

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Orders Reserved on</i>	:	<i>08..02..2021</i>
<i>Orders Pronounced on</i>	:	<i>16..02..2021</i>

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Original Petition
Nos.1153, 1761, 1783, 2177, 2178, 2180, 2181,
2182, 2183 and 2184 of 2021

&

Crl.M.P.No.1061 of 2021 in Crl.O.P.No.1153 of 2021

C.S.Karnan

... Petitioner in all Criminal Original Petitions

-Versus-

The State,
Rep. by its Inspector of Police,
Central Crime Branch,
Office of Commissioner of Police,
Greater Chennai,
E.V.K.Sampath Road,
Vepery, Chennai 600007.
[Crime Nos.294 of 2020]

... Respondent in Crl.O.P.No.1153 of 2021

The State,
Rep. by its Inspector of Police,
Central Crime Branch Team-1,
Vepery, Chennai.
[Crime No.316 of 2020]

... Respondent in Crl.O.P.No.1761 of 2021

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The State,
Rep. by Inspector of Police,
Central Crime Branch Team-1,
Vepery, Chennai.
[Crime No.321 of 2020]

... Respondent in Crl.O.P.No.1783 of 2021

The State Rep. by
Inspector of Police,
Cyber Crime Cell,
Team-13, Central Crime Branch,
Vepery, Chennai.
[Crime No.14 of 2021]

... Respondent in Crl.O.P.No.2177 of 2021

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team-13, Central Crime Branch,
Vepery, Chennai.
[Crime No.364 of 2020]

... Respondents in Crl.O.P.No.2178 of 2021

The Inspector of Police,
Central Crime Branch Team-32,
Vepery, Chennai.
[Crime No.356 of 2020]

... Respondent in Crl.O.P.No.2180 of 2021

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 29, Central Crime Branch,
Chennai.
[Crime No.16 of 2021]

... Respondents in Crl.O.P.No.2181 of 2021

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 29, Central Crime Branch,
Chennai.
[Crime No.15 of 2021]

... Respondent in Crl.O.P.No.2182 of 2021

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 14, Central Crime Branch,
Chennai.
[Crime No.13 of 2021]

... Respondent in Crl.O.P.No.2183 of 2021

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 14, Central Crime Branch,
Chennai.
[Crime No.12 of 2021]

... Respondent in Crl.O.P.No.2184 of 2021

Prayer in Crl.O.P.No.1153 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.294 of 2020** on the file of the Inspector of Police, Central Crime Branch, Office of Commissioner of Police, Greater Chennai, EVK Sampath Road, Vepery, Chennai 600 007.

Prayer in Crl.O.P.No.1761 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.316 of 2020** on the file of the Inspector of Police, Central Crime Branch Team-1, Vepery, Chennai 600007.

Prayer in Crl.O.P.No.1783 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.321 of 2020** on the file of the Inspector of Police, Central Crime Branch Team-1, Vepery, Chennai 600007.

Prayer in Crl.O.P.No.2177 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.14 of 2021** on the file of the Inspector of Police, Cyber Crime Cell, Team 13, Central Crime Branch, Vepery, Chennai.

Prayer in Crl.O.P.No.2178 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.364 of 2020** on the file of the Inspector of Police, Cyber Crime Cell, Team 13, Central Crime Branch, Vepery, Chennai.

Prayer in Crl.O.P.No.2180 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.356 of 2020** on the file of the Inspector of Police, Cyber Crime Cell, Team 32, Central Crime Branch, Chennai.

Prayer in Crl.O.P.No.2181 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.16 of 2021** on the file of the Inspector of Police, Cyber Crime Cell, Team 29, Central Crime Branch, Chennai.

Prayer in Crl.O.P.No.2182 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on

Crl.O.P.no.1153 of 2021 , etc., batch

bail pending investigation in **Crime No.15 of 2021** on the file of the Inspector of Police, Cyber Crime Cell, Team 29, Central Crime Branch, Chennai.

Prayer in Crl.O.P.No.2183 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.13 of 2021** on the file of the Inspector of Police, Cyber Crime Cell, Team-14, Central Crime Branch, Chennai.

Prayer in Crl.O.P.No.2184 of 2021: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in **Crime No.12 of 2021** on the file of the Inspector of Police, Cyber Crime Cell, Team-14, Central Crime Branch, Chennai.

Bar Council of Tamil Nadu and Puducherry
Rep. by its Secretary, Mr.C.Rajasekar,
High Court Buildings,
N.S.C. Bose Road, Chennai 600 104.

... Petitioner in Crl.M.P.No.1061 of 2021

-Versus-

1.Thiru.C.S.Karnan

2.The Inspector of Police,
Cyber Crime Cell, CCB,
Vepery, Chennai 600 006.

