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Order QR

Crl.O.P.No.9798 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2026

PRONOUNCED ON : 24.09.2026

CORAM:

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

Crl.O.P.No.9798 of 2026
and Crl.M.P.Nos.7007 of 2026

Annamalai .K
Ex-State President BJP,
Kamalalayam,
No.19, Vaidyaraman Street,
Parthasarathi Puram,
T. Nagar, Chennai-600 017.

...Petitioner(s)

Vs

Piyush V.
S/o. Virendra Sethia,
Yee Road, Opp. Golden Gates School,
Kondapanaickenpatti,
Yercaud Adivaram,
Salem-636 008.

...Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the private complaint proceeding pending against the petitioner in C.C.No.306 of 2026 on the file of the learned Judicial Magistrate No.IV at Salem, and quash the same as void and illegal.



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Crl.O.P.No.9798 of 2026

For Petitioner(s): Mr. Arun C Mohan

For Respondent(s): Dr. V.Suresh
For Mr.D.Nagasaila

ORDER

This Criminal Original petition has been filed seeking to quash the proceedings in C.C.No.306 of 2026, pending on the file of the learned Judicial Magistrate No.IV, Salem, thereby taken cognizance for the offences punishable under Sections 153A and 505(1)(c) of the IPC.

2. The respondent lodged a complaint alleging that the petitioner had circulated false news and rumours with the intention of creating discord among people belonging to different sections and thereby attempting to provoke riots and disturbances. It is alleged that, during September 2023, the petitioner in several press meets, circulated a statement attributing certain remarks to Muthuramalingam Thevar, to the effect that, at the premises of the Madurai Meenakshi Temple, he had threatened non-believers by stating that, if non-believers spoke about the faith of believers, Madurai Meenakshi to whom milk abhishekam is offered, would instead be offered blood abhishekam. According to the respondent, the said statement was never made by Muthuramalingam Thevar and several publications subsequently rebutted the statement

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allegedly made by the petitioner. Aggrieved by the same, the respondent lodged a complaint before the Commissioner of Police on 22.09.2023 through E-mail and also forwarded a copy of the said complaint by registered post. Though the complaint was received by the police authorities, no action was taken thereon. Hence, the second respondent instituted a private complaint under Section 200 of the Cr.P.C. Upon considering the oral and documentary evidence the Trial Court took cognizance of the complaint for the offences punishable under Sections 153A and 505(1)(c) of the IPC and issued summons to the petitioner. Aggrieved by the same, the petitioner has filed the present petition seeking to quash the proceedings.

3. The learned counsel appearing for the petitioner submitted that, even assuming the allegations contained in the complaint to be true, they do not disclose commission of any offence punishable under Sections 153A or 505(1)(c) of the IPC. There is no allegation or material to establish the requisite mens rea on the part of the petitioner or any likelihood of causing harm to public tranquillity. The petitioner has neither promoted nor attempted to promote, on the grounds of religion, race, place of birth, residence, language, caste or community, or on any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-

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will between different religious, racial, linguistic or regional groups or castes or communities, so as to disturb or be likely to disturb public tranquillity. Therefore, the statement does not have the tendency to promote disharmony, enmity, hatred or ill-will between different communities, which is an essential ingredient for attracting Section 153A of the IPC.

3.1. The learned counsel further submitted that the petitioner had merely referred to a historical incident in the course of political discourse and that the statement neither contained any incitement nor constituted a threat or exhortation to any person or group. There is also no material to demonstrate that the alleged statement resulted in, or was likely to result in, any public disorder or disturbance of public tranquillity so as to attract Section 505(1)(c) of the IPC. It is further contended that the learned Magistrate took cognizance of the private complaint without affording an opportunity of hearing to the petitioner, thereby depriving him of an opportunity to place his case before the Court. Such procedure is contrary to the principles of natural justice and in violation of Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”). In the absence of the foundational ingredients necessary to



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constitute the offences alleged and in the absence of any material indicating that the alleged statement was intended, or was likely, to promote enmity between different communities or to cause public disorder, the continuation of the criminal proceedings would amount to an abuse of the process of law. Hence, he submitted that the complaint and the order taking cognizance passed by the learned Judicial Magistrate No.IV, Salem, cannot be sustained and are liable to be quashed.

