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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.11.2026

Pronounced on : 11.11.2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

Crl.O.P.(MD)No. 15653 of 2026

CNR:{HCMD011025262026}

Case QR

and

Crl.M.P.(MD)No. 15170 of 2026

Mathanvignesh

..Petitioner(s)

Vs

1. State of Tamil Nadu,
   Rep by the Inspector Of Police,
   Cyber Crime Police Station (CCD-III),
   Ramanathapuram District.
   (Crime No. 10 of 2023)

2. Karthikeyan

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned FIR made in Crime No.10 of 2023, on the file of the 1st respondent and quash the same.

For Petitioner(s) :M/s.K.Azhagarsamy

For Respondent(s) : M/s.P.Samuel Gunasingh
Additional Public Prosecutor for R1

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ORDER

The present Criminal Original Petition has been filed by the sole accused in Crime No.10 of 2023 on the file of the first respondent police, seeking to quash the FIR registered on 12.04.2023 for the alleged offences under Sections 153, 504 and 505(2) of IPC and Section 67 of the Information Technology Act, 2008.

The case of the prosecution is as follows:-

2. The second respondent is a Grade-I Police Constable attached to the Social Media Cell, District Police Office, Ramanathapuram. On 12.04.2023, at about 21.00 hours, while monitoring social media, he noticed a status posted on the Instagram ID "Billa Mathan @ billamathan_editzs_ramnad". The status referred to a clash between the Maravar and Mutharaiyar communities, which had only just subsided. It stated that the Maravars had beaten and chased away the Mutharaiyar group, that one person had died and another was in hospital, and it warned against creating mischief in Ramnad. It ended by stating, in substance, "come and live as friends with us and we will also be friends; if you do unnecessary things instead, this will be the fate". On the basis of his written complaint, the Sub-Inspector of Police, Cyber Crime Police Station, Ramanathapuram, registered an FIR on the same day at 21.30 hours, in which the petitioner is arrayed as the sole accused.

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The submissions of the Counsel appearing on either side are as follows:-

3. The learned counsel for the petitioner made the following submissions:-

a) The FIR was registered on 12.04.2023 and no charge sheet has been filed till date. The period of limitation prescribed under Section 468(2) of Cr.P.C. has expired and, therefore, the proceedings cannot be continued;

b) Section 67 of the Information Technology Act is not attracted, as there is no allegation that the material is obscene or lascivious;

c) The ingredients of Sections 153, 504 and 505(2) of IPC are not made out. The status was temporary in nature; it disappears after 24 hours and is no longer in existence; and

d) The complaint is actuated by malice and the case falls within the parameters laid down by the Hon'ble Supreme Court in ***State of Haryana Vs. Bhajan Lal reported in 1992 Supp. (1) SCC 355.***

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4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent opposed the petition. He submitted that the FIR was registered within half an hour of the occurrence and, therefore, the question of limitation does not arise. On merits, he submitted that the status named two castes, revived a recent clash and taunted one community and, therefore, prima facie discloses the offences alleged. In support of his submissions, he relied upon the decisions of the Hon'ble Supreme Court in ***Amritlal Vs. Shantilal Soni and others reported in (2022) 13 SCC 128, Ghanshyam Soni Vs. State and another reported in 2025 SCC Online SC 1301 and Roma Ahuja Vs. State and another reported in 2026 SCC Online SC 557.***

5. This Court has carefully considered the submissions made on either side and perused the materials available on record.

Discussion:-

6. The points that arise for consideration in this petition are as follows:-

a) Whether the FIR is liable to be quashed on the ground of limitation under Section 468 of Cr.P.C.; and

b) Whether the allegations in the FIR, taken at their face value, disclose the offences alleged or any of them.

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a)Limitation:-

7. Of the offences alleged, the offences under Section 505(2) of IPC and Section 67 of the Information Technology Act are punishable with imprisonment for a term which may extend to three years. By virtue of Sections 468(2)(c) and 468(3) of Cr.P.C., the period of limitation is three years, commencing from 12.04.2023 as per Section 469 of Cr.P.C. The contention of the petitioner is that since no final report has been filed within three years, the proceedings are barred by limitation.