... Respondents in Crl.M.P.No.1061 of 2021

Petition seeking permission to intervene in Crl.O.P.No.1153 of 2021

*For Petitioner(s) : Mr.G.Rajagopalan,
Senior Counsel for
Mr.B.Kumarasamy, petitioner
in all Crl.OPs.*

*For Respondent(s) : Mrs.M.Prabhavathi,
Addl. Public Prosecutor for
respondents in all Crl.OPs.*

*For Intervenor : Mr.S.Prabhakaran,
Senior Advocate for
Mr.C.K.Chandrasekhar,
Standing Counsel for Bar
Council of Tamil Nadu and
Puducherry*

COMMON ORDER

The petitioner, who was originally arrested and remanded to judicial custody on 02.12.2020 in connection with the case in Crime No.294 of 2020 on the file of the Inspector of Police, Central Crime Branch, Chennai for the alleged offence Section 294(b), 506(ii) r/w 120-B of IPC, Section 67-A of Information Technology (Amendment) Act, 2000, Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and section 4 of Indecent Representation of Women Act, 1986 and subsequently, arrested formally in all other cases pending on the file of the respondent - Central Crime Branch police, seeks bail.

2. Since the petitioner in all these bail petitions and the respondents - Central Crime Branch / Cyber Crime Cell are one and the same and the accusations made in the FIRs are almost identical, except in one case, all these petitions were heard together and are being disposed of by this common order.

3. Insofar as intervening petition is concerned, it was filed by the Bar Council of Tamil Nadu and Puducherry and particularly, one of the de facto complainants and this court is convinced with the submission of the learned senior counsel that the intervenor has to be heard in this matter. The intervening petition is ordered accordingly.

4. The petitioner is a former Judge of this Court and the High Court of Calcutta. As many as 10 crimes have been registered against the petitioner out of which, 9 crimes relate to uploading of 33 abusive video contents on social media viz., YouTube and Facebook. The accusation is that the petitioner abused the Former Chief Justices of Supreme Court of India, Former Judges and Sitting Judges of Supreme Court of India and sitting Chief Justices of two of the other High courts, Former and sitting Judges of

this High Court as well as their family members with vulgar, scandalous, vituperative and obscene words.

5. The earliest complaint was filed by a practicing Advocate of this Court, one Mrs.Devika on 26.10.2020, upon which a FIR has been registered in crime No.294 of 2020 by the Inspector of Police, Central Crime Branch, Office of Commissioner of Police, Greater Chennai, for the alleged offence under Section 153, 509 IPC, which was subsequently altered into Section 509, 294(b), 506(ii) r/w 120-B of IPC, 67-A of Information Technology Act, Section 4 of Tamil Nadu Prohibition of Women Harassment Act and Section 4 of Indecent Representation of Women Act. Thereafter eight other complaints have been filed by one Mr.Ram Shankar, General Secretary of Delhi Tamil Advocate Association and one Mr.T.Rajkumar, Secretary of Bar Council of Tamil Nadu and Puducherry. The details of those nine cases are enumerated hereunder:-

Sl.No.	Date of Registration	Crime Number	Provisions of law under which crime registered	Date of Arrest of A1 / petitioner
1	26.10.2020	294 of 2020	Under Section 153, 509 of IPC @ into Section 228, 509, 294(b), 506(ii) r/w 120-B of IPC, Section 67-A of Information Technology Act, Section 4 of Tamil Nadu Prohibition Woman	02.12.2020

			Harassment Act and Section 4 of Indecent Representation of Women Act	
2	24.11.2020	316 of 2020	-do-	07.12.2020 [formally arrested]
3	25.11.2020	321 of 2020	-do-	04.12.2020 [formally arrested]
4	29.12.2020	364 of 2020	-do-	04.02.2021 [formally arrested]
5	16.01.2021	12 of 2021	-do-	04.02.2021 [formally arrested]
6	16.01.2021	13 of 2021	-do-	04.02.2021 [formally arrested]
7	16.01.2021	14 of 2021	-do-	04.02.2021 [formally arrested]
8	16.01.2021	15 of 2021	-do-	04.02.2021 [formally arrested]
9	16.01.2021	16 of 2021	-do-	04.02.2021 [formally arrested]

सत्यमेव जयते

6. The other complaint was made by one Mr.Devaraj, Assistant Security Officer at KGS Eternity Apartment, Kalashetra Colony alleging that on 18.10.2020 at about 11.00 hours, the petitioner along with 5 others barged into the premises of a Hon'ble Judge of Supreme Court (now retired) forcibly kicked and knocked at the door and shouted at against at in abusive

and filthy language and also demanded to pay rupees ten crores. It is further alleged that the petitioner had also threatened the daughter and the son-in-law of the Honourable Judge in filthy words. On the basis of such complaint, a case was registered in Cr.No.356 of 2020 for the alleged offences under Section 294(b) and 448 of IPC, which was subsequently altered into Sections 143, 147, 294-B, 448 and 506(ii) of IPC r/w 4 of Tamil Nadu Prohibition of Women Harassment. In this case, the petitioner (A1) was formally arrested on 07.01.2021.