4. The learned counsel appearing for the respondent filed counter affidavit and submitted that, on 11.09.2023, the petitioner led a demonstration at Madurai against the then Minister for Hindu Religious and Charitable Endowments. During the said demonstration, the petitioner referred to an incident which allegedly took place at Madurai in June 1956. According to the petitioner, Muthuramalingam Thevar had responded to a speech allegedly made by C.N.Annadurai during the fourth day of the Golden Jubilee celebrations of the Madurai Tamil Sangam, held at the Meenakshi Amman Temple, Madurai. The petitioner allegedly stated that Muthuramalingam Thevar had warned that, if non-believers insulted the Hindu faith, blood abhishekam would be performed instead of milk abhishekam to the deity of Madurai Meenakshi Amman.



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The petitioner further stated that the said threat had caused the then Chief Minister of Tamil Nadu to conceal himself and subsequently tender an apology.

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4.1. The learned counsel further submitted that the said speech was widely published in various newspapers and circulated through social media. According to the respondent, the statement made by the petitioner was not a mere reference to a historical incident, but was deliberately embellished by introducing wholly fictitious and inflammatory elements, with the intention of promoting feelings of hatred, ill-will and enmity between believers and non-believers of God. It is therefore submitted that the statement in the context in which it was made, had the tendency to promote social and communal disharmony, enmity, hatred and ill-will between different groups or communities. Hence, he submitted that the allegations prima facie disclose the ingredients of the offences punishable under Sections 153A and 505(1)(c) of the IPC and that the criminal proceedings cannot be quashed at the threshold.

4.2. He also submitted that the petitioner is not an ordinary citizen, but a former senior IPS officer who had held various responsible



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positions in the police and law enforcement and during the relevant period, he was the State President of a political party. Being a person with such experience and public standing, the petitioner is fully aware of the consequences and impact of statements made by him in public. Therefore, the contention that the statement was merely a historical reference cannot be accepted at this stage. It is further submitted that the grounds raised by the petitioner involve disputed questions of fact, particularly with regard to the context, nature and effect of the statement made by him, which are matters to be established by evidence during trial. Such disputed factual issues cannot be conclusively adjudicated in a petition seeking quashing of the criminal proceedings.

4.3. He further submitted that, by virtue of Section 531(2)(a) of the BNSS, proceedings which had already commenced under the Cr.P.C., are expressly saved and are required to be continued in accordance with the provisions of the Cr.P.C., as if the BNSS had not come into force. In the present case, the private complaint was instituted by the respondent on 28.11.2023, when the Cr.P.C was in force. The BNSS came into effect only on 01.07.2024. Therefore, the provisions of Section 223 of the BNSS cannot be retrospectively applied to the proceedings initiated under



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the Cr.P.C. It is further submitted that, even before cognizance was taken,

the learned counsel appearing for the petitioner was very much present before the learned Trial Court. Hence, the petitioner cannot now contend that he was deprived of an opportunity of hearing before cognizance was taken. In support of his contentions, he relied upon several judgments to contend that the allegations contained in the complaint and the materials placed before the learned Trial Court are sufficient to prima facie constitute the offences punishable under Sections 153A and 505(1)(c) of the IPC. Therefore, he submitted that there are no grounds warranting interference with the proceedings and prayed for dismissal of the present petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On the complaint lodged by the respondent, the Trial Court took cognizance of the offences punishable under Sections 153A and 505(1)(c) of the IPC. The crux of the complaint is that, on 11.09.2023, the petitioner led a demonstration against the then Minister for HR & CE Department, in connection with his alleged remarks concerning Sanatana



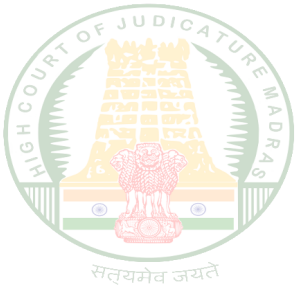
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Dharma. During the course of the said demonstration, the petitioner referred to an incident which was stated to have occurred in June 1956.

