

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.02.2021**

CORAM

THE HONOURABLE JUSTICE **MR.N.ANAND VENKATESH**

Crl.O.P Nos.250 of 2021 & Crl.OP.Nos. 895, 896, 899, 901, 909, 911,
919 and 2733 of 2019 and 26841 of 2018

Crl.MP.Nos.15481/2018, 579, 596/2019, 581/2019,
589/2019,1750/2019, 576/2019, 599/2019, 575/2019,124/2020,
122/2021,

Crl.OP.No.250 of 2021

Mohan C.Lazarus
S/o.Chithirai Pandi,
Founder Jesus Redeems,
Nalumavadi, Turicorin District.

..Petitioner/Accused

.Vs.

1.State rep.by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
(Crime No.396/2018)

..1st Respondent/
Complainant

2.Muthuvel

..2nd Respondent/
De facto Complainant

PRAYER in CrI.OP.No.250/2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the complaint in STC No.603 of 2020, pending on the file of the learned Judicial Magistrate Court No.I, Ariyalur and quash the same.

For Petitioners : Mr.Issac Mohanlal, Senior Counsel
(in All CrI.OPs) for M/s.Isaac Chambers

For Respondents : Mr.M.Mohamed Riyaz
(in All CrI.OPs) Additional Public Prosecutor

COMMON ORDER

These batch of petitions demonstrate how certain mindless and reckless statements made by a person under the grips of religious fervour puts him in a piquant situation, resulting in a barrage of criminal complaints given against him by all those persons whose religious sentiments were affected by those statements.

2.The Petitioner in all these petitions is the founder of 'Jesus Redeems Ministry' which is a Trust run by him for the last forty years. The Petitioner is an evangelist. On one of the occasions, the Petitioner

while addressing a group of his followers, had made certain statements about Hindu temples and Hindu Gods to those group of persons. At a later point of time, the video containing the speech given by the Petitioner was circulated on social media and it had spread across the length and breadth of Tamil Nadu. Various complaints were given at different police stations across Tamil Nadu against the Petitioner, by persons belonging to the Hindu religion on the ground that the statements made by the Petitioner in the meeting about Hindu Temples and Hindu Gods affected their religious sentiments and feelings. Therefore, several FIRs came to be registered for offences under sections 153A(1)(a), 153A(1)(b), 295A, 505(1)(b) and 505(1)(c) of the Indian Penal Code, 1806. Some of the cases also resulted in filing of final report for the said offences. These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the FIRs/ criminal proceedings against the Petitioner. The particulars of the cases registered against the Petitioner is extracted hereinunder by way of a tabular column:

S.No.	CrI. O.P. No.	Cr. No./ S.T.C. No.	Police Station/ Court	Name of Defacto Complainant	Extract of Statement made by the Petitioner/Accused From the FIR (as stated by the Defacto Complainant)
1.	895/2019	Cr. No. 1053/2018	Variety Hall Road Police Station, Coimbatore District	Mr. S. Ramanathan	...இந்தியாவிலேயே வேறு எந்த மாநிலத்திலும் இல்லாத அளவுக்கு தமிழ்நாட்டில் கோயில்கள் சாத்தானுடைய அரங்கங்கள் கிடையாது. வட இந்தியாவில் சில பிர்லா மந்திர் என்ற பெயரில் தனியார் கட்டிய பிர்லாகாரன் அவன் புகழுக்காக கட்டியிருக்கிறான். தமிழ்நாடு அளவுக்கு இந்த மாதிரி கோபுரங்கள், கோயில்கள் வேறு எந்த மாநிலத்திலும் பார்க்க முடியாது. கும்பகோணம் போனால் கிரகிக்க முடியாத அளவுக்கு அத்தனை சாத்தான்கள் அத்தனை கோயில்கள், அத்தனை இடங்களில் வேறொன்றி இருக்குறான். இதைப்போல் காஞ்சிபுரத்தில் சங்கர மடத்தில் யாகம் செய்வதையும் மனிதனை வணங்குகிறார்கள்.