7. In these circumstances, the petitioner has come forward with these original petitions seeking to enlarge him on bail.

8. In all these petitions, the petitioner admitted that he only uploaded the videos and further stated that due to long imprisonment undergone by him pursuant to the order passed by the Honourable Supreme Court and due to certain subsequent developments, he has been suffering from severe mental depression and his mind is not stable. It is further stated by the petitioner that he had lost his younger brother in the month of November 2020 and by that incident also, he was seriously affected and he has been doing certain act unknowingly in an unregrettable fashion. It is further stated

that he would render unconditional apology to those who were offended by the video contents uploaded by him, however, in the present condition of mind, he has been asked to avoid. The relevant portion of the averments in the petition in Crl.O.P.No.1153 of 2021 reads as follows:-

"6. The petitioner submits that he would render unconditional apologies to those who were offended by the videos, but, in the present condition of his mind he has been asked to avoid. The petitioner further submits that he is not making this statement to wriggle out of any proceedings pending against him, but, only to show his bonafides and he knows that he is bound to face the same."

9. In all these petitions, the petitioner has stated that he had given undertaking before the police during investigation that he would not release any further videos and he further undertakes that he would not make any statement or release any such objectionable and hateful videos in the future through any platform. He is also urgently required treatment for his stability and for other sickness.

10. The respondent police filed a detailed written objection opposing the petitions for bail and produced the transcribed text of the video contents

which were uploaded by the petitioner on social media.

11. It is contended by the respondent police that during investigation, 33 abusive / hateful video contents were identified which were uploaded through the YouTube channels of one Dr.M.Dhanasekaran, Ambedkar Army ACDP, Justice C.S.Karnan and Anti-Corruption Dynamic Party ACDP". You-Tube authorities were immediately addressed to delete all those videos and block the You-Tube channel of the above said account. In the mean time, on a writ petition filed by the Secretary of the Bar Council of Tamil Nadu and Puducherry, a Division Bench of this court by order dated 10.11.2020 directed for the removal of the abusive and hateful videos uploaded by the petitioner and block all the URLs.

12. It is further stated by the respondent police that all the videos contained obscene and unparliamentary words and they were all uploaded by the petitioner with an intention to insult the modesty and to impute the chastity of women and to cause embarrassment to them. Those abusive and hateful video contents / speeches would have definitely caused insult to the Judges of Supreme Court and High Court and would cause interruption while performing their judicial functions. Therefore, cases were registered

against the petitioner. During investigation, it was found that one Dhanasekaran from Uthiramerur conspired with the petitioner and committed the offence and therefore, he was also arrayed as an accused.

13. Even after the orders passed by the Division Bench of this Court, the petitioner continued to upload abusive and hateful videos through another account viz., Anti Corruption Dynamic Party ACDP, a political party in which the petitioner is the President.

14. Earlier, a notice under Section 41-A of Cr.P.C. was issued to the petitioner and another for their appearance. Even after the receipt of the same, the petitioner continued to upload the abusive videos in YouTube channel. After registering the FIR, a search was conducted in the premises of the petitioner, in which, abusive writings and documents were seized from the family house of the petitioner at Choolaimedu, Chennai and from his present residence at Avadi, Chennai. Earlier, the petitioner filed a petition seeking medical treatment before the III Metropolitan Magistrate which was allowed and he was admitted in Stanley Hospital at Chennai where he was found positive for COVID19.

15. It is further stated that even after the orders passed by the Division Bench of this Court and issuance of notice under Section 41-A of Cr.P.C., the petitioner continued to create new channels and upload the abusive videos threatening the High Court Judges and Supreme Court Judges , women lawyers, women Court Officers and women staff as victims of sexual abuse. Therefore, the arrest of the petitioner was imminent in order to stop him from uploading any such abusive and derogatory contents on social media. Now, the investigation in Crime No.294 of 2020 was over and on filing the final report, cognizance has been taken by the learned III Metropolitan Magistrate, George Town, Chennai, now, numbered as C.C.No.319 of 2021.

16. It is further stated that the petitioner has committed the offence with the predetermined mind and he is in the habit of repeating the crime by uploading abusive videos through one or the other YouTube channels and the release of the petitioner may lead to his involvement in the other crimes of similar nature. The investigation in the other cases registered against the petitioner are pending. Therefore, the respondent strongly opposed the granting of bail to the petitioner.

17. The respondent police have filed a separate status report in respect of the case in Crime No.356 of 2020 and strongly objecting to the release of the petitioner on bail. The respondent further stated that the undertaking given by the petitioner is unbelievable and untenable. If at all the petitioner requires any medical treatment, on the recommendations of the Medical Officer concerned, the same would be extended to him.