8. The Constitution Bench of the Hon'ble Supreme Court, in ***Sarah Mathew Vs. Institute of Cardio Vascular Diseases and others reported in (2014) 2 SCC 62***, framed the question in paragraph No.3.1 and answered it in paragraph No.51 as follows:-

> *"3.1. (i) Whether for the purposes of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of the prosecution or whether the relevant date is the date on which a Magistrate takes cognizance of the offence?*
>
> *51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that Bharat Kale which is followed in Japani Sahoo lays down the correct law. Krishna Pillai will have to be restricted*

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to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC."

9. The contention that the judgment in ***Sarah Mathew*** case cited supra governs only private complaints, and that in cases instituted on a police report the date of filing of the final report must be taken into account, stands answered by three later decisions of the Hon'ble Supreme Court.

10. In ***Amritlal Vs. Shantilal Soni and others reported in (2022) 13 SCC 128***, the Hon'ble Supreme Court held in paragraph No.11 as follows:-

> *"11. Therefore, the enunciations and declaration of law by the Constitution Bench in Sarah Mathew case, do not admit of any doubt that for the purpose of computing the period of limitation under Section 468 CrPC, the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance of the offence. The High Court has made a fundamental error in assuming that the date of taking cognizance i.e. 4-12-2012 is decisive of the matter, while ignoring the fact that the written complaint was indeed filed by the appellant on 10-7-2012, well within the period of limitation of 3 years with reference to the date of commission of offence i.e. 4-10-2009."*

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11. In ***Ghanshyam Soni Vs. State and another reported in 2025 SCC Online SC 1301***, the Hon'ble Supreme Court held in paragraph Nos.17 and 18 as follows:-

> *"17. The observations made by the High Court in respect of computation of the limitation period is the correct appreciation of facts, and it is right in holding that "considering the date of commission of offence as 08.09.1999 and the dale of filing of complaint as 03.07.2002, this Court finds that the Complaint was lodged by the Petitioner within a period of two years and ten months from the date of commission of alleged offence, which is within. the period of limitation of three years as per Section 468 of CrPC."*
>
> *18. Therefore, this is certainly not a case where the Complaint or the issuance of process is ex-facie barred by limitation, that the question of condonation of delay would arise. It is therefore clarified that the Magistrate had rightly taken cognizance of the offence under section 498A and the question of applicability or exercise of powers under section 473 CrPC as erroneously observed by the Sessions Court, does not even arise and need not be delved into at this stage."*

12. In ***Roma Ahuja Vs. State and another reported in 2026 SCC Online SC 557***, the Hon'ble Supreme Court held in paragraph Nos.7.2, 7.3 and 10 as follows:-

> *"7.2. The above submission is stated to be rejected. The computing point of limitation for the purpose of Section 468, Cr.P.C. is held to be the date of filing complaint the date of initiation of criminal proceedings. Whether the case belongs to one instituted before the Magistrate under Section 173 or it*

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is upon a complaint filed before the police, what matters is the date of initiation of criminal proceedings.

7.3. The criminal proceedings can be said to have been initiated in both categories of complaint when the complaint is filed before the Magistrate or FIR is lodged before the police, as the case may be. It remains a complaint-made either to the Magistrate or to the police to become the starting point of initiation of criminal proceedings

10. As a consequence of all the foregoing reasons and discussion, it is to be held that the High Court committed a patent error in quashing the FIR No. 121 of 2011, on the ground of limitation, taking an erroneous view that the date of taking cognizance by the Magistrate is relevant. As held by the Constitution Bench in Sarah Mathew (supra), the relevant date for the purpose of reckoning the limitation under Section 468, Cr.P.C. is the date of filing of complaint or the date of initiation of criminal proceedings."

13. This Court, in ***Abiganesh Vs. State of Tamil Nadu in Crl.O.P. (MD)No.17860 of 2024, dated 29.10.2024***, held in paragraph No.28 as follows:-

"28. In the present case, the occurrence took place on 03.04.2021, and the FIR was registered on the same day. Consequently, the date of institution of prosecution is 03.04.2021, being the date of FIR registration.

