In the High Court of Judicature at Madras

Reserved on : 24.08.2023	Delivered on : 29.08.2023

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition Nos.7546, 3155, 3166, 7543, 7545 of 2022,
Crl.OP(MD).Nos.7502 and 12616 of 2022
and all connected pending Crl.MPs

Crl.OP.No.7546 of 2022

H.Raja, M/A-64
S/o.Hariharan ...Petitioner

.Vs.

1.The State rep.by
Inspector of Police
Erode Town Police Station
Erode District.

2.Nantha Kumar
Assistant Commissioner
Hindu Religious and Charitable
Endowment Department
Erode. ..Respondents/De facto Complainant

PRAYER: Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to call for the proceedings in C.C.No.50 of 2021, on the file of the learned Judicial Magistrate No.II, Erode and quash the same.

For Petitioner in All Crl.O.P.Nos. : Mr.R.C.Paul Kanagaraj for Mrs.P.J.Anitha

For Respondents in All Crl.O.P.Nos. : Mr.M.Babu Muthu Meeran Additional Public Prosecutor for R1

COMMON ORDER

All these quash petitions pertains to the speech made by the petitioner in a meeting held at Dindigul on 17.09.2018, wherein he is said to have made insulting and derogatory remarks against those who are working in the HR & CE Department and demeaning the wives of those authorities working in the HR & CE Department.

2.The petitioner was a former member of Legislative Assembly and he holds an important position in a national party and he has many followers who are influenced by his words, thoughts and deeds.

3.Multiple Complaints came to be given against the petitioner in various places based on which First Information Reports were registered for various offences in the following manner:

Sl. No.	Crl.OP.No.	Name of the Police Station	Crime No.	Offence for which the FIR was registered
1.	3155 of 2022	Sivakanchi Police Station, Kanchipuram.	505 of 2018	Sec. 294(b) and 504 of IPC
2.	3166 of 2022	Karur Town Police Station.	694 of 2018	Sec. 153(b) and 505(2) of IPC r/w. Sec. 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.
3.	7543 of 2022	Ooty Central Town Police Station, Nilgiris.	963 of 2018	Sec. 294(b), 353 and 505(1)(a) of IPC r/w. Sec. 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

Sl. No	Crl.OP.No.	Name of the Police Station	Crime No.	Offence for which the FIR was registered
4.	7545 of 2022	Thiruvarur Police Station	212 of 2018	Sec. 153,Sec 354, Sec. 355 of IPC r/w. Sec 4 of Tamil Nadu Prohibition of Harassment of Woman Act 2002.
5.	7546 of 2022	Erode Town Police Station.	852 of 2018	Sec. 353, 294(b), 505(1)(a) IPC and Sec. 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.
6.	Crl.OP(MD). No.7502 of 2022	Virudhunagar Bazaar Police Station.	339 of 2018	Sec.294(b), 353, 505 (1) (b) IPC r/w. Sec.4 of Tamil Nadu Prohibition of Harassment of Woman Act 2002.
7.	Crl.OP.(MD).No. 12616 of 2022	Irukkangudi Police Station, Virudhunagar.	208 of 2018	Sec.294(b), 353, 505(1)(b) IPC r/w. Sec.4 of Tamil Nadu Prohibition of Harassment of Woman Act 2002.

4.Heard Mr.R.C.Paul Kanagaraj, learned counsel for petitioner and Mr.Babu Muthu Meeran, learned Additional Public Prosecutor for State (R1).

5.The petitioner is said to have made a public speech at Vedasanthoor Virudhunagar District in a Vinayagar Chaturthi function and in the course of his speech, he made the following comment:

"அறநிலையத் துறை அதிகாரிகள் கோயில் நிலங்களை லஞ்சம் வாங்கிக் கொண்டு விற்பனை செய்கின்றனர். இந்த அதிகாரிகள் தங்கள் வீட்டுப் பெண்களை விலை பேசி விற்பவர்கள் போலத் தான்."

6.The various officers belonging to the HR & CE Department were aggrieved by the above scandalous statements made by the petitioner in the meeting and most of them came to know of it when it was published in the newspapers or when it was shared in the social media.

7.The learned counsel for the petitioner submitted that multiple Complaints cannot be investigated separately for the same incident and in most of the First Information Reports, the final report is yet to be filed and it is barred u/s. 468 of Cr.P.C. It was further submitted that there was absolutely no investigation on the source of information and at the best, the information based on which the Complaint was given, was only in the nature of a hearsay. The learned counsel further submitted that the petitioner had expressed his anguish over the Officers, who are manning the HR & CE Department and his speech has been taken out of contest. It was further submitted that no offence has been made out against the petitioner.

