



Crl.O.P.(MD)No.17953 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.17953 of 2021
and Crl.M.P.(MD)Nos.9797 & 9799 of 2021

Ledvin @ Ledwin

... Petitioner

Vs.

1.State rep.by its
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
Crime No.54 of 2020.

2.Jeyaseelan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.94 of 2021 on the file of the Judicial Magistrate Court No.I, Kuzhithurai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.R.J.Karthick

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

For R2 : Mr.S.C.Heroldsingh



CrI.O.P.(MD)No.17953 of 2021

ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.94 of 2021 on the file of the Judicial Magistrate Court No.I, Kuzhithurai.

2.According to the petitioner, the second respondent lodged a complaint before the first respondent police and based on the same, the first respondent registered a case in Cr.No.54 of 2020 for the offence under Section 67 of the Information Technology (Amendment)Act, 2008 and Section 505(i)(a), 294(b) and 506(i) IPC. According to the case of the prosecution, on 12.02.2020, the accused persons edited the second respondent's photo and abused him by name "Meetperpuram Corona Virus" and posted in the Meetperpuram whatsapp group and Tamizhaga CSI Devalayangal whatsapp group. When the same was questioned by the second respondent, the accused persons abused him in filthy language and also threatened him. The petitioner has not committed any offence as alleged in FIR. Without conducting any proper investigation, the first respondent filed charge sheet as against the petitioner and others and the same was also taken on file in C.C.No.94 of 2021.



3.The learned counsel appearing for the petitioner would contend that, even according to the complaint, there is no specific allegations to attract the offences alleged in FIR. Especially Section 505(1)(a) IPC would not attract, since the second respondent is working in Television as Senior Technision and not a soldier, sailor or airman in the Army.

4.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that the petitioner and others have edited the photo of the second respondent and posted the same in whatsapp group. When the same was questioned by the second respondent, all the accused persons abused him in filthy language and also made criminal intimidation and thereby, the second respondent lodged complaint. Based on the same, FIR was registered and thereafter, matter was elaborately investigated and since prima facie materials available to proceed further, the first respondent filed final report. Hence, this petition is liable to be dismissed.

5.The learned counsel appearing for the second respondent would contend that the second respondent is working as Senior Technician in



Crl.O.P.(MD)No.17953 of 2021

Thiruvananthapuram Dhoordarshan Television. The petitioner and others edited the photograph of the second respondent and posted the same in whatsapp group. When the second respondent questioned about the same, all the accused persons abused him in filthy language and also threatened him. Hence, the second respondent filed a complaint and the Police also filed final report. Since there are prima facie materials available as against the petitioner, he has to face the trial and this petition has to be dismissed.

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

7.On perusal of records revealed that as per FIR, the petitioner and others edited the photograph of the second respondent and posted the same in whatsapp group. When the same was questioned by the second respondent, the petitioner and others abused him in filthy language and caused criminal intimidation. According to the petitioner, the allegations are vague and there is no specific overt act as against the petitioner. As far as Section 505(1)(a) IPC is concerned, according to the petitioner, the



second respondent is not a Army person and he is working as Senior Technician in Thiruvananthapuram Dhoordarshan Television. It is relevant to extract Section 505(1)(a) IPC:-

*505.Statements conducing to public mischief.[(1)]
Whoever makes, publishes or circulates any statement, rumour or report,—
(a) with intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such;*

On careful reading of the above said Section, it is only applicable to the officer, soldier, sailor or airman in the Army, Navy or Air Force of India. Admittedly, the second respondent is working as Senior Technician in Thiruvananthapuram Dhoordarshan Television and thereby, Section 505(1)(a) IPC would not attract. Hence, charge against the petitioner under Section 505(1)(a) IPC is quashed. For other offences, as rightly contended by the learned Additional Public Prosecutor, the first respondent elaborately investigated the matter and then only, filed final report and the learned Magistrate has also taken cognizance in C.C. No.94 of 2021. At this stage, this Court cannot invoke its inherent power under Section 482 Cr.P.C. The petitioner can agitate before the trial



Crl.O.P.(MD)No.17953 of 2021

Court and can raise all the grounds raised in this petition before the trial

Court and it is for the petitioner to approach the trial Court for getting appropriate remedy by filing appropriate application in accordance with law.

8.At this juncture, the learned counsel appearing for the petitioner requested this Court to dispense with the personal appearance of the petitioner before the trial Court. In this context, it is for the trial Court to decide whether the presence of the petitioner is required or not. However, the trial Court is directed to expedite the trial and complete the same, as early as possible, preferably, within a period of four months from the date of receipt of a copy of this order.

9.With the above observations, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

20.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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CrI.O.P.(MD)No.17953 of 2021

To

- 1.The Judicial Magistrate Court No.I,
Kuzhithurai.
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.17953 of 2021

P. DHANABAL,J.

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Crl.O.P.(MD)No.17953 of 2021

20.07.2023