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CrI.OP.No.16373 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2025

CORAM:

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

CrI.O.P.No.16373 of 2023

and

CrI.MP.No.10419 of 2023

Commune Media Pvt Ltd.,
Represented by its Director Kaushik Subramanian
C-1, 603 Nova Project,
Mahindra World City, Paratur,
Chengelpet, Chennai-603 002.

... Petitioner

Vs.

1. The State Represented by
Rep by the Sub-Inspector of Police,
Cuddalore Police Station,
Cr.No.220 of 2023

2. Village Administrative Officer,
Chidambaram,
No.252/165, Muslim Theru,
Katai Veethi, Thammampatti,
Kangavalli-TK, Salem District.s

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in FIR No.220 of 2023 on the file of the first respondent sand quash the same.



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For Petitioner : Mr.Nithesh Natarajan
for M/s.Harikrishnan Rajagopalan

For Respondents : Mr.R.VinothRaja
Government Advocate (CrI.Side)
for R1

ORDER

This petition has been filed to quash the FIR registered in Cr.No.220 of 2023 on the file of the first respondent.

2. The case of the prosecution is that the second respondent who is working as a Village Administrative Officer, Chidambaram Town has lodged a complaint alleging that on 29.06.2023 at about 09.00 a.m., when he was surveilling in the bus stand at Chidambaram, he had heard from the general public that the police officials and the Hindu Religious and Endowment Charitable Board officials trespassed into the Kanagasabai of Natarajar Temple at Chidambaram and attacked Dikshidhars and also cut their sacred thread and it should be prevented. When the second respondent questioned them from where he got this information for which they



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required the social domain called Commune Media Private Limited in which already the news published for general public. Only because of the said public domain, the false news has been spread over the entire society and due to which there would be communal clash. Hence, the complaint.

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 as against the petitioner namely Commune Media Pvt Ltd.

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 of the petitioner in respect of the police officials and the officials of the Hindu Religious and Endowment Charitable Board went into the the Kanagasabai of Natarajar Temple at Chidambaram and attacked Dikshidhars.



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5. A perusal of the Article published by the petitioner revealed that in respect of new in Tamilnadu 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 (ஆணி திருமஞ்சனம் திருநாள்). 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-if rioting be committed-if no committed-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



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

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



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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 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



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

"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.



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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. Accordingly, it is hereby quashed.

13. In the result, this Criminal Original petition is allowed. Consequently, connected miscellaneous petition is closed.

04.042025

Vv

To

1. The Sub-Inspector of Police,
F-2, Egmore, Police Station,
Egmore, Chennai-8.
2. The Public Prosecutor, Madras High Court, Chennai.

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G.K.ILANTHIRAIYAN, J.

Vv

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