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*Crl.O.P.Nos.5859 of 2022
etc. cases*

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.5859, 8928 and 15419 of 2022

and connected pending Crl.MPs

Crl.OP.No.5859 of 2022

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

...Petitioner

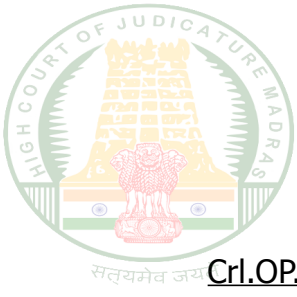
.Vs.

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

2.Ubaitulla
Polular Front of India
No.72/2, Second Floor
Jinnah Street
Manikoonda Near
Erode.

..Respondents/De facto Complainant

PRAYER: Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to call for the proceedings in STC.No.308 of 2021, on the file of the learned Judicial Magistrate No.I, Erode and quash the same.



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etc. cases

Crl.OP.No.8928 of 2022

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

...Petitioner

.Vs.

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

..1st Respondent/Complainant

2.P.Ravi
S/o.Pathmanapan

..Respondent/De facto Complainant

PRAYER: Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to call for the proceedings in STC.No.201 of 2018, on the file of the learned Judicial Magistrate No.I, Erode and quash the same.

Crl.OP.No.15419 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.Ubaitulla
Polular Front of India
No.72/2, Second Floor
Jinnah Street, Manikoonda
Erode.

..Respondents/De facto Complainant

PRAYER: Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to call for the proceedings in STC.No.307 of 2021, on the file of the learned Judicial Magistrate No.II, Erode and quash the same.



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

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

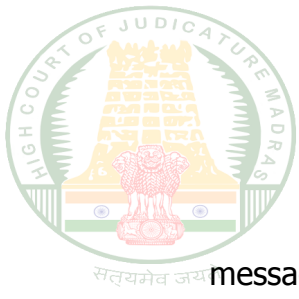
COMMON ORDER

All these quash petitions pertains to the tweet made by the petitioner in his twitter page on 06.03.2018, which is said to have the propensity of demeaning a revered leader *viz.*, Thanthai Periyar and thereby, causing disturbance to public peace and order.

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.The subject matter of challenge in these Criminal Original Petitions are tabulated hereunder:

S.No	Crl.OP.Nos.	Proceedings/Court	Offence for which final report was filed
1.	5859 of 2022	STC No. 308 of 2021	Sec. 153 and Sec. 504 of IPC
2.	8928 of 2022	STC No. 201 of 2018	Sec. 153 and Sec. 505 (2) of IPC
3.	15419 of 2022	STC No. 307 of 2019	Sec. 153 and Sec. 504 of IPC



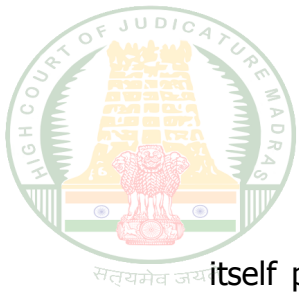
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message was tweeted. It was further submitted that there was no investigation to prove as to whether the twitter account was actually maintained by the petitioner and whether he had really posted such a message in the twitter. The final report also did not contain the electronic evidence since it was a message said to have been shared through a twitter account. On all these grounds, the learned counsel sought for the quashing of proceedings pending before different Courts.

8. E.V. Ramaswamy, who came to be known as Periyar is revered by the people of Tamil Nadu as the father of the Dravidian Movement. He rebelled against gender and caste inequality in Tamil Nadu and started the self-respect movement. Right through his life, he was striving for a new rational society without caste, religion and god. Every other political party trace their ideology from Periyar and he is virtually seen as a Demi God, who is virtually worshiped by Tamils who support rational thinking.

9.It is true that a person is entitled to differ from the ideologies and thoughts of Periyar. Pursuant to the same, it can also be expressed since such a freedom is guaranteed under Article 19 (1)(a) of the Constitution of India. The question is how far such an opinion should be expressed. The constitution



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itself provides for limitation under Article 19(2) and it cannot cross the line and become indecent or defamatory which will have the propensity to incite violence. This Court has to take judicial notice of the fact that whenever the statues of Periyar are attempted to be defiled, it causes a lot of disturbance and sometimes it also leads to violence. This important aspect must be kept in mind, while deciding the case in hand.

10.The petitioner will be entitled to differ from the views, thoughts and ideologies of Peiryar. However, he cannot cross the Lakshman Rekha and make such a statement, which directly affects the sentiments of the people of Tamil Nadu who follow Periyarism. The petitioner has tweeted in his twitter that all the statues of Periyar must be broken, like how the statue of Lenin was broken at Tripura and the petitioner has addressed Periyar as a caste fanatic. This statement made by the petitioner clearly has crossed the limits and it is *prima facie* capable of causing disturbance to the public order. The tweet certainly hovers around hate speech and this Court must remind itself of the judgment of 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*



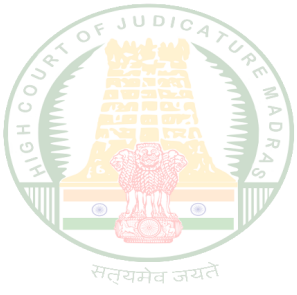
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expression under Article 19(1)(a) only in the sense that it was intended by the Framers of the Constitution, to be exercised. This is the true content of Article 19(1)(a) which does not vest with citizens unbridled liberty to utter statements which 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.

11.The tweet that was circulated by the petitioner certainly will provoke the class of persons, who follow Periyarism and has the propensity to result in violence and disturbance to public order. In view of the same, on the face of it, it constitutes an offence u/s. 153, 504, 505 (1)(b) and 505 (1)(c) of IPC.



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12.The source of information has been traced to the twitter account of the petitioner and in fact, the petitioner removed the said message, after it resulted in a hue and cry among the general public. Therefore, there is no difficulty in tracing the source of this message.

13. 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 சொல்லிழுக்குப் 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.

14.In the light of the above discussion, this Court does not find any ground to interfere with the criminal proceedings initiated against the petitioner. The same incident has resulted in three proceedings and the petitioner cannot be independently made to undergo the trial in all the cases.



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Accordingly, all the three proceedings will have to be consolidated into a single proceeding.

15. In the light of the above discussion, all the three proceedings in STC.No.308 of 2021, on the file of the learned Judicial Magistrate No.I, Erode, STC.No.201 of 2018, on the file of the learned Judicial Magistrate No.I, Erode and STC.No.307 of 2021, on the file of the learned Judicial Magistrate No.II, Erode, are withdrawn from the respective Courts and it is transferred to the file of the Special Court for MP/MLA Cases at Chennai, and it shall 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, Chennai, 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 at Chennai, 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.



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16.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/No
Neutral Citation :Yes
Speaking Order : Yes
KP



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To

1. Inspector of Police
Erode Town Police Station
Erode District.
2. Inspector of Police
Karungalpalayam Police Station
Erode District.
3. Judicial Magistrate No.I, Erode.
4. Judicial Magistrate No.II, Erode.
5. Special Court for MP/MLA Cases
Chennai.
6. The Public Prosecutor,
High Court, Madras.

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etc. cases*

N.ANAND VENKATESH,,J

KP

Pre-Delivery Common Order in
Criminal Original Petition Nos.5859,
8928 and 15419 of 2022

29.08.2023
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