



Crl.O.P.No.7199 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2025

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CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.7199 of 2025
and Crl.M.P.No.4563 of 2025

C.Ve.Shanmugam

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Villupuram West Police Station,
Villupuram District.
(Crime No.46 of 2022)

2. Karthikeyan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the case in Crime No.46 of 2022 on the file of the Villupuram West Police Station, Villupuram.

For Petitioner : Mr.R.John Sathyan
Senior Counsel
For Mr.E.Balamurugan

For Respondents
For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to quash the FIR registered in Crime No.46 of 2022 on the file of the first respondent, as against the petitioner.

2. The case of the prosecution is that the second respondent lodged a complaint alleging that on 14.02.2022 at about 7.00 p.m., he had witnessed an election campaign and candidate introduction function near Villupuram old bus stand, Thiruvalluvar Statue by the political party. During the said function, the petitioner had spoken against the present Chief Minister of Tamil Nadu and another person had spoken derogatory words against the present ruling party and other ministers. On the complaint, the first respondent registered FIR in Crime No.46 of 2022 for the offences punishable under Sections 294(b), 504, 506(1) of IPC. The petitioner is a Member of Parliament and District Secretary of his party of Villupuram District. He had spoken about the Chief Minister of Tamil Nadu and his family members in filthy language and derogatory words.



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3. Mr.R.John Sathyan, learned Senior Counsel appearing for the petitioner submitted that the petitioner is being a responsible member of the opposition party and being a citizen of India had questioned the unfair act of the present ruling party. Further, he had spoken with reasonable criticism which comes under the ambit of legitimate right and it cannot be nipped at the bud by misusing government agency by foisting false case as against the petitioner. The stifling of critical voices is a step towards police state, instead of a democracy. Though the petitioner filed quash petition in Crl.O.P.No.16248 of 2023, the same was dismissed as withdrawn. Therefore, this petition can be very well maintainable. Further there is absolutely no allegations to constitute any of the offence as against the petitioner in Crime No.46 of 2022.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the petitioner is doing the same illegality repeatedly and several complaints were filed as against the petitioner and it has become a habit of the petitioner to file quash petition for the same. Though this Court had quashed the FIR and has strictly warned the petitioner, even then, the petitioner repeatedly speaks with



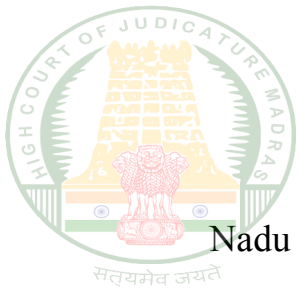
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derogatory words as against the Chief Minister of Tamil Nadu and his family members. That apart, there are specific allegations to constitute the offence under Sections 294(b), 504 & 506(1) of the IPC. He further submitted that the entire investigation has been completed and final report has been filed before the learned Judicial Magistrate No.1, Villupuram and the same has been taken cognizance in S.T.C.No.325 of 2025 and it is pending before the trial Court. Therefore, the prayer sought for in this petition has become infructuous.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The petitioner is the sole accused in Crime No.46 of 2022 registered for the offence under Sections 294(b), 504 & 506(1) of IPC. On perusal of the FIR, it is revealed that the petitioner had spoken about the present Chief Minister of Tamil Nadu and also against central government and police personnel during the function while introducing his party candidate for the general election near old bus stand, Villupuram. Though the second respondent has alleged that the petitioner had spoken filthy language and had scolded the Chief Minister of Tamil



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Nadu and threatened with dire consequence, no specific words has been mentioned as uttered by the petitioner.

7. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who has lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-

"294. Obscene acts and songs —Whoever, to the annoyance of others— (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

Admittedly, there is absolutely no words uttered by the petitioner as such to constitute the offence under Section 294(b) of IPC, there is no averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioner, the witnesses felt annoyed. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioner annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC is



made out.

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8. It is relevant to rely upon the judgment reported in **1996(1) CTC 470** in the case of **K.Jeyaramanuju Vs. Janakaraj & anr.**, which held as follows :-

"To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case."

