

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 635 /2021
(@ SLP (CRL.) No.2153/2021)

R.S. BHARATHI

APPELLANT (S)

VERSUS

THE STATE REP. BY ASSISTANT COMMISSIONER OF
POLICE & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

Refusal to quash an FIR registered against the appellant under Sections 3(1)(u) and 3(1)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act') by the High Court of Madras has given rise to this appeal.

The Dravida Munnetra Kazhagam (DMK) organised an event "Kalaingar Vasagar Vattam" on 15.02.2020. In the said function, the appellant along with other leaders belonging to DMK political party addressed audience of more than 100 members of the party, media and general public. The Appellant spoke about discrimination of Scheduled Castes and Scheduled Tribes community in the matter of appointment of Judges. The appellant spoke about the appointment of Justice Varadarajan as a High Court Judge after Kalaingar (Late M. Karunanidhi) came to power. He

further stated that 7-8 people belonging to Adi Dravida Community became Judges thereafter. The appellant said that all these appointments to persons belonging to Scheduled Castes and Scheduled Tribes community is because of the alms of the Dravidian movement.

The second respondent filed a complaint on 08.03.2020 alleging that the speech made by the appellant showed disrespect to Justice Varadarajan, a retired Judge of the Supreme Court attracting Section 3(1)(v) of the Act. Also, the speech had the tendency to provoke enmity and ill-will against members of Scheduled Castes and Scheduled Tribes community for which Appellant is liable for committing an offence under Section 3(1) (u) of the Act. An FIR was registered on 12.03.2020 which was sought to be quashed by the appellant by filing an application under section 482 of Cr.P.C. in the High Court of Madras. After completion of investigation, charge sheet was filed on 03.11.2020.

The High Court held that the Appellant humiliated and insulted persons holding high posts and other retired Judges saying that they became judges only at the alms of the Dravidian Progressive Federation. As 30 witnesses were examined and sufficient material gathered during investigation, the High Court observed that all points urged by the Appellant's counsel can be considered during trial and that no case was made out for quashing the charge sheet.

We have heard Mr. Kapil Sibal, learned senior counsel for the appellant, Mr. Mukul Rohatgi, learned senior counsel appearing for the State of Tamil Nadu and Ms. Geeta Luthra, learned senior counsel for the second respondent-complainant. Mr. Sibal took us through the speech made by the appellant on 15.02.2020 to argue that the ingredients of Sections 3(1) (u) and 3(1)(v) of the Act are not made out and hence the charge sheet is liable to be quashed. He further argued that there is nothing spoken by the appellant which results in disrespect to Justice Varadharajan or other Judges of the High Court belonging to Adi Dravida Community. He also submitted that, at the most, the language used in the speech is not proper.

Mr. Mukul Rohatgi, leaned senior counsel appearing for the State referred to Section 3(1)(v) of the Act to submit that *prima facie* an offence has been made out as the appellant in his speech stated that it was only because of the alms thrown by Kalaignar (Late M. Karunanidhi) that Justice Varadarajan and other persons belonging to Adi Dravida Community were appointed as Judges of the High Court. He emphasized the point that the prosecution should not be nipped at the bud at this stage. He stated that this is a fit case for Trial.

Ms. Geeta Luthra, learned senior counsel appearing for the complainant also referred to Section 3(1)(v) of the Act and supported the submissions of Mr. Rohatgi that no interference is warranted in this appeal filed against the judgment of the High Court. She referred to that part of the speech where the

appellant clearly stated that Justice Varadarajan and other persons belonging to the Scheduled Caste community were made judges only because of the D.M.K party.

Sections 3(1)(u) and (v) of the Act read as under :

“(u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;

(v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes”.

A perusal of Section 3(1)(u) of the Act would show that it is attracted only in a case where a person not belonging to Scheduled Caste or Scheduled Tribe has through his speech promotes or attempts to promote feeling of enmity, hatred or ill will against members of Scheduled Caste and Scheduled Tribe.

A careful reading of the speech does not show that there is any attempt made by the appellant to promote or attempt to promote enmity, hatred or ill will against the members of Scheduled Caste and Scheduled Tribe community. On the other hand, the speech indicates that members of Scheduled Caste or Scheduled Tribes have been benefited due to the benevolence of Late M. Karunanidhi.

In so far as Section 3(1)(v) of the Act is concerned, a person is liable for prosecution in case there is a speech made by him which shows disrespect to any late person held in high esteem by members of the Scheduled Caste and Scheduled Tribe

community. The submission of Mr. Rohatgi and Ms. Luthra is to the effect that there is disrespect shown in the speech to Justice Varadarajan, a retired judge of this Court.

The High Court committed an error in holding that the Appellant remarked that people outside Tamil Nadu are idiots. A further mistake made by the High Court is in its conclusion that the statement made by the Appellant is targeting the Scheduled Castes. The High Court further went wrong in observing that the speech also caused humiliation and insult to the Scheduled Castes. We have carefully gone through the speech. We are of the opinion that there is no disrespect shown to Justice Varadarajan. The tenor of the speech is that the members of Adi Dravida Community have benefited because of Kalaingar (Late M. Karunanidhi) and Justice Varadarajan was appointed as a judge of the High Court. Thereafter other members of the Adi Dravida Community were also appointed as judges due to the indulgence shown by Late M. Karunanidhi.

A careful analysis of the speech shows that the Appellant indulged in intemperate rant which should have been avoided. However, there is nothing in the speech which attracts an offence under either Section 3 (1) (u) or 3(1)(v) of the SCST Act.

Therefore, the Judgment of the High Court is set aside. Charge sheet dt. 03.11.2020 in Spl.CC No. 1/20 on the file of the Special Court No. 1 for Trial of cases relating to MP's and MLA's of Tamil Nadu, Chennai is quashed.

The appeal is allowed. Pending application(s), if any, shall stand disposed of.

.....J
(L.NAGESWARA RAO)

.....J
(ANIRUDDHA BOSE)

NEW DELHI;
19th JULY, 2021

ITEM NO.23 Court 6 (Video Conferencing) SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s).2153/2021

(Arising out of impugned final judgment and order dated 22-02-2021 in CRLOP No.20070/2020 passed by the High Court Of Judicature At Madras At Madurai)

R.S. BHARATHI

Petitioner(s)

VERSUS

THE STATE REP. BY ASSISTANT COMMISSIONER OF
POLICE & ANR.

Respondent(s)

(With appls.for exemption from filing c/c of the impugned judgment, exemption from filing O.T.)

Date : 19-07-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.
Mr. N.R. Elango Sr. Adv.
Mr. Amit Anand Tiwari, AOR
Mr. Manuraj S. Adv.
Ms. Shakun Sharma Adv.
Ms. Mary Mitzy Adv.
Ms. Devyani Gupta Adv.
Mr. Meenesh Dubey Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
Dr. Joseph Aristotle S., AOR
Mr. Saaketh Kasibhatla, Adv.

Ms. Geeta Luthra Sr adv
Ms. Kamakshi Gupta, Adv.
Ms. Aswathi M.K., AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the Signed Order.
Pending application(s), if any, shall stand disposed of.

(Geeta Ahuja)
Court Master

(Beena Jolly)
Court Master

(Signed Order is placed on the file)