8.This Court must necessarily take judicial notice of the fact that the petitioner has the proclivity to make irresponsible and damaging comments and that is the reason why he gets into trouble. This Court is reminded of the sagacious words of Thiruvalluvar where he says

யாகாவார் ஆயினும் நாகாக்க காவாக்கால்
சோகாப்பர் சொல்இழுக்குப் பட்டு

To put it in simple English-

Whatever besides you leave unguarded, guard your tongue; otherwise errors of speech and the consequent misery will ensue. This warning given by Thiruvalluvar perfectly applies to the petitioner.

9.The source of information for the scandalous remarks made by the petitioner are the newspapers which published it the very next day. The petitioner never made any statement disowning the allegation that was published in the newspaper or proceeded further against the newspaper, if really the petitioner did not make any such statement. In view of the same, the petitioner cannot be allowed to wriggle out of what he said on 17.09.2018 in the public meeting and the petitioner being an important political functionary is regularly followed by the media and whatever he speaks gets published in the newspaper. Hence, the petitioner cannot be permitted to question the source of information in this case.

10.A bare reading of the statement made by the petitioner shows that it is highly defamatory, scandalous and it demeans women since he has thrown mud on the wives of the Officials working in the HR & CE Department. On the face of it, it is condemnable and the petitioner cannot be allowed to get away from what he has said against the HR & CE Department, its officers and their wives. When a person expresses his anguish and such a person also happens to be a public figure, every word that is uttered matters. The expression of anguish should not result in making reprehensible and scandalous remarks against others.

11.The above statement made by the petitioner *prima facie* constitutes offence u/s. 294(b), 504, 509 of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. The menace of making hate speeches was taken into consideration by the Apex Court in **Kaushal Kishor v. State of U.P.** reported in **(2023) 4 SCC 1** and the relevant portion is extracted hereunder:

> ***251.*** *Every citizen of India must consciously be restrained in speech, and exercise the right to freedom of speech and expression under Article 19(1)(a) only in the sense that it was intended by the Framers of the Constitution, to be exercised. This is the true content of Article 19(1)(a) which does not vest with citizens unbridled liberty to utter statements which are vitriolic, derogatory, unwarranted, have no redeeming purpose and which, in no way amount to a communication*

> *of ideas. Article 19(1)(a) vests a multi-faceted right, which protects several species of speech and expression from interference by the State. However, it is a no brainer that the right to freedom of speech and expression, in a human-rights based democracy does not protect statements made by a citizen, which strike at the dignity of a fellow citizen. Fraternity and equality which lie at the very base of our constitutional culture and upon which the superstructure of rights are built, do not permit such rights to be employed in a manner so as to attack the rights of another.*

12.The next question is as to whether multiple Complaints can be maintained against the petitioner for the very same occurrence and whether the petitioner should undergo trial in each Complaint that has been given against him.

13.Under the Scheme of Code of Criminal Procedure, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of Cr.P.C. Thus, there cannot be a second FIR and consequently, there cannot be a fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident. Useful reference can made in this regard to the judgment of the Apex Court in ***Arnab Ranjan Goswami v. Union of India*** reported in **(2020) 14 SCC 12** and the relevant portions are extracted hereunder:

30. *The fundamental basis on which the jurisdiction of this Court has been invoked under Article 32 is the filing of multiple FIRs and complaints in various States arising from the same cause of action. The cause of action was founded on a programme which was telecast on R. Bharat on 21-4-2020. FIRs and criminal complaints were lodged against the petitioner in the States of Maharashtra, Rajasthan, Madhya Pradesh, Telangana and Jharkhand besides the Union Territories of Jammu and Kashmir. The law concerning multiple criminal proceedings on the same cause of action has been analysed in a judgment of this Court in T.T. Antony v. State of Kerala [T.T. Antony v. State of Kerala, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048] ("T.T. Antony"). Speaking for a two-Judge Bench, Syed Shah Mohammed Quadri, J. interpreted the provisions of Section 154 and cognate provisions of the CrPC including Section 173 and observed : (SCC pp. 196-97, para 20)*

''20. … under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus, there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC."