2.	896/2019	Cr. No. 396/2018	Ariyalur Police Station, Ariyalur District	Mr. Muthuvel	...இந்து மத கடவுள்களை சாத்தான் என்றும் தமிழ்நாட்டில் உள்ள இந்து மத கோவில்களை சாத்தான்களின் இருப்பிடம் என்றும் பொது மேடையில், பலர் முன்னணியில் அவதூறாக கேவலமாக பேசியதை பார்த்தேன்.
	250/2021	S.T.C. No. 603/2020	Judicial Magistrate Court I, Ariyalur		
3.	899/2019	Cr. No. 419/2018	Karumathampatty Police Station, Coimbatore District	R. Jaihindh Murugesanஆன்மிக பூமியான தமிழகத்தில் உள்ள சேர சோழ பாண்டிய மன்னர்களால் கட்டப்பட்ட ஹரிந்து கோயில்களையும் சாத்தான்களின் ஆரங்கம் என்றும் ஹரிந்து தெய்வங்களை சாத்தான் என்றும் மடாதிபதிகளையும் பூஜை முறைகளையும் சம்பிரதாயங்களையும் மிக மோசமாக இழிவுபடுத்தியும் கொச்சைப்படுத்தியும் ஹரிந்துக்கள் மனம் புன்படும் வகையிலும் வேதனை அடையும் வகையிலும் பேசி உள்ளார்.
4.	901/2018	Cr. No. 763/2018	Avadi Police Station, Tiruvallur District	Mr. M. Balajiஇன்றைக்கு திருத்தணி திருவள்ளூர் மாவட்டத்துல உள்ள ஒரு பட்டணம்தான் ஒரு தாலூக்காதான் திருத்தணி. அது முக்கியமான ஒரு சாத்தானோட ஆரண் உள்ள இடம். அங்கே

					<p>ஒரு டீம் போயிருக்காங்க. அப்படின்னா எந்தெந்த மாவட்டத்துல எந்த மாதிரி சாத்தானோட அரண்கள் இருக்கிறது எவ்விதமாய் பிசாகிரியை செய்கிறான். எப்படி அந்த மக்களை சாத்தான் வஞ்சித்து வைத்திருக்கிறான் என்னென்ன ஆவிக்குரிய அந்த கர்கள் மறைபொருள் இருக்கிறாரு இதுதான் ரொம்ப முக்கியம். அதை அறிந்து ஜெபிச்சாதான் ஜெயிக்க முடியும். எதிரி எங்கே பதிவிடை வச்சிருக்கான். எதிரியனுடைய பதிவிடை எங்கே இருக்கிறாரு. எதிரினுடைய பலம் எங்கே இருக்கிறது என்பதை அறிந்து நம்ப தாக்குனாதான் தேசத்தை சுதந்தரிக்க முடியும். ஒரு வருசம் அதற்காக ஏசுகிட்ட இருக்கிற டீம் எல்லா மாவட்டத்திலேயும் பிரயாணப்பட்டு அந்த ஆவிக்குரிய மேப்பங்கையை தயாரிக்கிறார்கள்.....</p>
5.	26841/2018	Cr. No. 416/2018	Sevvai Pettai Police Station, Salem District	Mr. Gopinath	<p>.....கோயில்கள் சாத்தான்களின் அரண்கள் என்றும், இந்தியாவில்</p>

					அதிகமாக சாத்தான்கள் உள்ள இடம் தமிழகம் என்றும், குறிப்பாக கும்பகோணம் பகுதியில் அதிகமான சாத்தான் பகுதியாக குறிப்பிட்டு உள்ளார்.
6.	909/2019	Cr. No. 302/2018	Sirkazhi Police Station, Nagapattinam District	Mr. G. Balajiதமிழகத்தில் தான் சாத்தான்களின் கூடாரம் அதிகமாக உள்ளது. இந்து கோயில்கள் எல்லாம் சாத்தான்கள் வசிக்கும் இடங்கள் என்றும் வழிப்பாட்டு முறைகளை கொச்சைப்படுத்தியும் மடாதிபதிகள் துறவிகள் ஆதினகர்த்தர்களை விமர்சித்தும் பேசியிருக்கிறார்.
7.	911/2019	Cr. No. 201/2018	Pollachi Bazaar Police Station, Coimbatore District	Mr. Mano Sankar	இந்து மத கோவில்களை சாத்தான்களின் இருப்பிடம் என கலவரத்தை ஏற்படுத்த வேண்டும் என்ற நோக்கத்தோடு மிகவும் தரக்குறைவாக வலைதளங்களில் விமர்சித்து உள்ளார்.
8.	919/2019	Cr. No. 677/2018	Dharmapuri Police Station, Dharmapuri District	Mr. Ganesan	-No specific statement mentioned-
9.	2733/2019	S.T.C. No. 1493/2018	Judicial Magistrate Court II, Erode	Mr. Gunasekaranஹிந்து கடவுள்களை சாத்தான்கள் என்றும் குறிப்பாக கும்பகோணம் பகுதியில் அத்தனை