The above judgment is squarely applicable to the present case and therefore, the offence under Section 294(b) of IPC is not at all attracted as against the petitioners.

9. Insofar as the offence under Section 506(i) of I.P.C., is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner



were only empty threats and they had no effect on the complainant.

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10. In this regard, It is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire



proceedings.”

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11. Insofar as the offence under Section 504 of IPC is concerned, Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression is a fundamental right given to the citizen against the State, which includes carrying out of peaceful public demonstration. The right of the petitioner to assemble peacefully without any arms to show dissent against the government and to criticize government policies cannot be construed as a criminal offence. Further, the criminal proceeding cannot be used as weapon to stifle democracy.

12. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***Kaushal Kishor Vs. State of U.P.***, reported in **2023 (4) SCC 1**, which held as follows :-

"The right to dissent, disagree and adopt varying and individualistic points of view inheres in every citizen of this Country. In fact, the right to dissent is the essence of a vibrant democracy, for it is only when there is dissent that different ideas would emerge which may be of help or assist the Government to improve or innovate upon its policies so that its governance would have a



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positive effect on the people of the country which would ultimately lead to stability, peace and development which are concomitants of good governance"

13. Though the speech of the petitioner was harsh, as it may sound, it can only be construed as criticism against the functioning of the government and cannot be construed as a speech attracting penal provisions. The issue is as to whether the portion of the speech will constitute an offence under Sections 504 IPC. In order to constitute an offence under Section 504 of IPC, this section requires two elements and they are (i) intentionally insulting a person and thereby provoking him and (ii) a person insulting must intend or know it to be likely that such provocation will cause him to break public peace or to commit any other offence. It is relevant to extract the provisions under Section 504 of IPC, as follows:-

"504. Intentional insult with intent to provoke breach of the peace — Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."



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14. In this regard, it is relevant to rely upon the judgment of this Court reported in **2025 (1) MLJ (Crl) 532** in the case of **Thirumaran Vs. Inspector of Police & anr**, which held as follows :-

“17..... mere hurling of abuses in the absence of any allegation that such abuse was made intending or knowingly that such an action would provoke or break public peace is the sine qua non which must be prima facie available. Abusing language which may lead to breach of public peace by itself is not an offence and the intention part has a lot of significance.”

Therefore, the offence under Section 504 is not at all attracted as per the allegations made as against the petitioner.

15. Though the petitioner had withdrawn the earlier petition to quash the FIR, when there is subsequent development after the dismissal of the earlier petition, the question of maintainability does not arise. There is subsequent development of the charge sheet being filed and returned for compliance in Crime No.46 of 2022 on the file of the first respondent. Further all the offences are punishable with imprisonment not exceeding two years. Therefore, there is a bar to take cognizance after lapse of period of limitation as contemplated under Section 468 of



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Cr.P.C. The period of limitation to take cognizance, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years, is three years. In the case on hand, the FIR has been registered in the year of 2022. Even after completion of three years, though the first respondent filed the final report, the same was returned and no cognizance has been taken in Crime No.46 of 2022. Therefore, there is substantial change of circumstances after withdrawal of the first petition to quash the FIR and therefore, this petition is very much maintainable.

16. Though the learned Government Advocate (Crl. Side) submitted that now the charge sheet in Crime No.46 of 2022 has been taken on file in S.T.C.No.325 of 2025, it is very much after the completion of three years from the date of registration of FIR. Therefore, the trial Court ought not have taken cognizance on the final report filed by the first respondent in Crime No.46 of 2022. Further even after filing the final report, the quash petition to quash the FIR can be entertained by this Court by exercising the power under Section 482 of Cr.P.C., to prevent the abuse of process even after filing the charge sheet if the Court believes that the charge sheet makes out no offence as against the accused



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person. Further, there is no prohibition against quashing of criminal proceedings even after the charge sheet has been filed.

17. In view of the above, the impugned FIR cannot be sustained and is liable to be quashed. Accordingly, the FIR in Crime No.46 of 2022 on the file of the first respondent is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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1. The Judicial Magistrate No.I,
Villupuram.

2.The Inspector of Police,
Villupuram West Police Station,
Villupuram District.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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