The relevant portion of the speech delivered by the petitioner is extracted hereunder:-

“1956 மதுரை மீனாட்சியம்மன் கோவில்ல ஒரு தமிழ் மாநாடு நடக்குது ஜூன் மாதத்துல 10 நாட்கள் நடக்குது. முதல் நாள் ராஜாஜி பேசுறாங்க, இரண்டாவது நாள் இன்னொருத்தரு பேசுறாரு, மூனாவது நாள் இன்னொருத்தரு பேசுறாரு. நான்காவது நாள் P.T.ராஜன் அவர்கள் பேசவேண்டும். மேடைக்கு போறாரு, ஆனால் அந்த அழைப்பிதழ்ல சம்மந்தமே இல்லாத பெயரே இல்லாத அண்ணாதுரை அவர்கள் பேசுறாரு, மேடையில் கூட கூட்டிட்டு அண்ணாதுரை அவர்களுக்கு மைக் கிடைக்குது பேசுவதற்கு முன்பு மணிமேகலை என்ற குழந்தை மிக அழ்புதமாக ஒரு தமிழ் சங்க இலக்கிய பாடல பாடுறாங்க. உடனே மைக் எடுத்த அண்ணாதுரை என்ன சொல்றாரு ஓ இந்த பொண்ணு நல்ல பாடுச்சு, மணிமேகலை இதே கற்காலமா இருந்தால் என்ன சொல்லிருப்பாங்கனா உமையவளுடைய பாலை குடித்து தான் இந்த மணிமேகலை பாட்டு பாடுனாது கட்டுகதை ஒன்னு கட்டிவிட்டு இருப்பாங்க நல்ல வேளை பகுத்தறிவு வந்திருச்சி மக்கள் இதை எல்லாம் நம்பமாட்டார்கள் அண்ணாதுரை பேசுறார். ஆறாவது நாள் முத்துராமலிங்க தேவர் அவர்கள் பேசவேண்டும் அதே கூட்டத்துல, ஆறாவது நாள் பேச வேண்டிய முத்துராமலிங்க தேவர் அய்யா ஐந்தாவது நாள் வராரு, ஒரு நாள் முன்னாடி வரார், P.T.ராஜன் அவர்கள் நீங்க பேசக்கூடாதுங்கிறாரு. இல்லை நாள் பேசுவேன், மேடை நாகரிகத்த நாள் முறியடிக்க போறேனு மேடைக்கு ஏறிய ஐந்தாவது நாள்ல முத்துராமலிங்க தேவர் அய்யா சொல்றாரு. சிவபுராணம் ஏற்றப்பட்ட மதுரை மீனாட்சியம்மன் கோவில் வளாகத்துல யார் இங்க வந்து உமையவளை பற்றி தப்பாக



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பேசியது எல்லாரும் பம்புறங்க, யாருமே பேசல P.T.ராஜன் அவர்களுடைய வாயிலிருந்து வார்த்தை வரல அண்ணாதுரை அவர்கள் மதுரைக்குள்ள ஒளிச்சி வச்சிருக்காங்க வெளிய போக முடியல. முத்திராமலிங்க தேவர் அய்யா உக்கரமா இருக்கார். முத்திராமலிங்கதேவர் அய்யா சொல்றாரு, இன்னொரு முறை நான் கடவுளை நம்பமாட்டேன், கடவுள் இல்லை என்று சொல்பவன் கடவுள் நம்புறவங்களை பத்தி பேசுனாங்கனா மதுரை மீனாட்சியம்மன் கோவிலில் இதுவரை பாலில் அமிஷேகம் நடத்திருக்கு, இன்னொரு முறை தமிழகத்துல கடவுளை நம்பாதவர்கள், கடவுளை நம்ப கூடியவர்களை பற்றி தவறாக பேசினால் மதுரை மீனாட்சியம்மனுக்கு இரத்தத்திலே அமிஷேகம் நடத்தப்படும் என்று சொல்லிய பிறகு, மன்னிப்பு கேட்டுவிட்டு ஓடிவந்த கும்பல் P.T ராஜன் அவர்கள், அண்ணாதுரை அவர்கள் மன்னிப்பு கேட்டுவிட்டு அந்த கோயில் இருந்து வந்தீங்க.....”