18. The Bar Council of Tamil Nadu, the complainant in some of the cases filed a miscellaneous petition in Crl.M.P.No.1061 of 2021 in Crl.O.P.No.1153 of 2021 through its Secretary seeking to intervene in the matter. The intervenor strongly opposed the bail petitions stating that all such abusive videos were uploaded by the petitioner only in order disturb the functioning of the Madras High Court by making obscene and vulgar statements and baseless personal accusations against Hon'ble Judges, their family members, court staff as well as women lawyers and thereby the petitioner caused irreparable damages to the institution. In those circumstances, the Bar Council had no other alternative but to invoke lawful proceedings to protect the dignity and majesty of law and judicial institution and to save the Hon'ble Judges from such unprovoked harassments. Therefore, complaints were made against the petitioner.

19. It is further stated by the intervenor that the petitioner deliberately attempted to malign the institution and the Hon'ble Judges. The petitioner had improvised each of his videos and uploaded more than 33 videos in YouTube and Facebook which were doing rounds on social media platforms even after the interim order of the Division Bench of this Court, dated 10.11.2020 made in W.P.No.16181 of 2020. Given the high position held by the petitioner, his speeches have lowered the image of the Judiciary in the minds of innocent people and the damage caused is irreparable. The voyeurism of the petitioner is most indecent in the annals of the High Court's corridor. "The pain may subside with times, but the scar will remain for ever", as it cannot be undone by any apology to escape the consequences of his criminal acts. Even though the petitioner claimed excuse based on his mental condition, he never subjected himself for medical examination to establish the same. He was aware of the consequences of his act at the time when he videographed and uploaded the abusive video contents. The intervenor has given the details of dates on which videos were uploaded chronologically.

20. Mr.G.Rajagopalan, the learned senior counsel appearing for the

petitioner would submit that he is not arguing the bail petitions on merits and added that the petitioner admitting the release of the alleged videos. The learned senior counsel would further contend that the petitioner had uploaded all such objectionable videos when he was under severe mental depression pursuant to the order passed by the Hon'ble Supreme court in a contempt proceedings initiated against him and also due to certain subsequent developments.

21. The learned senior counsel would further submit that the petitioner had already given undertaking before the investigating authorities concerned that he would not release any such scandalous videos. He would submit that the petitioner further undertakes that if released on bail he would not upload any such scandalous statement or video on any media including electronic, print and social media platforms.

22. The learned senior counsel would also submit that after the arrest and remand, the petitioner was infected with COVID19 and he was admitted in Hospital and was given treatment. Thereafter, he has been taking treatment for post COVID19 complications and he requires better treatment as he is a chronic diabetic and high blood pressure patient apart from

treatment for unstable mental health condition.

23. The learned senior counsel would further submit that the videos said to have been uploaded by the petitioner were privatized and blocked on all social media platforms. Substantial portion of investigation is over and in fact the investigation in one of the cases was completed and final report was filed. In such circumstances, the question of tampering with witnesses and hampering the investigation would not at all arise. The learned senior counsel would therefore pray for the grant of bail.

24. During the course of arguments, the learned senior counsel appearing for the petitioner submitted a joint affidavit sworn in by the wife and son of the petitioner wherein they have stated that since 2017 , the mind of the petitioner is very unstable and he has been acting in an unpredictable fashion which had driven him to upload the offensive videos. The petitioner requires a complete assessment and treatment for his mental health issue so as to lead a peaceful retired life and they would ensure that, in the event of releasing on bail, the petitioner is not repeating the offence and prayed for bail.

25. The learned senior counsel appearing for the petitioner would lastly submit that if this court is not inclined to grant bail for the present, at least consider to grant interim bail on medical ground as the petitioner was affected by COVID19 and he requires treatment for post COVID19 complications besides treatment for his unstable mental health issues. In the event of granting either bail or interim bail, the wife and son of the petitioner would ensure that the petitioner would not make any such abusive, disgusting, or hateful statement / videos and they are willing to comply with any conditions including giving security.

26. Mr.S.Prabhakaran, the learned senior counsel appearing for the intervenor would strongly oppose the bail petitions stating that the petitioner uploaded objectionable and hateful video deliberately and fully aware of the consequences of his acts. The contents of the video would clearly show that the petitioner was in his complete senses of his actions and very well knew the consequences of his actions. The petitioner was not suffering from any mental depression as pleaded by him.

27. The learned senior counsel referring to a few judgements of the Hon'ble Supreme Court and submitted that if the petitioner is released on

bail, he would definitely indulge in similar criminal activities by uploading further abusive and hateful statements/videos on social media. The learned senior counsel would also bring to the attention of this court a contempt proceedings initiated by the Honourable Supreme Court against the petitioner wherein the Hon'ble Supreme Court as early as in 2017 directed that no such statement of the petitioner shall be published in the electronic or print media. Despite such direction, the petitioner continued to upload the abusive and hateful video on social media platforms. The learned senior counsel would take this court through the transcribed text of the video contents and submit that the petitioner had consciously done it knowing fully well that he is responsible for the criminal acts and therefore, he cannot now seek shelter under Section 84 of IPC and Section 330 of Cr.P.C. and seek bail.

