



W.P(MD)No.27481 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27481 of 2023

and

W.M.P(MD)No.23603 of 2023

P.R.Mahendran

... Petitioner

Vs.

- 1.The Home Secretary,
St.George Fort,
Chennai.
- 2.The Principal Secretary,
Tamil Nadu News & Broadcasting Department,
St.George Fort,
Chennai.
- 3.The District Collector,
District Collectorate,
Sivagangai & District.
- 4.The Revenue Divisional Officer,
Revenue Divisional Office,
Devakottai,
Sivagangai District.



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5.The Superintendent of Police,
O/o.Superintendent of Police,
Sivagangai, Sivagangai District.

6.Periyaiyah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 5 to forfeit the sixth respondent publication namely 7 Kilaigal 14 Naadugal by considering petitioner's representation dated 11.10.2023.

For Petitioner : Mr.K.Balasundaram
Senior Advocate
for M/s.KBS Law Office

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 & R.4

Mr.A.Albert James
Government Advocate for R.5

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned Government Advocate appearing for the fifth respondent.



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2.The case of the petitioner is that he is the descendant of a Aralathevan, a renowned warrior who flourished during the reign of Maruthu brothers. The descendants of Aralathevan fall under three categories, namely, Melveedu, Keelveedu and Vairamveedu. The petitioner belongs to Keelveedu branch. The said branch comprises 51 pullies.

3.The sixth respondent is also a descendant belonging to Melveedu. He had recently written a book titled “7 கிளைகள் 14 நாடுகள்”. The book was released on 25.06.2023. According to the petitioner, the book contains several factual errors having potential to cause disharmony and ill will between different groups of people who are descendants of Aralathevan. Objection is specifically taken to the statement in the book that Aralathevan had three wives and that the descendants of the first wife are styled as belonging to Melveedu. The petitioner has given a representation.

4.The learned Senior Counsel points out that the apprehension set out in the affidavit filed in support of the writ petitioner is well founded



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as evidenced by the fact that a legal notice has been issued to the sixth respondent. The petitioner wants the Government to forfeit the offending book. In order to fastrack the decision making process, the present writ petition has been filed.

5.The learned Senior Counsel drew my attention to the relevant provisions of CrPC and IPC. He also relied on the decision of the Hon'ble Apex Court reported in **(2010) 7 SCC 398 (State of Maharashtra & Others Vs Sangharaj Damodar Rupawate & Others)**. He points out that as per Paragraph 26 of the said judgment, it is the Government that must form an opinion envisaged by Section 95 of Cr.P.C. He called upon this Court to grant relief as prayed for.

6.The learned Special Government Pleader submitted that the complaint given by the petitioner was received by the Tahsildar, Devakottai and he had in turn called upon the Zonal Deputy Tahsildar, Devakottai to submit a detailed report. The learned Special Government Pleader does not want to commit himself beyond making the aforesaid statement.



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7. After a careful consideration of the submissions advanced by the learned Senior Counsel appearing for the writ petitioner, I am satisfied that no relief can be granted. This is for more than one reason. Section 95 of Cr.P.C reads as follows:

“95. Power to declare certain publications forfeited and to issue search-warrants for the same.—

(1) Where—

(a) any newspaper, or book, or

(b) any document, wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 292 or section 293 or section 295A of the Indian Penal Code (45 of 1860), the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue, or any such book or other document may be or may be reasonably suspected to be.



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(2) In this section and in section 96,—

(a) “newspaper” and “book” have the same meaning as in the Press and Registration of Books Act, 1867 (25 of 1867);

(b) “document” includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 96. ”

It is true as contended by the learned Senior Counsel that it is the Government that must form an opinion in this regard. However, certain foundational facts must be present before the operation of the said provision can be triggered. The published matter must attract one of the provisions of IPC as setout therein. Obviously, Section 124-A or Section 92 or Section 293 or Section 295 of IPC will not be attracted. The learned Senior Counsel appearing for the petitioner submitted that Section 153-A of IPC is attracted. It reads as follows:

“153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—(1) Whoever—



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(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or illwill between different religious, racials, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, [or]

[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear



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or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

The offending words must be capable of causing disharmony between different religious, racial, language or regional groups or castes or communities. In this case, the writ petitioner as well as the sixth respondent belong to the same religion. They cannot be called as belonging to two different regional groups or castes or communities. The condition precedent for invoking Section 153A of IPC is not present in this case. I am not in a position to grant direction as sought for.

8.This writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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