According to the respondent, the statement attributed to Muthuramalingam Thevar was never made by him and was falsely attributed to him by the petitioner. Therefore, the respondent lodged a complaint before the Commissioner of Police, Chennai. Since, no action was taken on the said complaint, the respondent instituted a private complaint before the Trial Court and the same was taken cognizance in C.C.No. 306 of 2026, for the offences punishable under Sections 153A and 505(1)(c) of the IPC and issued process against the petitioner.

7. At this juncture, it would be relevant to extract the provision under Section 153A of the IPC, which reads as follows:-



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“153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racials, language or regional groups or castes or communities,[or]

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, [or]

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity



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for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of 12such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

*(2) Offence committed in place of worship, etc.—
Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.*

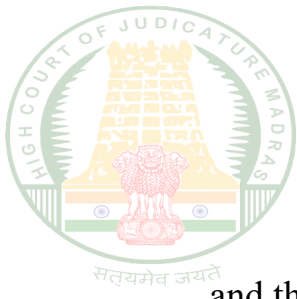
8. Thus, from a perusal of the aforesaid provision, it is evident that the following are the essential ingredients required to constitute an offence under Section 153A of the IPC:-

(i) the accused, by words, signs or otherwise, promotes or attempts to promote disharmony, enmity, hatred or ill-will;

(ii) such promotion of enmity is between two or more different groups or communities;

(iii) such promotion is on the grounds of religion, race, place of birth, residence, language, caste or community, or any such ground;

(iv) there is a deliberate and malicious intent to promote enmity between such groups; and



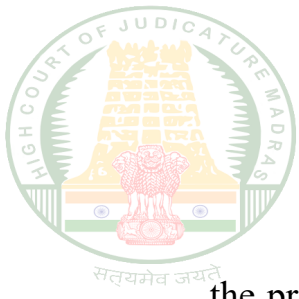
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(v) the words spoken have a tendency to disturb public tranquillity and the maintenance of harmony between different groups.

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9. However, the words attributed by the petitioner do not refer to any two or more identifiable groups or communities. The statement was made as a political response to the remarks allegedly made by a member of another political party and consisted of a reference to an incident which the petitioner believed to have occurred in the past. There is no material to indicate that the statement was intended to promote communal disharmony or to incite violence or enmity between different communities. Further, there is absolutely no material placed on record to demonstrate that the alleged statement resulted in, or was likely to result in, any actual or imminent disharmony, enmity, hatred or violence between different groups or communities. Mere reference to a historical incident, without any demonstrable tendency or intention to promote such disharmony, cannot, by itself, attract the penal provision under Section 153A of the IPC. Therefore, the essential ingredients necessary to constitute an offence under Section 153A of the IPC are not made out against the petitioner.



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10. Further, to attract the offence under Section 153A of the IPC,

the presence of the requisite mens rea is an essential ingredient. The gist of the offence under Section 153A is the intention to promote or attempt to promote feelings of enmity, hatred or ill-will between different classes or communities. Such intention has to be established from the material on record and cannot be mechanically inferred merely from isolated or strongly worded expressions. The intention to cause disorder or to incite people to violence is *sine qua non* while determining whether the ingredients of Section 153A of the IPC. The intention of the speaker has to be assessed primarily from the language employed, the context in which the statement was made and the circumstances surrounding the speech. Therefore, the speech or statement complained of must be read and understood as a whole and in its proper context. The Court cannot rely upon isolated or strongly worded passages by severing them from the context in which they were made, nor can a sentence here and a sentence there be selectively picked up and connected through an elaborate process of inferential reasoning to sustain a criminal charge.