In light of the settled legal position, it is clear that the case is not barred by limitation, as the charge sheet filing date is irrelevant for computing the limitation period. Therefore, the prosecution in this case is well within the prescribed limitation period."

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14. From a conspectus of the above decisions of the Hon'ble Supreme Court and this Court, the following propositions of law emerge:-

a) The filing of a formal complaint before the police authorities within a period of three years, reckoned in the manner provided under Section 469 of Cr.P.C., is sufficient to stop the running of the period of limitation;

b) As per the judgment of the Hon'ble Supreme Court reported in ***2025 SCC Online SC 1301*** (paragraph No.3.8), the filing of a formal complaint is sufficient to stop the running of the period of limitation, and the date of registration of the FIR is immaterial; and

c) Insofar as private complaints are concerned, if the prosecution is instituted within a period of three years (the commencement of limitation being calculated as per Section 469 of Cr.P.C.), the date on which the Magistrate takes cognizance is irrelevant.

15. In the present case, the occurrence took place at 21.00 hours on 12.04.2023 and the FIR was registered at 21.30 hours on the same day. Thus, the prosecution was instituted within half an hour of the occurrence. Any delay in filing the charge sheet does not attract the bar under Section 468 of Cr.P.C. Accordingly, the first point is answered against the petitioner.

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b) Merits:-

16. Section 67 of the Information Technology Act penalises the publication or transmission, in electronic form, of any material which is lascivious or appeals to the prurient interest, or the effect of which is such as to tend to deprave and corrupt persons who are likely to read, see or hear it. The FIR does not allege that the status contains any such material. Its contents relate to a clash between two communities. The essential ingredients of Section 67 are wholly absent and, therefore, the invocation of that provision cannot be sustained.

17. To attract Section 504 of IPC, the insult must be communicated directly to the person concerned, either in person or through a letter or messenger, and the provision is meant to cover only one-to-one interactions. A post on a social media platform does not satisfy this requirement. In ***G.Sivarajaboopathi Vs. State and another in Crl.O.P. (MD)No.106 of 2022, dated 21.01.2022*** reported in ***2022 Livelaw (Madras) 30***, this Court held in paragraph No.6 as follows:-

> ***"6.Section 504 of IPC is as follows:-***
> *"504.Intentional insult with intent to provoke breach of the peace-Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other*

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offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both." This provision came up for consideration in quite a few decisions of the Madras High Court. In ***Muniswami Naicker Vs. P.Kanniappa Naicker (1949) 2 MLJ 767****, it was held that the gravamen of the offence under Section 504 of IPC lies in the utterer provoking the victim by his words to commit an immediate breach of the peace. That can only occur if he utters the words in the presence of the victim or has them conveyed to him by letter or messenger. When the accused uttered the abuse in the absence of the complainant, he cannot be convicted under Section 504 of IPC unless he asked his hearers to convey it to the complainant. In* ***Vasireddi Sivalinga Prasad Vs. Emperor (1941) MWN (Crl.) 31****, where the accused abused the Zamindarini and her agents in the course of his speech on the inam legislation but neither the zamindarini nor her agents were present at the meeting, the accused cannot be convicted under Section 504 of IPC. In* ***S.Gopal Vs. State (1952 MWN (Crl.) 60)****, it was held that the only two points necessary or that the person insulted must be present and such insult must give provocation to the person so insulted then or soon after to commit a breach of peace. Thus, as per the aforesaid decisions, in order to attract the offence of Section 504 IPC, the accused must intentionally communicate an abuse or insult directly to the victim. In this case, the petitioner had posted the offending text in his Face Book page. The contents of one's Face Book page are primarily meant for one's "Face Book friends", though any one can access the same. Even the defacto complainant must have seen it only by chance or some body must have drawn his attention to it. Though the post was made on 08.12.2021, the complaint was lodged on 15.12.2021. Section 504 of IPC is intended to cover only one to one interactions and not a case of this nature."*

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18. In the present case, the FIR does not name any individual who was insulted or provoked. The defacto complainant is a Police Constable deputed to monitor social media, and he was not the person insulted. Hence, the ingredients of Section 504 of IPC are not made out.

