



Crl.O.P.No.7205 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.7205 of 2025
and Crl.M.P.No.4566 of 2025

C.Ve.Shanmugam

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Gingee Police Station,
Villupuram District.
(Crime No.488 of 2022)

2. S.A.Anbuselvan

... 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.488 of 2022 on the file of the Gingee 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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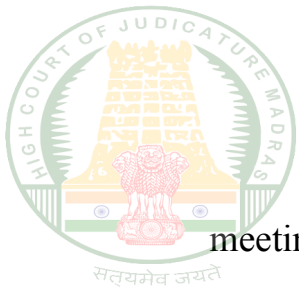
ORDER

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This Criminal Original Petition has been filed to quash the FIR registered in Crime No.488 of 2022 on the file of the first respondent, as against the petitioner.

2. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.482 of 2022 for the offences punishable under Sections 153A, 504 & 505(1)(b) of IPC alleging that opposite political party members organized a protest near Indian Bank, Gingee Branch, Villupuram District, on 16.09.2022 at about 10 a.m., and he witnessed that the petitioner and others had delivered a derogatory speech against the present Chief Minister of Tamil Nadu which resulted in disruption of public tranquility.

3. Mr.R.John Sathyan, learned Senior Counsel appearing for the petitioner submitted that the petitioner is serving as a Member of Parliament and District Secretary of his political party. He has been falsely implicated in this case only for the reason that he belongs to the opposite party and it is purely an ill-motivated one. In fact, the petitioner had approached the first respondent seeking permission to conduct



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meeting. However, his application was kept pending without any action.

The right of freedom of speech and expression is enshrined in our constitution and it is a fundamental right guaranteed to every citizen of India. He further submitted that the very registration of FIR is nothing but a malicious prosecution initiated with the malafide intention solely to take wreak vengeance against the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that there are specific allegations as against the petitioner to attract the offences under Sections 153A, 504 & 505(1)(b) of IPC. The FIR cannot be quashed on its threshold and therefore he prayed for dismissal of the petition.

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

6. The present FIR has been registered as against the petitioner for the offences punishable under Sections 153A, 504 & 505(1)(b) of IPC. It is relevant to extract the offence under Section 153A of IPC as follows :-



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

(1) Whoever—

(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 ill-will between different religious, racial, 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 tranquility, 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



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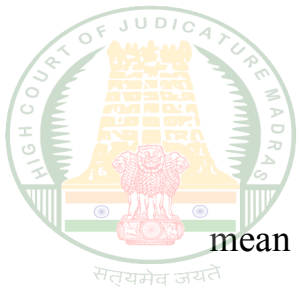
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or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, 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.

2. Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”

Thus, the proviso clearly states that it deals with the act that are prejudicial to the maintenance of harmony. The fair criticism against the policies of the government by the petitioner cannot attract the ingredients of an offence under Section 153A of IPC.

7. Further, the FIR does not disclose the promotion of enmity between groups or communities. Further when a person is expressing his dissent for non-action of the government against some bad elements, such statement cannot be construed to mean that it incites violence and grave provocation with intent to cause riot. Further it cannot be construed to

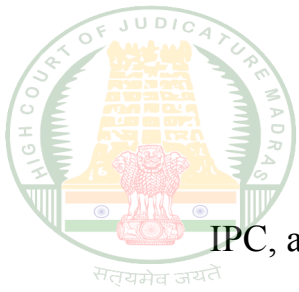


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mean that there was a statement leading to promote any enmity between different groups on the grounds of religion, race, place of birth, residence, language, etc.

8. 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 and it is a fundamental right given to the citizen against the State, which includes carrying out a 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 a weapon to stifle democracy.

9. Further the issue is as to whether the portion of the speech will constitute an offence under Section 504 of IPC. In order to constitute an offence under Section 504 of IPC, the provision 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



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IPC, as follows:-

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“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.”

It deals with intention to provoke breach of peace. Admittedly, there was protest on 16.09.2022 in furtherance to criticize the policies of the present ruling regime. The petitioner and his party members have conducted protest to express their valid right about the inefficient government policies which clearly comes under reasonable criticism and there is no room for considering it as a cause for any hindrance or disturbance to the public peace.

10. 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



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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.

11. Further Article 19(1)(a) of the Constitution of India guarantees freedom of speech and expression as a fundamental right given to its citizen against the State, which includes carrying out the peaceful public demonstration. It is relevant to rely upon the judgment reported in **2023 (4) SCC 1** in the case of ***Kaushal Kishor Vs. State of UP***, in which the Hon'ble Supreme Court of India 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 positive effect on the people of the country which would ultimately lead to stability, peace and development which are concomitants of good governance"



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12. Though the petitioner's speech is harsh as it may sound, it can only be construed as criticism against the functioning of the government and it cannot be construed as speech attracting penal provisions. Further, the meeting was hold on 16.09.2022. But the complaint came to be lodged on 07.10.2022. There was a delay of 25 days in the lodgement of the complaint. There is absolutely no explanation for the delay in the very lodgment of the complaint itself.

13. Insofar as the offence under Section 505(1)(b) of IPC, it is relevant to extract the said provision as follows :-

“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; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or



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*(c) with intent to incite, or which is likely to incite,
any class or community of persons to commit any offence
against any other class or community;
shall be punished with imprisonment which may extend
to three years, or with fine, or with both.”*

Thus it discloses that there must be an intention to cause public disturbance.

14. In the case on hand, the speech spoken by the petitioner would not resulted in affecting public tranquility. Therefore, the ingredients of the said offence are not attracted to register the offence under Section 505(1)(b) of IPC. Further, the offences are punishable with maximum punishment not exceeding three years as such, there is a bar to take cognizance after the period of three years from the date of registration of FIR.



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15. In view of the above grounds, the impugned FIR cannot be sustained and liable is to be quashed. Accordingly, the FIR in Crime No.488 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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(2/2)

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

rts

To

1.The Inspector of Police,
Gingee Police Station,
Villupuram District.

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



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G.K.ILANTHIRAIYAN, J.

rts

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