

Karuppudayar vs State Rep. By The Deputy Superintendent ... on 31 January, 2025

Author: B.R. Gavai

Bench: B.R. Gavai

2025 INSC 132

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. _____ OF 2025
[Arising out of Special Leave Petition (Criminal) No.8778-
8779 of 2024]

KARUPPUDAYAR

...APPELLANT(S)

VERSUS

STATE REP. BY THE DEPUTY
SUPERINTENDENT OF POLICE, LALGUDI
TRICHY & ORS.

...RESPONDENT(S)

JUDGMENT

B.R. GAVAI, J.

1. Leave granted.

2. The present appeals challenge the judgment and final order dated 28th February 2024 in Criminal Original Petition (MD) No. 6676 of 2022 and Criminal Miscellaneous Petition (MD) No.4621 of 2022 passed by the learned Single Judge of the High Court of Madras at Madurai.

3. By way of the impugned order, the High Court dismissed NARENDRA PRASAD Date: 2025.01.31 13:14:15 IST Reason:

the petitions filed by the Appellant under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter, “CrPC”) wherein the Appellant has prayed to call for records relating to proceedings in Spl.S.C.No.7 of 2022 pending before the I-

Additional District and Sessions Judge (PCR), Tiruchirappalli and to quash the same.

4. The facts, in brief, giving rise to the present appeals are as under:

4.1 The prosecution story is that on 2nd September 2021 the Appellant approached the Respondent No. 3 (Mr. Ravikumar, Revenue Inspector) in order to inquire regarding the status of a petition filed in the name of Appellant's father concerning inclusion of Appellant's father's name in the patta¹ for the land situated in Natham UDR, Sembarai village.

4.2 A quarrel developed between Appellant and Respondent No. 3 whereby the Appellant abused Respondent No.3 by using his caste name in the Revenue Divisional Office, Lalgudi, Tiruchirappalli.

4.3 Consequently, Respondent No. 3 filed a complaint before the Respondent No. 2 (Sub-Inspector of Police, Lalgudi Police 1 'Patta' is a government issued document which contains various details such as landowner's name, land survey number, type of land, location of land, etc. that validates the ownership of land.

Station, Trichy) and case being Crime No. 676 of 2021 was registered against the Appellant for the offences punishable under Sections 294(b) and 353 of the Indian Penal Code, 1860 (hereinafter, "IPC") read with Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter, "SC-ST Act"). 4.4 After completion of investigation, the charge sheet was filed by the Respondent No.1 (Investigating Officer/Deputy Superintendent of Police) in the court of Judicial Magistrate, Lalgudi, Tiruchirappalli and the case was committed to the Sessions Court.

4.5 As a result of the same, a case being Spl. S.C. No. 7 of 2022 was initiated against the Appellant before the I- Additional District and Sessions Judge (PCR), Tiruchirappalli (hereinafter, "trial court").

4.6 Aggrieved by the initiation of criminal proceedings so also the trial, the Appellant filed petitions under Section 482 of CrPC before the High Court to call for the records relating to Spl. S.C. No. 7 of 2022 and to quash the same. 4.7 The learned Single Judge of the High Court, vide the impugned judgment and final order, held that no prejudice would be caused to Appellant if he is subjected to trial and dismissed his petitions.

4.8 Aggrieved thereby, the present appeals arise by way of special leave.

5. We have heard Smt. Vanshaja Shukla, the learned counsel appearing on behalf of the Appellant and Shri Sabarish Subramanian, the learned counsel appearing on behalf of the Respondents.

6. Smt. Vanshaja Shukla submitted that the learned Single Judge of the High Court has grossly erred in rejecting the petition of the Appellant. She submits that even taking the allegations in the FIR at its face value, the ingredients to constitute an offence under Sections 3(1)(r) and 3(1)(s) of the SC-ST Act are not made out. She, therefore, submits that the learned Single Judge of the High Court ought

to have exercised his jurisdiction under Section 482 of the CrPC and quashed the proceedings.

7. As against this, Shri Sabarish Subramanian, learned counsel for the Respondents submits that upon detailed investigation a charge-sheet was filed by the then Investigating Officer (Respondent No.1 herein). Learned Single Judge of the High Court, on a perusal of the charge-sheet, found that no case for quashing of the proceedings was made out. He, therefore, submits that no interference is warranted in the facts and circumstances of the present case.