					கோவில்களிலும் சாத்தான் அதிகமாக இருப்பதாகவும் ஹிந்துக்களின் வழிப்பாட்டு முறைகளை யாகங்களை வேள்விகளை கேலி செய்யும் விதமாகவும் அவமரியாதை செய்யும் விதமாக பேசியுள்ளார்.
--	--	--	--	--	--

3. When all these matters came up for final hearing, this Court asked Mr. Issac Mohanlal, learned senior counsel appearing on behalf of the Petitioner, as to when and where the Petitioner had made the alleged statements. The learned senior counsel in all fairness submitted that the Petitioner addressed a gathering in an indoor auditorium at Avadi, Chennai on 18.03.2016 and during that occasion, the Petitioner had made certain statements and that those statements were not intended to wound the religious feelings and sentiments of the Hindus. The learned senior counsel further submitted that the video was released in a truncated manner with ulterior motives in the year 2018. The learned senior counsel submitted that he is not trying to justify or support the statements made by the Petitioner and that he does not endorse the views expressed by the Petitioner on that occasion. He further submitted that it was a gathering of like-minded persons, within closed doors, where the Petitioner was answering some question that was raised by one of the participants. This was not a public meeting addressed by the Petitioner and the statements made by the Petitioner was not intended to be made to persons belonging to the Hindu religion.

4. This Court expressed its mind to the learned senior counsel appearing on behalf of the Petitioner and made it clear that the statements made by the Petitioner are reckless and it does not auger well with the stature of a pastor who has been running a Trust to propagate Christianity for the last forty years. This Court therefore, requested the learned senior counsel to take instructions from his client as to whether he will tender an unconditional apology for the statements made by him and give an undertaking that he will not repeat such conduct in future. The learned senior counsel sought some time and submitted that he will advise the Petitioner to express regret for the statements made by him and also give an undertaking before this Court.

5. When the matter was taken up for hearing on 02.02.2021, a common affidavit came to be filed by the Petitioner. The relevant portions in the affidavit are extracted hereinunder:

“1. I respectfully state that I have been prosecuted for offences under Sections 153, 153-A(1)(a) & (b), 295-A, 505(1)(b) and 505(2) of the Indian Penal Code for allegedly making statements against Hindu Temples and

Gods which were published throughout the State by way of video records and those statements had allegedly wounded the religious feelings and sentiments of the Hindus.

2. At the outset, I express my deep regret and sincere remorse for giving room for such kind of an incident which wounded the feelings and sentiments of the Hindu population. I never intended to create such impressions in the minds of anyone, much less the Hindu people. Some of my words uttered privately to a few people in a chamber at Avadi in Chennai on 18.03.2016 have been wantonly published and calculatingly circulated in truncated forms with the malevolent aim of tarnishing my name and image and disrupting the missionary service I am involved in.

3. I make it immensely clear that it was never my intention to defy either the sacred places of Hindus or their Gods or any other faith for that matter. Yet, I feel with much remorse that my words had led to such kind of impressions among the Hindus. I assure that I would take adequate care so as to avoid such occurrences in future.

4. I also wish to state that no sooner such allegations surface, I did send letter to the Sub-Inspector of Police, Kurumbur Police Station, Thoothukudi, dated 02.10.2018 (copy enclosed) clearly stating that I did not make any such statements intending to offend or would the

religious sentiments of anyone. I also released a video clipping dated 03.10.2018 expressing the same. I again reiterate my regrets. I would ensure such instances do not happen anymore.”

6. This Court, on going through the affidavit, was convinced that the Petitioner had filed the affidavit after realising the consequence of certain reckless statements made by him and that he has wholeheartedly sought pardon with an undertaking that he will abstain from such conduct in future. This Court brought to the notice of the counsel appearing on behalf of the *defacto* complainants, the affidavit filed by the Petitioner, and requested them to take instructions from their clients. This Court advised the counsel appearing for the *defacto* complainants not to precipitate the matter any further since it involves religious sentiments, and to gracefully bring to an end, the criminal cases pending against the Petitioner.

7. When the matter was taken up for hearing today i.e. 05.02.2021, the learned counsel appearing on behalf of the *defacto* complainants, fairly submitted that they will leave the decision to this

Court and they only want an assurance that the Petitioner does not indulge in making such insensitive statements affecting the religious sentiments, in future.