28. The learned Additional Public Prosecutor would strongly oppose the bail petitions reiterating the averments made in the written objection filed by the respondent police. She would further contend that except in one case, investigation is pending in all other cases. The position occupied by the petitioner was high as he was holding a constitutional post and while being so, he must be well aware of the consequences of his acts and if he is

released on bail pending investigation, there is likelihood of tampering with the witnesses and hampering investigation. The learned Additional Public Prosecutor would lastly submit that there are reasonable grounds to apprehend from his past conduct that, if the petitioner is released on bail, he may repeat the similar offences. She, therefore, would pray this court to dismiss the bail petitions.

29. I have considered the rival submissions and also perused the records.

30. The allegations made in all these criminal cases relate to uploading of as many as 33 videos on social media platforms, like YouTube and Facebook, by the petitioner and the other accused under different channels. Now, the petitioner admitted the above said fact that all the videos were uploaded by him. The respondent police transcribed those video contents into texts and produce the same in the form of typed set of papers.

31. I have gone through the transcribed texts of the video contents and it is very shocking. The petitioner had made scandalous, obscene, very vulgar and vituperative statements against few former Hon'ble Chief Justices

and former and sitting Honourable Judges of Supreme Court of India, former and sitting Honourable Judges of High Court Madras and two sitting Honourable Chief Justices of other High Courts as well as against the family members of some of the Honourable Judges, which cannot be expected even from a layman. The petitioner did not even spare women layers and women court staff members and also targeted some of the senior counsels who had argued the contempt case against the petitioner before the Supreme Court. As already pointed out, the petitioner had also made very obscene and vulgar statements against the spouses of the Honourable Judges for no sin on their part and this court is fully satisfied that the contents of the video prima facie make out offences for which the petitioner has been implicated.

32. The only defence that has been taken by the petitioner is that he was undergoing severe mental depression due to various circumstances and he was incapable of knowing the nature of his act while making and uploading the videos on social media platforms. However, the sequence of the videos and the contents would prima facie show that the petitioner had done all such acts deliberately knowing fully well that what he was doing was wrong and contrary to law.

33. The earliest video was uploaded on 25.10.2020 making vulgar allegations against 15 Honourable Judges of Supreme court of India and also making vulgar and abusive statements against the spouses of the Honourable Judges of the Supreme Court as well as Judges of the Madras High Court and women court staff members. Immediately, a complaint was made by a practicing lawyer of this court. Having come to know that, the petitioner had uploaded another video abusing the women lawyers including a woman senior counsel. Thereafter on 06.11.2020, the Bar Council of Tamil Nadu and Puducherry, through its Secretary, made a compliant and also filed a writ petition before this court seeking a direction for the removal of the objectionable and hateful videos uploaded by the petitioner from the social medial platforms. While so, on 10.11.2020, a Division Bench of this Court passed an interim order directing the social media concerned to remove all those objectionable and hateful videos. Immediately, on the very same day, at 4.45 p.m. the petitioner uploaded another video abusing the Presiding Judge of the Division Bench and also questioning his authority to hear the writ petition. The petitioner also made abusing statement against the Co-Chairman of the Bar Council of India, who had argued the writ petition before the Division Bench. Not stopping with that, the petitioner continued to upload abusive videos making highly vulgar statements against the

Honourable Judges and their spouses. Therefore, subsequently two other complaints were filed by the Bar Council of Tamil Nadu and Puducherry on 13.11.2020 and 15.11.2020 and all such abusive videos were removed from the YouTube pursuant to the order passed by this court. Once again, the petitioner started uploading the abusive videos by changing accounts in various names. In the said circumstances, the Bar Council of Tamil Nadu and Puducherry had given another complaint to the respondent police on 17.11.2020. Since no action was forthcoming, the Bar Council had to file a petition under Section 482 of Cr.P.C. seeking direction to the respondent police to register the cases against the petitioner and others. After knowing the same, again the petitioner uploaded another video on 22.11.2020 wherein also the petitioner vulgarly abused the Honourable Judges of this court and also the Co-Chairman of the Bar Council of India. Whenever action taken by the respondent police to remove the abusive videos uploaded by the petitioner, the petitioner used to change the account and upload the video through new accounts. Likewise, the petitioner had uploaded 33 videos in all, out of which 21 videos were uploaded in the account of one Dr.M.Dhanasekaran, 4 were uploaded in the account of Ambedkar Army ACDP. When they were deleted from the social media, two other videos were uploaded in the account of Justice C.S.Karnan. Thereafter, changing

his account, the petitioner uploaded 6 videos in the account of Anti Corruption Dynamic Party (ACDP) and finally in the account of legalwar C.S.Karnan, the petitioner uploaded the last one.

34. A perusal of the transcribed text of all those video contents would clearly show that the petitioner made such abusive utterances consciously and with predetermined mind. Whenever the objectionable act of the petitioner was condemned by the well reasoned persons, he used to react quickly and start abusing them in vulgar language.

