



CrI.O.P.(MD)No.13649 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CrI.O.P.(MD)No.13649 of 2020

and

CrI.M.P.(MD)No.6290 of 2020

M.Karthikeyan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Inspector of Police,
Pavoorchatram Police Station,
Tirunelveli District.
(Crime No.473 of 2020)

2.Samy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned First Information Report in Crime No.473 of 2020 under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act 2000 dated 26.09.2020 on the file of the first respondent and quash the same as illegal.



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For Petitioner : Mr.I.Pinaygash
For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor
For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the impugned First Information Report in Crime No.473 of 2020 under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act 2000 dated 26.09.2020 on the file of the first respondent.

2.According to the petitioner, the first respondent police registered FIR in Cr.No.473 of 2020 for the offences under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act 2000 dated 26.09.2020. The second respondent lodged complaint as against the petitioner alleging that the petitioner posted some information in facebook against the Chief Minister and MLA of ruling party for creating enmity. Thereby, the first respondent police registered FIR in Cr.No.473



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of 2020 for the offences under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act, 2000. In fact, none of the offences attracted as against the petitioner and the defacto complainant did not mention about any specific allegation and specific event. As far as Section 505 IPC is concerned, previous sanction is necessary under Section 196 Cr.P.C. and no previous sanction was obtained. As far as Section 66A of the Information Technology Act is concerned, the Hon'ble Supreme Court of India already struck down the same. Hence, the impugned FIR is liable to be quashed. No counter was filed by the respondents.

3.The learned counsel appearing for the petitioner would contend that the second respondent lodged complaint before the first respondent with bald allegations and based on the same, FIR was registered in Cr.No.473 of 2020 for the offences under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act, 2000. According to the complaint none of the offences are made out and as far as 505(1)(b) IPC is concerned, no previous sanction was obtained as stipulated under Section 196 Cr.P.C. and already the Hon'ble Supreme Court of India struck down the Section 66A of the Information Technology Act.



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However, the first respondent registered FIR under the above said Sections. Hence, FIR is liable to be quashed.

4.The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and the case is now in initial stage and hence, this Court need not look into the matter, at this stage and this petition is liable to be dismissed.

5.Heard both sides and perused the materials available in the records.

6.On perusal of records reveals that the second respondent lodged a complaint before the first respondent and first respondent also registered FIR in Cr.No.473 of 2020 for the offences under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act 2000. On careful reading of the above said FIR shows that there is no specific allegations to constitute the offence and allegations are vague. The learned counsel appearing for the petitioner would contend that as far as Section 505 IPC is concerned, as per Section 196 Cr.P.C., previous



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sanction has to be obtained and in this case, no previous sanction was obtained. In order to take cognizance under Section 505(i)(b), the previous sanction under Section 196 of Cr.P.C., is essential, but in this case is at the stage of FIR and no cognizance was taken and it is pre-cognizance stage. As far as Section 66A of the Information Technology Act is concerned, already the Hon'ble Supreme Court of India struck down the provision and even as per the allegations levelled in FIR, no offences are made out and the allegations are vague and bald. With the bald allegations and without specific allegations, the petitioner need not face the trial and thereby FIR is liable to be quashed. That apart, the learned counsel appearing for the petitioner relied upon the judgments of this Court in Crl.O.P.(MD)No.19111 of 2015, Crl.O.P.Nos.5101 of 2021, 21792 of 2021 & 3694 of 2021. On careful reading of the above said decisions shows that for taking cognizance for the offence under Section 505(1)(b) IPC, previous sanction is necessary as per Section 196 Cr.P.C. and already the Hon'ble Supreme Court of India struck down the same as unconstitutional. Hence, the above said case laws are squarely applicable to the case on hand.



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7.In view of the above said discussions, FIR in 473 of 2020 for the offences under Sections 500, 505(1)(b) IPC and Section 66A of the Information Technology Act 2000 is quashed and accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

08.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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WEB COPY

To

- 1.The Inspector of Police,
Pavoorchatram Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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