



CrI.O.P.No.15515 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM:

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

CrI.O.P.No.15515 of 2023 and
CrI.MP.No.9636 of 2023

S.Kaushik

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by the Inspector of Police,
Cuddalore Police Station,
(FIR in Cr.No.220 of 2023)
2.Village Administrative Officer,
Chidambaram Town,
No.252/165 Muslim Theru
Katai Veethi, Thammampatti
Kangavalli TK, Salem

... Respondents

PRAYER:

Criminal Original Petition is filed under Section 482 of Cr.P.C,
praying to call for the records relating to the FIR registered in crime
No.220 of 2023 on the file of the respondent police, quash the same.

For Petitioner : Mr.Nithyaesh Nataraj
for Mr.Anirudh A.Sriram

For Respondents
For R1 : Mr.R.Vinothraja,
Government Advocate(crl.side)



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ORDER

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2. The case of the prosecution is that the petitioner is a director of the online news and views portal called 'The Commune', and on the date of occurrence, some individuals standing in Chidambaram bus-stand were making comments against the Government after reading a content on the aforesaid portal.

3. On receipt of the said complaint, the first respondent has registered an FIR in Cr.No.220 of 2023 for the offence punishable under Sections 153, 504, 505(1)(b) of IPC and 505 (ii) of IPC against the petitioner.

4. A perusal of records revealed that even according to the second respondent, he had heard about the content spoken by the general public as if they received the information from the public domain in respect of the police officials and the officials of the Hindu Religious and Endowment Charitable Board went into the the Kanagasabai of



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Natarajar Temple at Chidambaram and attacked Dikshidhars.

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5. A perusal of the Article published in the aforesaid portal revealed that the officials of the Hindu Religious and Endowment Charitable Board and police officials forcibly entered into Kanagasabai of Natarajar Temple at Chidambaram and assaulted the Dikshidhars during Aani Thirumanjanam Festival. Likewise, all the newspapers including several individuals in their names, Thanthi TV , Hindu Tamil News Paper published the said news. Infact, Thanthi TV also exhibited the videograph.

6. The relevant portion of the provision under Section 153 of IPC can be extracted here under:

153. Wantonly giving provocation, with intent to cause riot -

Whoever, malignantly, or wantonly , by doing anything which is illegal, gives provocation will cause the offence of rioting to be committed, shall if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend on one year, or with fine, or with both; and if the offence is rioting be not committed, with



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imprisonment of either description for a term which may extend to six months, or with fine, or with both. .

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The petitioner has just published the news as like other reporters. As per the news, no ingredients available to attract the offence under Section 153 of IPC.

7. In so far as offence punishable under Section 153 A of IPC is concerned there are no ingredients to attract the said offence. None of the statements contained in the report were made or directed at promoting enmity or hatred or ill-will between the groups or prejudicial to the maintenance of harmony or which may have affected public tranquility, much less between any religious groups, nor did the petitioner do anything prejudicial to maintenance of harmony. On perusal of the news item published by the petitioner, there is nothing to show that that the petitioner had published the report with the intention to cause disorder or incite people to violence which is sine qua non for attracting the provision of Section 153A of IPC.

8. The offence under Sections 501(1) and (2) of IPC, are not attracted in the present case as the petitioner has neither insulted, much



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less intentionally, nor provoked any person to break public peace or commit any other offence. Therefore, the provocation or intentional insult must be of such a degree that should provoke a person to break the public peace to commit any other offence or very much required to attract Section 505(5) IPC.

9. Further the Honble Supreme Court of India in the case reported in **199 6 SCC 150** in the case of ***Union of India Vs. Motion Pictures Association*** held that

-- free speech is the foundation of democratic society and free exchange of ideas, dissemination of information without restraints dissemination of knowledge, airing of differing view points, debating and forming one-s own views and expressing them, are the basic indicia of a free society. The freedom alone makes it possible for people to formulate their own views and opinions on a property basis and to exercise their social, economic and political rights in a free society in an informed manner and therefore, any restraints on this right, therefore have been jealously watched by the Court--.

10. Further, the Hon'ble Supreme Court of India in W.P



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(Criminal)No.155 of 2020 dated 09.12.2021, held that the

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?"State force should never be used to either browbeat a political opinion or the journalists suffer the consequences of what is already in public domain. We hasten to add that this does not take away the responsibility of the journalist in how they report the matters more so in a - twitter age?"

Therefore, the news which is allegedly published by the petitioner were already in public domain.

11. The above case is squarely applicable to the case on hand. Thus it is clear that curtailed freedom of speech and expression of the petitioner is arbitrary and extra constitutional and thus fails the test of reasonableness.

12. In view of the above, no offence is made out as against the petitioner. Therefore, the FIR registered in Cr.No.220 of 2023 cannot be sustained and it is liable to be quashed in respect of the petitioner. Accordingly, it is hereby quashed in respect of the petitioner.

13. In the result, this Criminal Original petition is allowed.



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Consequently, connected miscellaneous petition is closed.

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09.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Inspector of Police,
Cuddalore Police Station,
- 2.Village Administrative Officer,
Chidambaram Town,
No.252/165 Muslim Theru
Katai Veethi, Thammampatti
Kangavalli TK, Salem
- 3.The Public Prosecutor,
High Court of Madras

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