35. That apart, when a search was conducted in the petitioner's house, the respondent police seized certain documents containing abusive writings. Those documents were also produced before this court. On perusal of the same, it could be seen that the petitioner himself prepared all those abusive statements for recording the videos in question, which would clearly show that the petitioner made a thorough preparation before video graphing such abusive statements.

36. Now, it is stated that the petitioner has floated a political party by name "Anti Corruption Dynamic Party" and he is the Founder President of

the party and released an election manifesto on behalf of the party, for the forthcoming Tamil Nadu Assembly Elections simultaneously. All those materials would prima facie establish that the petitioner was and is not having any physical or mental ailments which rendered his intellect weak. The utterances made by him in the videos would prima facie indicate that all those statements were made in a clear state of mind and uploaded the same on social media platforms fully knowing the consequences of his action and also the nature of the act he was doing. Therefore, the petitioner cannot take umbrage neither under Section 84 of IPC nor under Section 330 of Cr.P.C.

37. From the averments made in the bail petitions and also the submissions of the learned senior counsel appearing for the petitioner, this court is able to understand that the petitioner is not serious/willing to tender apology for the acts done by him. Even though the wife and the son of the petitioner have filed affidavit and tendered unconditional apology on behalf of the petitioner, the same cannot be accepted in the absence of any such affidavit from the petitioner, genuinely regretting for the acts done by him. The learned senior counsel for the petitioner also assertively stated that the petitioner is not willing to file any such affidavit tendering apology.

38. Now coming to the antecedents of the petitioner, the petitioner's

tirade started in the year 2015 and number of unsustainable orders were passed by him when he served as Judge of this court and High court of Calcutta. On challenge all those orders were set aside by the Hon'ble Supreme Court and the details of same are not relevant for deciding the bail petitions. However, it is very pertinent to mention here that the Honourable Supreme Court had initiated a *suo motu* contempt proceedings against the petitioner for having made obnoxious allegations against the Chief Justice of Supreme Court and some of the Honourable Judges of Supreme Court of India, and number of Honourable Judges of Madras High Court and ultimately held that the act of the petitioner constituted the grossest and gravest actions of Contempt of Court and the petitioner was accordingly sentenced to undergo imprisonment for six months [vide In Re Justice C.S.Karnan 2017 (7) SCC 1]. It is also to be noted that since the incident of contempt includes public statements and publication of orders by the contemnor (petitioner in the instant petitions), the Honourable Supreme Court directed that no further statements made by him should be published, despite the order of the Honourable Supreme Court, the petitioner had continued to make abusive statements against the Honourable Judges, their spouses, women lawyers and the women staff members of the Registry of Madras High Court.

39. That apart, as rightly pointed out by the learned senior counsel for the intervenor, even after the order of the Division Bench of this Court issuing direction for the deletion of those abusive videos on the social media platforms, the petitioner continued to upload such videos by creating new YouTube accounts. Considering those circumstances, this court is of the view that there is no guarantee that if the petitioner is released on bail, he would not indulge in similar acts in future.

40. The learned senior counsel appearing for the petitioner would lastly make an attempt to convince this court for granting interim bail. In the affidavit filed by the wife and son of the petitioner, it is stated that the petitioner is suffering from age related ailments. It is true that after the remand to judicial custody, the petitioner was infected with COVID19. He was immediately admitted at Stanley Medical College and Hospital, Chennai and proper treatment was given to him. Now, he got recovered completely from COVID19 infection and it is also stated by the respondent police that the petitioner is comfortable and hale and healthy, he is not suffering from any post COVID complications. The general health condition of the petitioner is also good. That apart, the investigating officer who was present

in the court stated that when the petitioner was required for medical examination, he had refused to subject himself for medical examination to assess his mental health condition. Except the oral submissions, no material has been placed before this court to show that the petitioner is suffering from post COVID19 complications or any other serious ailments. In the status report filed by the respondent police it is stated that, if the petitioner requires any medical assistance, the same would be extended in the prison hospital itself or if any higher treatment is required, the petitioner would be taken care of as per the advise of the Medical Officer attached to the Prison Hospital. Considering the same, if the petitioner still requires any specialized medical treatment, the prison authorities shall make necessary arrangements to provide adequate and timely medical assistance to the petitioner. Therefore, in the absence of any materials placed before this court to show that the petitioner is suffering from any serious ailments, the request for the grant of interim bail on medical ground, cannot be considered at this stage.

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41. The legal position is well settled that while considering the bail application, the court has to consider as to whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

nature and gravity of the accusation; severity of the punishment in the event of conviction; danger of the accused absconding or fleeing, if released on bail; character, behaviour, means, position and standing of the accused; likelihood of the offence being repeated; reasonable apprehension of the witnesses being influenced; and danger, of course, of justice being thwarted by grant of bail (vide *Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496*).