19. Section 153 of IPC requires that the accused, malignantly or wantonly, by doing anything which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed. In ***Sivarajaboopathi*** case cited supra, this Court held that a social media post, by itself, does not create the situation contemplated by the Section, namely, one in which the provocation results in rioting.

20. The FIR does not allege that the status was addressed to any gathering, or that it was posted at or near the place of any assembly, or that it was followed by any riot or attempt to commit riot. Nor does it identify any illegal act, apart from the posting itself, by which provocation to riot was given. Thus, the fundamental requirements of Section 153 of IPC are absent.

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21. Section 505(2) of IPC penalises the making, publishing or circulating of any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities. Intention is an essential ingredient of the offence. The words used must be read as a whole and judged from the standpoint of reasonable, strong-minded, firm and courageous persons.

22. The status was posted at a time when the dispute between the two communities in the area had only just subsided. It refers to one community having "beaten and chased away" the other, asserts that one person died and another is in hospital, and ends with what can reasonably be read as a warning that those who do "unnecessary things" will meet the same fate. Read as a whole, even from the standpoint of a reasonable and strong-minded person, these words are prima facie capable of promoting enmity between the two communities.

23. The learned counsel for the petitioner submitted that the concluding words are a call for friendship and that the clash and the death were already in the public domain. These submissions raise questions of

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intention and of the meaning of the words in the local context, which can be decided only at the time of trial. They cannot be resolved in a petition to quash.

24. The submission that the status disappears after 24 hours does not advance the case of the petitioner. The offence under Section 505(2) of IPC is complete upon the making, publishing or circulating of the statement. Its subsequent deletion from the platform does not undo the publication.

25. That apart, Section 473 of Cr.P.C. excludes the time required for obtaining sanction, which is mandatory for the offences referred to under Section 196(1-A) of Cr.P.C. Section 473 of Cr.P.C. also empowers the Court to take cognizance of an offence after the expiry of the period of limitation, if it is necessary to do so in the interest of justice.

26. The plea of malice has not been substantiated. The defacto complainant is a Police Constable who lodged the complaint in the course of his official duty, and no personal enmity or motive has been alleged against him.

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27. In view of the foregoing discussion, this Court holds that no offence is made out under Section 67 of the Information Technology Act or under Sections 153 and 504 of IPC. However, the allegations prima facie disclose the offence under Section 505(2) of IPC.

28. It is made clear that the observations made in this order are confined to the disposal of this petition and shall not influence the investigation or the trial in any manner.

Conclusion and directions:-

29. In the result, it is ordered as follows:-

a) The plea that the proceedings are barred by limitation under Section 468 of Cr.P.C. is rejected;

b) The FIR in Crime No.10 of 2023 on the file of the first respondent stands quashed insofar as it relates to the offences under Sections 153 and 504 of IPC and Section 67 of the Information Technology Act, 2008;

c) The FIR shall stand, and the investigation shall proceed, only in respect of the offence under Section 505(2) of IPC;

d) The first respondent shall complete the investigation and file a final report before the jurisdictional Magistrate within a period of 3 (three) months from the date of receipt of a copy of this order. If a final report is

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filed for the offence under Section 505(2) of IPC, it shall be filed only after obtaining the previous sanction required under Section 196(1-A) of Cr.P.C.; and

e) It is open to the petitioner to raise all available pleas, including those under Sections 196, 468 and 473 of Cr.P.C., before the trial Court at the appropriate stage.

30. Accordingly, this Criminal Original Petition is partly allowed on the above terms. Consequently, the connected miscellaneous petition is closed.

11-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Inspector Of Police,
   Cyber Crime Police Station (CCD-III)
   Ramanathapuram District

2. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

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R.VIJAYAKUMAR, J.
RJR

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