



Crl.O.P.No.20346 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.20346 of 2022

and

Crl.M.P.Nos.13346 of 2022

P.Sam Abisheik

... Petitioner

Vs.

1.State Rep. by its
Assistant Commissioner of Police,
Central Crime Branch, Conventional Crime,
Vepery, Chennai-600 007.

2.R.Vanniarasu

... Respondents

(R2 impleaded as per order dated 20.09.2022 in
Crl.M.P.No.14616 of 2022 in Crl.O.P.No.20346 of 2022)

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records in the Spl.S.C.No.4 of 2021 on the file of the
Principal Judge, City Civil Court, Chennai and quash the same.



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For Petitioner : Mr.V.K.Bhuvaneshwar
for Mr.M.Vijaya Kumar
For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)
For R2 : Mr.P.Saranath

ORDER

This petition has been filed to quash the Spl.S.C.No.4 of 2021 on the file of the Principal Judge, City Civil Court, Chennai, in which cognizance was taken for the alleged offence punishable under Sections 153, 153 A(1)(a), 505(1)(b), 502(2) of IPC r/w Section 3(1)(r), 3(1), 3(1) (u) of the SC and ST Prevention Act, 1989, against the petitioner.

2. The case of the prosecution is that A1 has recorded and uploaded in the Twitter with derogatory and abusive speech against the Scheduled Caste people, which insulted and humiliated at the instigation of the common mentality of the upper caste people. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner/A2 is an innocent person. Based on the confession statement



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given by a co-accused person, he was falsely implicated in this case. He further submitted that, as per the final report, the charges against him are that he helped A1 and uploaded the incriminating video. In the video recording, A1 made an abusive statement against Scheduled caste people. He further alleged that when A1 made an abusive statement, and he has been accidentally included in the said video without knowing the substance of the video. However, it was misconstrued that he supported the alleged derogatory statement of A1. Except for his appearance in the video, there is no other material evidence to establish the alleged charge that he helped A1 and uploaded the incriminating video. He further submitted that the respondent has filed the statement of witnesses in the charge sheet and examined 17 witnesses. None of the witnesses has stated anything against the petitioner, and no prima facie evidence has been established of role of the petitioner in the alleged charges constituting the offenses allegedly committed by the petitioner. The petitioner belongs to Scheduled Caste by birth. The petitioner cannot be charged for the alleged offenses for the reasons that the SC/ST Act is enacted to punish offenders of the upper caste. The petitioner, being a Scheduled Caste and with his entire family members still in the Hindu Scheduled caste, hence, he prays to quash the proceedings



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against him.

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4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that based on the complaint lodged by the defacto complainant, an FIR has been registered, and after completing the investigation, the case was taken in Spl.S.C.No.4 of 2021, on the file of the Principal Judge, City Civil Court, Chennai.

5. The learned counsel for the 2nd respondent submitted that the petitioner also accompanied A1 at the time of the alleged occurrence. Hence, he raised an objection to quash the proceedings against the petitioner.

6. Considering the facts and circumstances and also the submissions made by both side counsels, it reveals that the alleged video was uploaded on You Tube by A1, who is said to be a cine actor, and in her Twitter, he uploaded the abusive speech against Scheduled caste people. Admittedly, the said YouTube channel personally belongs to A1, is undisputed fact. The



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investigating officer recorded the statement from A1 also perused by this Court. It shows that A1 voluntarily recorded the said video by scolding the Scheduled Caste community people. At that time, the petitioner/A2 accompanied A1 but did not utter any word against the said community people, which shows that only he accompanied A1 at the time. Furthermore, he comes from Scheduled Caste, except for his appearance with A1, he has not degraded the Scheduled Caste people by uttering any derogatory words. Prima facie, it appears that the petitioner has been taken under the circumstances. Besides, he also filed an undertaking affidavit, stating that, in the future, he would not indulge in any sort of activities, either by himself or supporting those who are indulged in such activities. The undertaking affidavit filed by the petitioner is recorded by this Court. Therefore, this Court is inclined to quash the proceedings against the petitioner in Spl.S.C.No.4 of 2021 on the file of the Principal Judge, City Civil Court, Chennai, as there is no basic ingredients to prosecute him for the alleged charges levelled against him.



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T.V.THAMILSELVI, J.

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7. Accordingly, this Criminal Original Petition is allowed, proceedings against him (A2) alone ordered to be quashed in Spl.S.C.No.4 of 2021, before the learned Principal Judge, City Civil Court, Chennai . The undertaking affidavit shall form part and parcel of this order. Consequently, the connected miscellaneous petition is closed.

28.03.2024

Index: Yes/ No

Neutral Citation: Yes/No

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To

1.The Principal Judge, City Civil Court,
Chennai.

2.The Public Prosecutor,
High Court of Madras.

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and

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