



CrI.O.P.No.20874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.20874 of 2024

and

CrI.M.P.No.11992 of 2024

Thirumurugan

... Petitioner

Vs.

1. The State by the Inspector of Police,
Ariyalur Police Station,
Ariyalur Taluk and District.

2. C.Rajasekar

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, pleased to call for the records in Crime No.90 of 2024 pending on the file of the first respondent and quash the same.

For Petitioner : Mr.A.V.Raja

For Respondents : Mr.S.Udaya Kumar
Government Advocate (CrI.Side) for R-1



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ORDER

The petitioner herein is the member of AIADMK party, for his post in Facebook saying that every dawn people will look at newspapers to find as to what is the agitation by the public, a case was registered at the instance of one Rajasekar, District President of D.M.K for the offences under Sections 505(1)(b) and 505(2) IPC. The petitioner states that the Facebook post does not attract the ingredients to prosecute the matter under Sections 505(1)(b) and 505(2) IPC.

2. Learned Government Advocate (CrI.Side) appearing for the first respondent submits that, by this post, the petitioner had enticed the public to agitate against the Government and also induced the public to create hatred against the Government.

3. This Court, on a reading of the copy of the Facebook post made by the petitioner herein saying that, "the Government has come to power by giving false promise and every day people look at newspapers and find as to what is the agitation against the Government", does not carry any hatred or ill-will and it is only anguish of the petitioner regarding the public displeasure over the Government.



WEB COPY 4. Sections 505(1)(b) and 505(2) IPC read as follows :

"505. Statements conducing to public mischief —

(1) Whoever makes, publishes or circulates any statement, rumour or report,—

(a) or

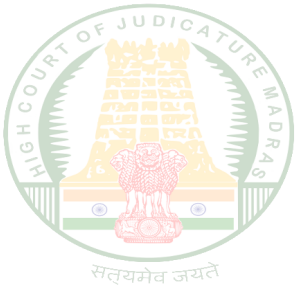
(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c)

shall be punished with imprisonment which may extend to three years, or with fine, or with both. (2)

Statement

(2) Statements creating or promoting enmity, hatred or ill-will between classes — Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three



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years, or with fine, or with both."

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5. When there is no element of inducement to commit any offence against the State or any public property and when the statement does not promote any enmity or hatred or ill-will between classes. The member of the ruling party, cannot assume that any such expression or opinion about the functioning of the Government, will amount to promoting hatred. The first respondent-Police should be responsible while entertaining the said complaint and shall proceed to register the F.I.R only after getting proper legal opinion.

6. In this case, this Court finds that the complaint having been registered without any foundational facts to attract Sections 505(1)(b) and 505(2) IPC, the F.I.R in Crime No.90 of 2024 shall stand quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

29.08.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Inspector of Police,
Ariyalur Police Station,
Ariyalur Taluk and District.

2. The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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