8. The whole object of religion is to enable humans to evolve themselves into better beings. The religious system is anchored upon beliefs. Such beliefs emanate lot of sentiments and emotions, and any statements or comments made against them invariably result in strong reactions. Unfortunately, in many instances, people get blindly attached to their religious beliefs and tend to make demeaning statements against other religions. They do not realise that spirituality is not a medium through which each religion competes with each other to show its superiority over the other. People who make such reckless statements think that such statements will make their religious beliefs superior and the beliefs that they demean, inferior. This is not the purpose of religion and religious faiths, and such acts only offend the religious faith of the concerned persons. Spewing venom against another religious faith and developing hatred among the followers of a particular religion against another, defies the very purpose of religion,

which is meant to help a human being evolve towards higher truths.

9. The responsibility lies more with persons who are involved in the propagation of religions. The Petitioner, who is an evangelist claims to have followers across the world. If this statement is taken to be true, there are millions of persons who look up to the Petitioner, completely believing and blindly following whatever the Petitioner propagates. If the Petitioner is going to make reckless statements which has the propensity of demeaning another religious faith, it will only sow seeds of hatred among people across religious faiths. Every word uttered by any person holding an influential status in their respective religions has the potential to make or mar the inner development of a person. Therefore, such persons are required to exercise a great amount of responsibility while uttering each word. The Petitioner is not involved in some competitive business. Therefore, he is not warranted to make statements merely to show his religion in superior light than that of others'. If the Petitioner has any such notions, it is high time that he changes himself for his own good and that of his followers.

10. At this juncture, this Court is faced with a triangular issue of freedom of expression, secularism and tolerance. The questions as to what these terms individually mean, what is their scope, at which point they meet each other and the reasonable restriction that can be laid on the right to freedom of expression, as against the ideals of secularism and tolerance (the former being one of the pillars of the Constitution) are ones that have been dealt with at lengths and breadths by the Courts. This Court is not inclined to nor does it deem it necessary to go into the same, as such an exercise is not warranted under the facts and circumstances of the case in hand.

11. Whereas on the other hand, this Court finds it relevant and the need of the hour to acknowledge and call aloud that we as a society have fallen and are falling into the hands of misconceptions and extremities in the name of securing and practicing our respective religious beliefs. These extremities have always known to incite hatred, violence, bloodshed and bitterness across history.

12. The constitutional ideal of secularism was not built into our Constitution for no reason. While secularism in the West is usually taken to be emphasising the separation of the state and religion, Indian secularism stresses the equal tolerance of all religions. While the concept of secularism has its origins in Europe, the meaning ascribed to it in India is accompanied by a significant variation as compared to the West. As elicited by ***Pantham, T. (1997). Indian Secularism and Its Critics: Some Reflections. The Review of Politics, 59(3), 523-540.*** "Given the pervasive religiosity of the people and the pluralism of religions, an ethico-politically appropriate pattern of relationship between religion and state has to be one that stressed the equal respect of all religions, rather than the erection of any insurmountable "wall of separation" between the state and religion.

13. Indian secularism is *sui generis* in nature. The Preamble of the Indian Constitution did not contain the word "secular" as a signification of the State until it was done so by a 1976 amendment. It must, however, be noted that the original constitution did contain several provisions, which left no room for doubt about the secular

character of the Indian state and which, in 1973, made the Hon'ble Supreme Court to rule that "secularism" is a constitutive feature of the basic structure of the Constitution. The 1976 amendment to the Constitution brings out that all citizens are enjoined to consider it their fundamental duty to "preserve the rich heritage of our composite culture". Therefore, Indian Secularism is not one that is anti-religious but one that gives to all its citizens equal freedom of conscience and religion.

14. This brings us to the question as to how this constitutional ideal is meant to be preserved and secured. As discussed above, Indian secularism takes its roots from the notion of equal tolerance of all religions, in distinction to the aspect of separation of State and religion as followed by Western secularism. What then is tolerance in light of secularism? **Scanlon TM, "The Difficulty of Tolerance: Essays in Political Philosophy" (Cambridge University Press 2003)** has discussed on this aspect and this Court finds it appropriate to adopt the author's elucidation of the same. "Tolerance", as he rightly points out, "requires us to accept people and permit their

