumayam Taluk and also posted messages in the Whatsapp defaming the Tahsildar for her official duty. Therefore, she had lodged Complaint based on which, the First Information Report was registered on 30.03.2022.

5. The learned Additional Public Prosecutor would further vehemently object to the line of arguments made by the learned Counsel appearing for the Petitioner stating that the Petitioner had defamed the second Respondent/Tahsildar of Thirumayam Taluk. The complaint preferred by the Petitioner herein defamed the Tahsildar of Thirumayam Taluk as though she is involved in illegal activities. Also, in the said complaint, Petitioner herein stated that the Tahsildar, Thirumayam Taluk, had not acted in good faith. The learned Additional Public Prosecutor would submit that the Petitioner is a practising Lawyer. He is aware of the



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consequences, however, with an ulterior motive, he had lodged the complaint with the District Collector as though the Tahsildar, Thirumayam Taluk had involved in illegal sand mining from Vellaru and requesting action against her. But, as per the complaint preferred by the Tahsildar, Thirumayam, she is being threatened and wherever she visits as per her job requirements the people are instigated by the Petitioner against the De-facto Complainant/Tahsildar, Thirumayam Taluk. Since the Executive Magistrate was threatened by the Petitioner, who is a practising Lawyer, the threat was imminent and she feared for the life. Therefore, she had preferred the complaint and based on which, the FIR in Crime No.55 of 2022 had been registered. The investigation is still pending. It is at the initial stage. Therefore, as per the reported ruling of the Hon'ble Supreme Court in ***State of Haryana -vs- Bhajan Lal*** reported in ***1992 Suppl.(1) SCC 33***, in a case of this nature, the Court shall not exercise judicial discretion and the extraordinary powers of the High Court under Section 482 of Cr.P.C. to quash the FIR. Therefore, the learned Additional Public Prosecutor submits that this Criminal Original Petition has no merits and the same is to be dismissed.

6.To the query of this Court as to the stage of the investigation, the learned Additional Public Prosecutor, expecting this query from the Court,



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had promptly handed over CD file. On verification of the CD file, it is found that 161(3) Cr.P.C. statements of the De-facto Complainant/Tahsildar, her vehicle driver, Revenue Inspector and Village Administrative Officer alone had been recorded. It is to be noted that the complaint was given by the Tahsildar who is an Executive Magistrate. The Investigation Officer instead of promptly investigating the case had been sitting on the First Information Report. They had ample time to complete the investigation within a reasonable period of one month. That shows the callousness indifference of the Investigation Officer. The Superintendent of Police, Pudukkottai District is *suo motu* impleaded in this case for the callous indifference of the Investigation Officer. Also, the Superintendent of Police, Pudukkottai District is directed to conduct enquiry and if he is satisfied regarding the ingredients of offences, he is directed to withdraw the case from the file of the Inspector of Police, Arimalam Police Station, Pudukkottai District and hand over the same to the competent officer in his own assessment and to proceed with the investigation. He is also directed not to file final report till the disposal of this Criminal Original Petition. Within one month of time, he is directed to complete the investigation.

7.Point for consideration:

Whether the FIR in Crime No.55 of 2022 for the offences under Section 505(1)(b), 501(b) and 506(1) of IPC is



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to be quashed against the Petitioner?

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8. On perusal of the records it is found that the Petitioner herein had given a complaint to the District Collector, Pudukkottai, dated 21.03.2022 against the Tahsildar, Thirumayam Taluk, alleging that the villagers were protesting against the alleged transportation of river sand in lorries, when they were told by the drivers of lorries that the transportation was done on behalf of the Tahsildar. That therefore, she is involved in illegal transportation of sand from Vellaru. On perusal of the FIR dated 30.03.2022, it is alleged by the Complainant, Tahsildar of Thirumayam Taluk that on discreet information on 16.03.2022, made surprise inspection on 18.03.2022, in the private land of one Inbavalli, wherein sand was found dumped and that she took steps to dispose of the sand. That on behalf of the said Inbavalli, the Petitioner herein had printed pamphlets alleging that the Tahsildar, Thirumayam Taluk is involved in illegal transportation of river sand from Vellaru, which resulted in social stigma to the Tahsildar, Thirumayam Taluk, who as per the powers conferred on her by the State, is the Executive Magistrate. Due to Petitioner, wherever she visits, a group of people shouted slogans and issued pamphlets against her. Therefore, she had felt that her reputation is damaged by the conduct of the Petitioner herein. Since the Petitioner is a practising Lawyer and had issued



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pamphlets denigrating her work as Tahsildar of Thirumayam Taluk affecting her reputation and standing in the society, the Tahsildar, Thirumayam Taluk had only invoked the Magisterial powers. Also, the ingredients of the complaint preferred by the Petitioner to the District Collector defames the Executive Magistrate/Tahsildar of Thirumayam Taluk as though she is involved in illegal removal of river sand from the riverbed of Vellaru and transported it, which are sufficient to attract the ingredients of Section 501 and 506 of IPC.

9. On further perusal of the typed set it is found that the representation given to the District Collector by the Petitioner, who is the practicing Lawyer is dated 21.03.2022 which was acknowledged by the office of the District Collector, Pudukkottai. It is the grievance petition by the Petitioner wherein it is stated that the officials viz., Tahsildar, Thirumayam Taluk and the Police officials of Arimalam Police Station are indulging in misuse of their powers and indulging in removal of river sand and illegal sale of river sand. Only after such representation was given by the Petitioner, the Police officials and Tahsildar had with an ulterior motive registered a case in Crime No.55 of 2022 dated 30.03.2022. On perusal of the FIR, it is dated 30.03.2022 subsequent to the representation of the Petitioner to the District



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Collector, Pudukkottai. Only as counter blast to the Petitioner's Public interest grievance petition to the District Collector, Pudukkottai, the FIR was registered. However, in the said FIR, the Respondents misusing their authority had ante-dated the alleged inspection as on 18.03.2022 prior to the date of representation given to the District Collector, Pudukkottai, by the Petitioner on 21.03.2022 to be in tandem with the contents of the said representation. From the contents of the FIR and the subsequent conduct of the officials till the date of filing of the quash petition, the investigation has not proceeded. That shows they had misused their powers. Therefore, the submission of the learned Counsel for the Petitioner is found *prima facie* acceptable.

10. In the light of the above discussion, the point for consideration is answered in favour of the Petitioner and against the Respondents. Therefore, the FIR in Crime No.55 of 2022 on the file of the Inspector of Police, Arimalam Police Station, Pudukkottai District/first Respondent is to be quashed.



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In the result, **this Criminal Original Petition is allowed.**

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The FIR in Crime No.55 of 2022 on the file of the Inspector of Police, Arimalam Police Station, Pudukkottai District/first Respondent herein is quashed. Consequently, the connected miscellaneous petition is closed.

13.06.2023

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

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To

1. The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
2. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

SRM

Order made in

CRL.OP.(MD)No. 12553 of 2022

13.06.2023