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Crl.O.P.No. 13400 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2025

CORAM:

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

Crl.O.P.No.13400 of 2025 and
Crl.M.P.Nos.8916 and 8917 of 2025

1.M.Muhilarasan
2.Periyar Mani @ Manivel
3.L.Meiyyappan
4.Nagai Thiruvalluvan

... Petitioners

Vs.

The State rep. by
1.The Inspector of Police,
Dharapuram Police Station,
Dharapuram,
Thiruppur District.

2.The Special Sub Inspector of Police,
Dharapuram Police Station,
Dharapuram,
Thiruppur District.

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for records in C.C.No.442 of 2015 on the file of the Judicial Magistrate Court, Dharapuram to quash the same in respect of the petitioners.



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For Petitioners : Mr.M.Kalaiyaran

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.442 of 2015 on the file of the Judicial Magistrate Court, Dharapuram.

2. The case of the prosecution is that on 02.07.2012, at about 22:20 hours, the concerned police personnel were deployed for security duty pursuant to the orders issued by the first respondent. On the said day, a public meeting was held in front of the Anna Statue in Dharapuram, organized by a group identified as the Tamil Tigers, with the objective of advocating for the rights and interests of the people and bondmen. During the said meeting, the petitioners participated as speakers and allegedly delivered provocative speeches that were likely to incite disharmony among different communities based on religion, language,



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race, and ethnicity. It is further alleged that their speeches disturbed public peace and order. Based on these allegations, an FIR in Crime No. 192 of 2013 was registered for the offence under Section 153(A) of IPC. During the course of investigation, the offences were altered to Sections 153(A) and 505(1)(c) of IPC. After completion of the investigation, a final report was filed before the Judicial Magistrate Court, Dharapuram, and the case was taken cognizance in C.C. No. 442 of 2015.

3. The learned counsel for the petitioners submitted that the second respondent, who lodged the complaint, also conducted the investigation and filed the final report. This dual role undermines the impartiality and fairness of the investigation process. The learned counsel further contended that no individual witness was examined during the investigation to substantiate the allegations made as against the petitioners. It was submitted that the basic ingredients required to constitute the offences under Sections 153(A) and 505(1)(c) of IPC are absent. Specifically, it was argued that the prosecution failed to establish any attempt by the petitioners to incite one community against another or cause violence. It was also submitted that *mens rea* is a necessary



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element to attract both offences, and that there must be at least two identifiable groups or communities for the alleged offence to fall under either provision. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (crl.side) submitted that the petitioners did participate in the public meeting and delivered speeches. It was contended that the nature of the speeches had the potential to disturb communal harmony and warranted the invocation of Sections 153(A) and 505(1)(c) of IPC, thereby justifying a full-fledged trial. Hence, he prays for dismissal of this petition.

5. Heard both sides. Perused the materials available on record.

6. On perusal of the FIR, the final report, and other materials on record, this Court finds that the second respondent, who is the complainant in this case, also conducted the investigation and submitted the final report. Such a process vitiates the fairness and neutrality expected in a criminal investigation and casts serious doubt on its credibility. The principles of fairness and justice demand that the



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investigation be conducted by an independent authority to ensure that the process is transparent and free from bias. In such circumstances, the investigation cannot be considered valid, and the proceedings based on it are liable to be quashed. That apart, this Court finds that the prosecution has not placed any material to show that the petitioners' speeches promoted enmity or hatred between two identifiable groups on the basis of religion, language, race, or community. The essential elements required to constitute offences under Sections 153(A) and 505(1)(c) of IPC are conspicuously absent. For clarity, the relevant statutory provisions are reproduced below:

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,



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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 tranquillity, 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 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.

Offence committed in place of worship, etc.-

(2) Whoever commits an offence specified in sub-



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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.

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

(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.

From a combined reading of these provisions, it is evident that the promotion of enmity, disturbance to public tranquillity, and *mens rea* are



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8. It is also noteworthy that in criminal law, the prosecution has the burden of proving the allegations beyond a reasonable doubt. In the present case, no material or evidence has been presented to show that the petitioners' speeches were capable of inciting violence or disharmony. The prosecution is required to establish the *mens rea* of the accused in cases involving sections that aim to incite public unrest. Since no such evidence has been brought forward, the continuation of the proceedings against the petitioners would not only be unjust but also an abuse of the process of law.

9. In light of the above findings, this Court is of the opinion that the continuation of proceedings in C.C. No. 442 of 2015 on the file of the Judicial Magistrate, Dharapuram, is wholly unsustainable in law. Accordingly, the proceedings in C.C. No. 442 of 2015 is hereby quashed.

G.K.ILANTHIRAIYAN, J.

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10. In the result, this Criminal Original Petition stands allowed.

Consequently, connected miscellaneous petitions are closed.

29.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk
To

1.Judicial Magistrate Court, Dharapuram
2.The Inspector of Police,
Dharapuram Police Station,
Dharapuram,
Thiruppur District.

3.The Special Sub Inspector of Police,
Dharapuram Police Station,
Dharapuram,
Thiruppur District.

4. The Public Prosecutor,
High Court, Madras.

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