40. *The issue concerning the registration of numerous FIRs and complaints covering different States is however, as we will explain, distinct from the investigation which arises from FIR No. 164 of 2020 at N.M. Joshi Marg Police Station in Mumbai. The petitioner, in the exercise of his right under Article 19(1)(a), is not immune from an investigation into the FIR which has been transferred from Police Station Sadar, District Nagpur City to N.M. Joshi Marg Police Station in Mumbai. This balance has to be drawn between the exercise of a fundamental right under Article 19(1)(a) and the investigation for an offence under the CrPC. All other FIRs in respect of the same incident constitute a clear abuse of process and must be quashed.*

59. *As we have noted earlier, multiple FIRs and complaints have been filed against the petitioner in several States and in the Union Territories of Jammu and Kashmir. By the interim order of this Court dated 24-4-2020 [Arnab Ranjan Goswami v. Union of India, (2020) 14 SCC 51] , further steps in regard to all the complaints and FIRs, save and except for the investigation of the FIR lodged at Police Station Sadar, District Nagpur City were stayed. The FIR at Police Station Sadar, District Nagpur City has been transferred to N.M. Joshi Marg Police Station in Mumbai.We find merit in the submission of Mr Kapil Sibal, learned Senior Counsel that fairness in the administration of criminal justice would warrant the exercise of the jurisdiction under Article 32 to quash all other FIRs (save and except for the one under investigation in Mumbai). However, we do so only having regard to the principles which have been laid down by this Court in T.T. Antony [T.T. Antony v. State of Kerala, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048] . The filing of multiple FIRs arising out of the same telecast of the show hosted by the petitioner is an abuse of the process and impermissible. We clarify that the quashing of those FIRs would not*

amount to the expression of any opinion by this Court on the merits of the FIR which is being investigated by N.M. Joshi Marg Police Station in Mumbai.

61.7. *No other FIR or, as the case may be, complaint shall be initiated or pursued in any other forum in respect of the same cause of action emanating from the broadcast on 21-4-2020 by the petitioner on R. Bharat. Any other FIRs or complaints in respect of the same cause of action emanating from the broadcast on 21-4-2020, other than the FIRs or complaints referred to in sub-para 61.5 above are also held to be not maintainable."*

14.In view of the above, the First Information Reports which are the subject matter of Crl.OP.Nos.3155 of 2022, 3166 of 2022, 7543 of 2022 and 7545 of 2022 are hereby quashed. In the other three criminal original petitions, the investigation was completed and final reports were filed and the same have been taken on file in C.C.No.50 of 2021, by the learned Judicial Magistrate – II, Erode, in C.C.No.39 of 202, on the file of the learned Judicial Magistrate, Srivilliputhur and in C.C No. 144 of 2022, on the file of the Judicial Magistrate-II Srivilliputhur. All these cases can be clubbed together and heard as a single case before the concerned Court. Accordingly, the proceedings which are the subject matter in Crl.OP.No.7546 of 2022, Crl.OP. (MD).Nos. 7502 and 12616 of 2022 can be directed to be transferred to the file of the Special Court for MP/MLA Cases at Srivilliputhur and it can be heard as a single case by the learned

Special Judge, in accordance with law. The case files shall be transferred to the Special Court for MP/MLA Cases, Srivilliputhur, within a period of four weeks from the date of receipt of copy of this order. The prosecution shall give the consolidated list of witnesses and the materials that are going to be relied upon before the Court and the same shall be served on the petitioner u/s.207 of Cr.P.C. Based on those materials, the Special Court for MP/MLA Cases, Srivilliputhur, can frame charges and proceed further in accordance with law. The proceedings shall be completed within a period of three months, after the charges are framed.

15.All the above criminal original petitions are disposed of in the manner stated *supra*. Consequently, connected miscellaneous petitions are closed.

29.08.2023

Internet: Yes
Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
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N.ANAND VENKATESH,.J
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To
1. Inspector of Police
Erode Town Police Station
Erode District.

2.Nantha Kumar
Assistant Commissioner
Hindu Religious and Charitable
Endowment Department
Erode.

3.The Judicial Magistrate No.II,
Erode.

4. Special Court for MP/MLA Cases
Srivilliputhur.

5.The Public Prosecutor
High Court, Madras.

Pre Delivery Common Order in
Crl.OP. Nos.7546, 3155, 3166, 7543, 7545 of 2022,
Crl.OP(MD).Nos.7502 and 12616 of 2022

29.08.2023
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