42. In *State of U.P. through CBI Vs. Amarmani Tripathi, 2005 (8) SCC 21*, the Hon'ble Supreme Court has held as follows:

“It is well settled that the matters to be considered in an application for bail are, (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behavior, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with;

and (viii) danger, of course, of justice being thwarted by grant of bail (see Prahlad Singh Bhati V. NCT, Delhi [2001 (4) SCC, 280] and Gurcharan Singh V. State (Delhi Administration) [AIR 1978 SC 179]). While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused”.

43. Keeping those principles in mind and considering the materials available on record, this court is of the considered view that there are prima facie and reasonable grounds to believe that the petitioner has committed the offence and the gravity of offence is also very serious. The investigation is, except in one case, still pending in all other cases. Considering the past conduct of the petitioner, this court has every reason to believe that there is likelihood of the petitioner repeating the offence in the event of releasing him on bail. On considering the past conduct of the petitioner, this court is unable to accept the undertaking given by the petitioner.

44. Now, it is stated that out of 10 cases, investigation was completed in only one case and final report was filed and the investigations are still pending in nine other cases, out of which, in one case, the petitioner is said to have barged into the house of a Honourable Judge of Supreme Court of India. The complaint in that case is a poor security personnel and the other important witnesses are residents of the apartment. The petitioner is none other than the former Judge of this court and High Court of Calcutta. He is also founder president of a political party and appears to be a very influential person. Considering the position held by the petitioner as a constitutional functionary and he being a very influential person, this court is of the view that if the petitioner is released on bail, at this stage, there is every possibility of the petitioner interfering with the investigation and tampering with the witnesses and influence the officials. Keeping in view of the above said facts, this court is not inclined to consider the request for bail to the petitioner at this stage.

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45. Coming to Crl.O.P.No.2180 of 2020 , it relates to Crime No.356 of 2020. The allegation in this case is that on 18.10.2020 at about 11.00 hours, the petitioner/A1 along with 5 of his supporters, who have been arrayed as A2 to A6 trespassed into the house of a Honourable Judge of

Supreme Court of India in her absence and scolded her in abusive and filthy language, threatened her daughter and son in law and also demanded rupees ten crores. On the basis of a complaint given by an Assistant Security Officer of the apartment, the instant crime was registered.

46. In this case, the respondent filed a status report stating that during investigation, the co-accused confessed that they have committed the offence at the instigation of the petitioner(A1). Now, it is stated that investigation is pending. Therefore, this court is not inclined to consider the request for bail at this stage in this case also for the reasons already discussed.

In the result, the Criminal Original Petitions are all dismissed. It is made clear that, the observations made herein above, were only for the disposal of these bail petitions and this court has not gone into the merits of the case of the prosecution and the probable defence to be putforth by the petitioner.

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16..02..2021

Criminal Original Petition

Nos.1153, 1761, 1783. 2177, 2178, 2180, 2181,
2182, 2183 and 2184 of 2021

V.BHARATHIDASAN.J.,

Today morning, at about 10.20 a.m., an affidavit sworn-in by the petitioner has been placed before me wherein the petitioner has stated that out of tension and due to change in his temperaments, unfortunately, he had committed the cyber law crimes by uploading the offensive videos. The acts complained of were not done willfully or wantonly but due to ill health reasons. In the sworn affidavit, the petitioner has also undertaken that he would not repeat the offence.

2. Perused the affidavit filed by the petitioner and the same is taken on record. However, this court is not inclined to take into consideration the affidavit filed by the petitioner at this stage.

