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Crl.O.P.No.21166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.21166 of 2024

and

Crl.M.P.Nos.12159 & 12160 of 2024

C.Ve.Shanmugam

... Petitioner

Vs.

The Public Prosecutor,
Villupuram District and Sessions Court,
Villupuram.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C and Section 528 of BNSS, to call for the records and quash the proceedings against the petitioner in C.C.No.02 of 2024 pending on the file of the Principal Sessions Judge, Villupuram.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.M.Mohamed Riyaz

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings as against the petitioner in C.C.No.02 of 2024, pending on the file of the Principal Sessions Judge, Villupuram.

2. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

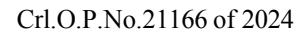
3. Learned Senior Counsel appearing for the petitioner submitted that, being one of the opposition Leaders of a political party, the petitioner has pointed out the lapses on the part of the present Government and he has never spoken about either the Chief Minister or his public activities. The cognizance of the offence had been taken primarily based on the sworn statement of a person who was not present at the spot, but transcript of the speech is available. He further submitted that the learned Sessions Judge has not applied mind while taking cognizance of the complaint/offence.



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4. The learned Senior Counsel further submitted that, in this case, the complaint has been given by the learned Public Prosecutor and no other party appeared before this Court to give sworn statement. The learned Sessions Judge stated that the prima-facie materials/averments are available in the affidavit for taking cognizance of the offence, which itself shows that the learned Sessions Judge had not applied his mind while taking cognizance of the offence. It is mandate as per law laid down by the Hon'ble Supreme Court in various cases that a Court is not a mere Post Office to endorse the views given by the parties. In the cases of this nature, the Court has to apply its mind and only after satisfaction, they have to take cognizance of the offence. Further, the respondent also has produced the statement of the petitioner in pick and choose method and they have not mentioned the actual words spoken by the petitioner at the relevant point of time and the same would not attract Section 199 Cr.P.C., The learned Public Prosecutor may file the complaint in writing by invoking Section 199 Cr.P.C., only if it is in order, the learned Sessions Court has to take cognizance of the offence. In this case, the



5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner is not an ordinary citizen. He is the then Law Minister and also a Law graduate, and without realising the same, the petitioner uttered indecent words in disrespectful manner as against the Chief Minister with an intention only to degrade the Chief Minister. In every public meetings, he had spoken like this and the same is deprecated. The Sessions Court had rightly observed that prima facie materials are available to proceed as against the petitioner and there is no



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merit in the petition. If the Court/Magistrate is not inclined to take cognizance of an offence, the Court has to give detailed reasons for the same. For taking cognizance, he need not give reason in detail. When the Court/Magistrate finds that prima facie materials are available against a person, then, they can take cognizance of the offence. In this case, after perusal of the statement in detail with all available materials, the Court was satisfied that the petitioner has committed the alleged offence under Section 499 IPC. Hence, the present petition is liable to be dismissed.

6. The only defence taken by the petitioner is that he is one of the leaders of the opposition political party and he has right to express his views, whereas the Court below has not applied mind while taking cognizance of the offence/complaint. This Court does not want to express anything on the merits of the case. It is stated that the learned Sessions Judge had taken cognizance of the offence on a perusal of the affidavit, whereas there is no such affidavit available on record. On a perusal of the adjudication orders, it is stated that the complainant was present and



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sworn statement was recorded and Prima facie materials are available as against the petitioner. However, on a perusal of materials, it is clear that no sworn statement was recorded in this case, therefore the learned Judge has not applied his mind and the petitioner has spoken something about the Chief Minister. Therefore, reasons for taking cognizance of the offence is not in order. Hence the same is hereby set aside.

7. The Court below before taking cognizance of an offence, shall apply its mind and on materials, if he is satisfied with the same, he can proceed with the complaint filed by the learned Public Prosecutor in accordance with law. Hence the proceedings as against the petitioner in C.C.No.2 of 2024 pending on the file of the Principal Sessions Judge, Villupruam, is setaside and the matter is remitted back to the Principal Sessions Court, Villupuram for fresh consideration on merits and in accordance with law.



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8. With the abovesaid direction, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Principal Sessions Judge, Villupuram.



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P.VELMURUGAN, J.

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