11. On perusal of the alleged speech of the petitioner, this Court finds that the statement, read as a whole and in its proper context, does not have the tendency to promote disharmony or feelings of enmity,

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hatred or ill-will between different religious, racial, linguistic or regional groups, or between castes or communities. There is also no material on record to indicate that the speech was delivered with the intention of promoting enmity or hatred between different communities or that it was likely to disturb public tranquillity. The alleged statement appears to have been made in the course of a political response to the remarks attributed to a person belonging to another political party. It does not, target or denigrate any particular community or seek to create hostility between two identifiable groups. In the absence of the requisite mens rea and any material indicating an intention or tendency to incite communal disharmony, the essential ingredients of the offence under Section 153A of the IPC are not made out. Therefore, the cognizance taken by the Trial Court for the offence under Section 153A of the IPC is unsustainable in law and is liable to be quashed.

12. Further, there is no material on record to demonstrate that the alleged speech of the petitioner resulted in, or was likely to result in, any disturbance of public tranquillity. In the absence of any such material, the essential ingredients required to constitute the offences punishable under Sections 153A and 505(1)(c) of the IPC are wholly absent. Therefore, the order passed by the Trial Court taking cognizance of the

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offences under Sections 153A and 505(1)(c) of the IPC cannot be sustained in law and is liable to be quashed. The judgments relied upon by the learned counsel appearing for the respondent are also of no assistance to the case on hand, as the factual circumstances and the materials available in those cases are distinguishable from the present case, since there are no prima facie materials to establish the essential ingredients of the offences alleged against the petitioner.

13. That apart, on perusal of the speech made by the petitioner, this Court finds that there is no reference to any incitement to violence or any exhortation to a specific group to act against another group or community. The respondent has not placed any material on record to demonstrate that the speech of the petitioner was either capable of, or intended to, incite violence, promote communal disharmony or disturb public tranquillity. In the absence of such foundational material, the essential ingredients of the offences alleged against the petitioner are not made out. Further, the circumstances pleaded by the petitioner also give rise to a serious contention that the complaint has been instituted with an ulterior motive. However, this Court need not record any conclusive finding on the alleged political motive of the respondent, since the proceedings are liable to be quashed on the ground that the basic

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ingredients of the alleged offences are not disclosed from the complaint and the materials placed on record.

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14. The criminal process cannot be permitted to be used as a weapon for settling political scores or to stifle legitimate political dissent. At the same time, the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India is subject to the reasonable restrictions prescribed by law. Further, the manner and timing of the complaint, coupled with the absence of any prima facie material or credible evidence demonstrating that the alleged speech was intended or likely to incite violence, promote communal disharmony or disturb public tranquillity, assume significance. The materials available on record do not disclose the foundational ingredients necessary to constitute the offences alleged against the petitioner. In such circumstances, permitting the criminal proceedings to continue would serve no legitimate purpose and would amount to permitting the criminal process to be used for purposes other than the bona fide enforcement of law. Hence, the complaint and the consequential proceedings are liable to be quashed.



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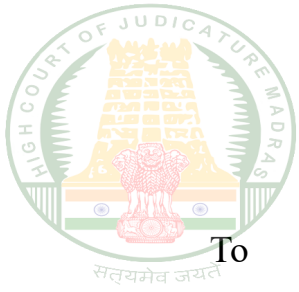
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15. In view of the above discussions, the impugned proceedings in C.C.No.306 of 2026 pending on the file of the Judicial Magistrate No. IV, Salem, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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1. The Judicial Magistrate No.IV,
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G.K.ILANTHIRAIYAN. J,

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Pre delivery Order in
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and Crl.M.P.Nos.7007 of 2026

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