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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28-03-2025**

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP NO. 9582 of 2025

and Crl.MP.Nos.6344 & 6345 of 2025

C.Ve.Shanmugam
(Member of Parliament, Rajya Sabha)

.... Petitioner(s)

Vs

1.The State Rep By,
The Inspector Of Police
Villupuram West Police Station,
Villupuram District

2.Vijayakumar

... 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 STC.No.119 of 2025 on the file of learned Judicial Magistrate No.I, Villupuram District.

For Petitioner : Mr.B.Kumar Senior Counsel for
Mr.E.Balamurugan

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



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ORDER

This petition has been filed to quash the proceedings in S.T.C. No.119 of 2025 on the file of the Judicial Magistrate No.I, Villupuram.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.239 of 2023 for the offences punishable under Sections 153, 294(b), 504 and 506(i) of IPC, on the allegation that he is the 13th Ward member of the ruling party of the Villupuram District and observed that on 20.07.2023 when the opposite party members organized a protest near the old bus stand, Villupuram. He witnessed that the accused had delivered a derogatory speech as against the Hon'ble Chief Minister of Tamil Nadu and also his political party which resulted in disruption of public tranquility.

3. The learned Senior Counsel appearing for the petitioner would submit that the petitioner is a serving member of the Parliament of Rajya Sabha and he is the District Secretary of Villupuram District of his political party. The present complaint has been lodged to tarnish the name of the petitioner and no offence is made out as per the allegations. The right of freedom of speech and



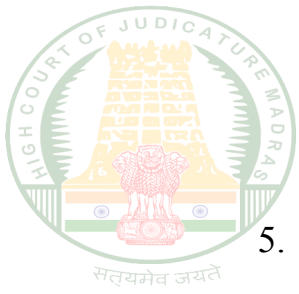
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expression and the right to hold public meetings is enshrined in the constitution

of India and they are fundamental right guaranteed to every citizen of India.

The Article 19(1)(a) of the constitution of India serves as a vehicle through which dissent can be expressed. The right to dissent, disagree and adopt varying and individualistic points of view inheres in every citizen of this Country. 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. Further, the second respondent acted solely upon the instructions received from the ruling party and had foisted a false case against the petitioner. He relied upon the several judgments in respect of his contentions.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner made derogatory speech as against the Hon'ble Chief Minister of Tamil Nadu and as against the ruling party. The said derogatory speech caused disruption of public tranquility, therefore all the offences are made out as against the petitioner and the grounds raised by the petitioner can be considered only before the Trial Court during the trial.



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5. Heard the learned counsel for the petitioner and the learned

Government Advocate (Crl.Side) and perused the materials available on record.

6. On the complaint lodged by the second respondent, the first respondent registered the FIR which culminated into STC.No.119 of 2025 for the charges under Sections 153, 294(b), 504 and 506(i) of IPC. The petitioner made speech on the protest held on 20.07.2023 near old bus stand, Villupuram. According to the second respondent, it is derogatory in nature and it disrupts the public tranquility. However, there is no evidence to show that there is public tranquility after the speech made by the petitioner. Further there was no provoking enmity between the different groups.

7. In order to attract the offence under Section 153 of IPC, the essential ingredients to constitute the offence are as follows: (i) the accused did an illegal act, (2) the act was done malignantly or wantonly (3) the act was done with the intention to provoke or knowing that it will provoke a person to cause the offence of rioting. The word “malignantly” is used for the purpose of expressing a higher degree of intensity or ill will. The word wantonly means causing harm or damage deliberately. Therefore thus there must be a higher degree of malice or evil that is projected or evident in the act alleged. The



provision requires that the act alleged to be done must be illegal. On perusal of

the speech made by the petitioner it is neither malignant nor wanton nor it is illegal. It is also not capable of giving provocation or knowing that the provocation will cause rioting.

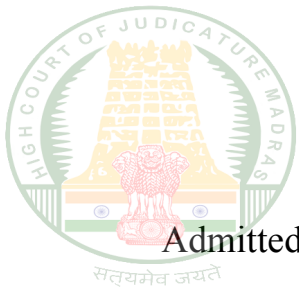
8. The learned counsel for the petitioner relied upon a judgment in the case of **Javed Ahmad Hajam Vs. State of Maharashtra**, reported in (2024) 4 SCC 156, has held that the right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed under Article 19(1)(a) of the Constitution of India. Every individual must respect the right of others to dissent. An opportunity to peacefully protest against the decisions of the Government is an essential part of democracy. The right to dissent in a lawful manner must be treated as a part of the right to lead a dignified and meaningful life guaranteed under Article 21 of the Constitution of India. 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 is incited the violence and gave provocation with intent to cause riot. Further, it cannot be also construed to 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.



WEB COPY9. The Hon'ble Supreme Court of India in the judgment reported in **2023 SCC Online SC 951**, in the case of **Mohammad Wajid and Ors. Vs. State of U.P. and Ors.**, held that mere abuse discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504 IPC, if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Therefore, the offence under Section 504 of IPC is also not attracted as against the petitioner.

10. To attract the offence under Section 294(b) of IPC, there must be an uttering of words to affect the person who 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."



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Admittedly, there is absolutely no words uttered by the petitioners 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 petitioners, 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 petitioners annoyed others, it can not be said that the ingredients of the offence under Section 294(b) of IPC is made out.

11. 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 petitioner.



12. 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.

13. 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



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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.”

The above judgment is squarely applicable to the present case and therefore, the offence under Section 506(i) of IPC is not at all attracted as against the petitioner.

14. In this regard, it is relevant to rely upon the judgment reported in **1992 Supp(1) SCC 335** in the case of **State of Haryana Vs. BhajanLal** in which the Hon'ble Supreme Court of India held as follows:

“1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in



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support of the same do not disclose the commission of any offence and make out a case against the accused.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(7) Where a criminal proceeding is manifestly attended with mala fide and /or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

15. Therefore, in such a circumstances, the continuation of trial will be an abuse of process of law. Since the entire proceedings do not disclose the commission of any offence and making the petitioner facing the hardship of the trial will be an abuse of process of law. Therefore, the entire proceeding is liable to be quashed.

16. Accordingly, the proceedings in S.T.C.No.119 of 2025 on the file of the learned Judicial Magistrate No.I, Villupuram District is quashed and the



Criminal Original Petition is allowed. Consequently, connected miscellaneous

petitions are closed.

28.03.2025

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

drl

To

1. The Judicial Magistrate No.I,
Villupuram.

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

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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