सत्यमेव जयते

16..02..2021

kmk

Index : yes / no

Internet : yes / no

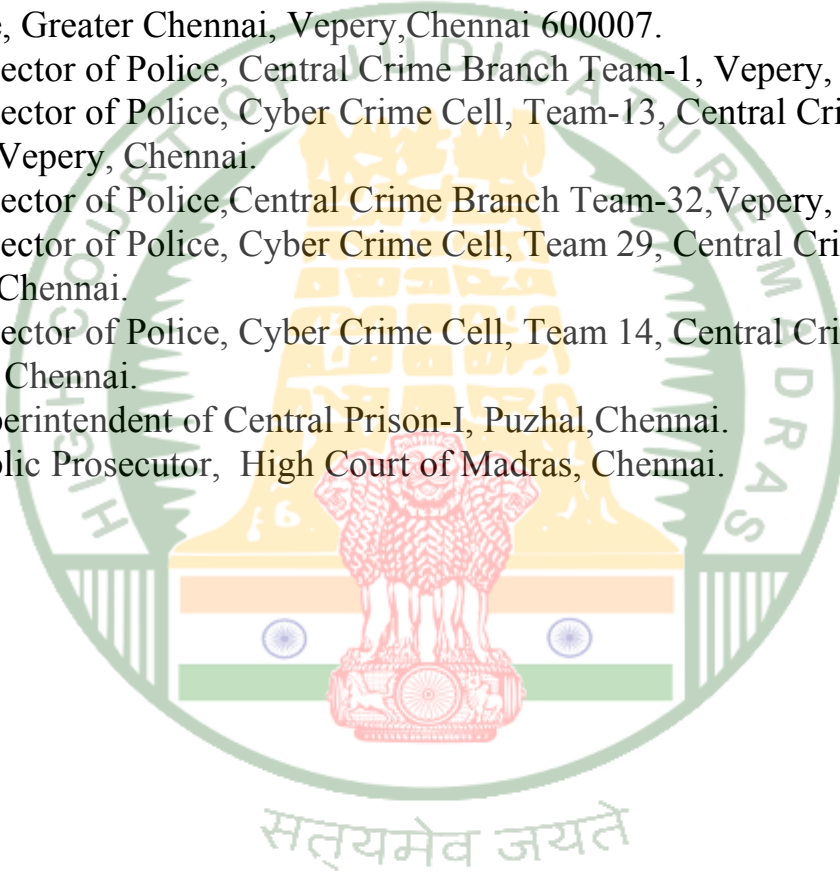
Speaking/Non Speaking Order

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To

1. The III Metropolitan Magistrate, George Town, Chennai.
2. The Principle Judge, City Civil Court, Chennai.
3. The Chief Metropolitan Magistrate, Egmore, Chennai.
4. The Inspector of Police, Central Crime Branch, Office of Commissioner of Police, Greater Chennai, Vepery, Chennai 600007.
5. The Inspector of Police, Central Crime Branch Team-1, Vepery, Chennai.
6. The Inspector of Police, Cyber Crime Cell, Team-13, Central Crime Branch, Vepery, Chennai.
7. The Inspector of Police, Central Crime Branch Team-32, Vepery, Chennai.
8. The Inspector of Police, Cyber Crime Cell, Team 29, Central Crime Branch, Chennai.
9. The Inspector of Police, Cyber Crime Cell, Team 14, Central Crime Branch, Chennai.
10. The Superintendent of Central Prison-I, Puzhal, Chennai.
11. The Public Prosecutor, High Court of Madras, Chennai.

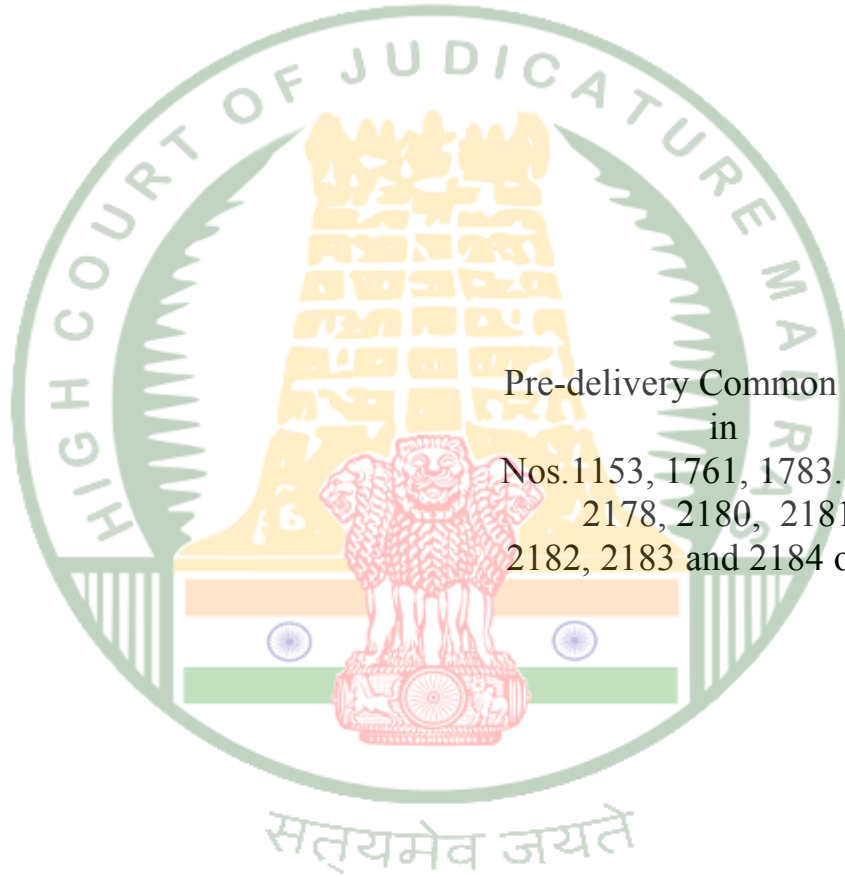


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Crl.O.P.no.1153 of 2021 , etc., batch

V.BHARATHIDASAN, J.

kmk



Pre-delivery Common Order
in
Nos.1153, 1761, 1783, 2177,
2178, 2180, 2181,
2182, 2183 and 2184 of 2021

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16..02..2021