practices even when we strongly disapprove of them. 'Tolerance thus involves an attitude that is intermediate between wholehearted acceptance and unrestrained opposition.'... While respect for each other does not require us to abandon our disagreement, it does place limits on how this conflict can be pursued. He draws a distinction between formal politics and informal politics and brings the competition among religious groups within the embrace of informal politics and states, "A tolerant society, I want to say, is one that is democratic in its informal politics. This democracy is a matter of law and institutions. But it is also, importantly and irreducibly, a matter of attitude..... A tolerant person's attitude is this: 'Even though we disagree, they are as fully members of society as I am. They are entitled as I am to the protections of the law, as entitled as I am to live as they choose to live. In addition (and this is the hard part) neither their way of living nor mine is uniquely the way of our society.'" The failure to practice tolerance would only lead to a form of alienation from one's fellow citizens and the same will have a cascading effect on various other factors that are instrumental in maintaining peace, order and brotherhood in the State and this cannot be put to jeopardy at any cost.

15.It is fit to note that the Sermon on the Mount which is Jesus's instruction for all disciples, to be carried forth in every area of life, states as follows:

“Do not judge, so that you will not be judged. For by what judgment you judge, you will be judged, and by what measure you measure out, it will be measured out to you. And why do you see the speck that is in your brother's eye, but do not notice the beam of wood in your own eye? Or how will you say to your brother, ‘Allow me to remove the speck from your eye’, and behold, the beam of wood is in your own eye? Hypocrite! First remove the beam of wood from your own eye and then you will see clearly to remove the speck from your brother's eye!”

The words of Jesus Christ clearly goes on to reveal that the religion or its ideals do not intend to, under any circumstances, incite its followers to judge or demean another religion for the purpose of its own growth and propagation. Therefore, it is incumbent on the followers of the religion to stand by the ideals of their faith and God.

16.In ***On Liberty***, John Stuart Mill, one of the greatest

defenders of free speech, says a struggle always occurs between competing demands of authority and liberty. He argues that we cannot secure the latter without the former: "All that makes existence valuable to anyone depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed- by law in the first place, and by opinion on many things which are not fit subjects for the operation of law."

17. This Court holds a strong view that as persons capable of influencing large sections of the society that is driven by its religious sentiments, one needs to be extremely cautious and conscientious in exercising their rights, be it one of expression, religion or any other right. It cannot be at the cost of injuring the sentiments and rights of other fellow citizens who also form a constituent part of the rich culture and value system that our nation embodies. This Court would not hesitate to say that it is in fact the fundamental duty cast upon every citizen to "preserve the rich heritage of our composite culture", and that such heritage and culture cannot be at any circumstance seen as one independent of the religious, cultural and civilizational sentiments that

have been rooted, ingrained and etched in the history, soul and spirit of this nation.

18. This Court deemed it fit to express its mind not only to the Petitioner but also to persons who are similarly placed, irrespective of their religious identity, so that they realise their responsibility and exercise more caution while propagating their religion. If this is not followed, it will spell danger to the secular fabric of this country. It may even lead to eroding one of the basic structures of our Constitution.

19. "To err is human, to forgive divine". After all the Petitioner has erred in making certain statements without understanding its consequences. He has realised his fault and has expressed regret by filing an affidavit before this Court. This Court expressed its mind to condone the act of the Petitioner without further precipitating the situation. The complainants also realised that forgiveness is an act of grace and have given a chance to the Petitioner to change his attitude and to be more careful with the statements that he makes in future. This Court is confident that the Petitioner has learnt his lesson from this

incident and the criminal proceedings must therefore, end here without going after the blood of the Petitioner. This Court has to acknowledge and appreciate the efforts taken by the learned senior counsel who appeared on behalf of the Petitioner for the fair stand that was taken by him in this case. Appreciation is also equally due to the counsel who appeared on behalf of the *defacto* complainants who convinced their clients, paving way for the Petitioner to open a new chapter in his life.

20.In the result, all the Criminal Original Petitions are allowed and the respective FIRs and the criminal proceedings shall stand quashed. Consequently, connected miscellaneous petitions are closed.

05.02.2021

Index : Yes/No
Internet : Yes/No
KP

To

- 1.The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
2. Judicial Magistrate Court No.I,
Ariyalur.
- 3.The Public Prosecutor,
High Court, Madras.

N. ANAND VENKATESH,. J.

Pre-Delivery Common order in
Crl.O.P Nos.250 of 2021 & Crl.OP.Nos. 895, 896,
899, 901, 909, 911, 919 and 2733 of 2019
and 26841 of 2018

05.02.2021