8. For appreciating the rival submissions, it will be apposite to refer to the provisions of Sections 3(1)(r) and 3(1)(s) of the SC-ST Act, which read thus:

“3. Punishments for offences of atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a)

(b)

xxx xxx xxx

(r) intentionally insults or intimidates

with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

9. A perusal of Section 3(1)(r) of the SC-ST Act would reveal that for constituting an offence thereunder, it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Similarly, for constituting an offence under Section 3(1)(s) of the SC-ST Act, it will be necessary that the accused abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

10. The term “any place within public view” initially came up for consideration before this Court in the case of Swaran Singh and others v. State through Standing Counsel and another². This Court in the case of Hitesh Verma v. State of Uttarakhand and another³ referred to Swaran Singh (supra) and reiterated the legal position as under:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within

public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would (2008) 8 SCC 435 (2020) 10 SCC 710 certainly be a place within the public view.

On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. :

This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under : (SCC pp. 443-44, para 28) “28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.” (emphasis in original)”

11. It could thus be seen that, to be a place ‘within public view’, the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.

12. If we take the averments/allegations in the FIR at its face value, what is alleged is as under:

That on 2nd September 2021, while the complainant was engaged in his office doing his duty, the accused came to the office in the morning in order to enquire about the petition given by him already to the Revenue Divisional Officer regarding entering the name of his father in the ‘patta’. On such enquiry being made, the complainant informed the accused that the said petition has been sent to the Taluk office, Lalgudi

and that appropriate action would be taken after receipt of the reply from the Taluk Office, Lalgudi. It is alleged that at that stage, the accused asked the complainant as to what caste he belongs to and stated that the complainant belongs to 'Parayan' caste. Thereafter, the accused stated that, "if you people are appointed in Government service you all will do like this only...". Thereafter, he scolded the complainant calling his caste name and insulted him using vulgar words. The further allegation is that thereafter the colleagues of the complainant came there, pacified the accused and took him away.

13. Taking the allegations in the FIR at their face value, it would reveal that what is alleged is that when the complainant was in his office the accused came there; enquired with the complainant; not being satisfied, started abusing him in the name of his caste; and insulted him. Thereafter, three colleagues of the complainant came there, pacified the accused and took him away.

14. It is thus clear that even as per the FIR, the incident has taken place within the four corners of the chambers of the complainant. The other colleagues of the complainant arrived at the scene after the occurrence of the incident.

15. We are, therefore, of the considered view that since the incident has not taken place at a place which can be termed to be a place within public view, the offence would not come under the provisions of either Section 3(1)(r) or Section 3(1)(s) of the SC-ST Act.

16. We may gainfully refer to the following observations of this Court in the case of State of Haryana and others v. Bhajan Lal and others⁴. The law as laid down therein by this 1992 Supp (1) SCC 335 Court has been consistently followed.

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-

cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party. (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

17. No doubt, that the power under Section 482 of the CrPC is required to be exercised sparingly and with circumspection and that too in the rarest of rare cases. It is equally settled that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. However, the court would be justified in exercising its discretion if the case falls under any of the clauses carved out by this Court in Paragraph 102 in the case of Bhajan Lal (supra)

18. We find, as already observed herein, that the allegations made in the FIR, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute an offence either under Section 3(1)(r) or under Section 3(1)(s) of the SC-ST Act. We are of the considered view that the case would fall under the first category, listed by this Court in Paragraph 102 in the case of Bhajan Lal (supra).

19. On a perusal of the order of the High Court, we find that the High Court has not at all considered this aspect of the matter though it was strenuously argued on behalf of the petitioner before the

High Court (Appellant herein) that the allegations made in the FIR do not make out a case that the offence is committed in public view. The High Court did not even deal with the said contention, leave aside considering the same.

20. In that view of the matter, we find that the present appeals deserve to be allowed.

21. In the result, we pass the following order:

(i) The appeals are allowed.

(ii) The judgment and final order dated 28th February 2024 in Criminal Original Petition (MD) No. 6676 of 2022 and Criminal Miscellaneous Petition (MD) No.4621 of 2022 passed by the learned Single Judge of the High Court of Madras at Madurai is quashed and set aside.

(iii) The charge-sheet in Special S.C. No. 7 of 2022 on the file of I Additional District and Sessions Judge (PCR), Tiruchirappalli and all proceedings pursuant thereto shall stand quashed and set aside.

22. Pending application(s), if any, shall stand disposed of.

.....J (B.R. GAVAI)J (AUGUSTINE GEORGE MASIH)
NEW DELHI;

JANUARY 31, 2025