

IN THE HIGH COURT OF JHARKHAND, RANCHI

W.P.(Cr.) No. 805 of 2023

Hemant Soren	--	Versus	--
The State of Jharkhand			
			 Petitioner
			 Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	:-	Mr. Kaushik Sarkhel, Advocate
For the State	:-	Mr. Aditya Kumar, AC to Sr.SC-I

3/17.10.2023 Mr. Sarkhel, the learned counsel appearing on behalf of the petitioner submits that the learned court has taken cognizance under section 188 and 506 of the I.P.C. and under section 125 of the Representation of Peoples' Act 1951. He submits that the allegations are that on 24.11.2014 in an election campaign which was organized on the point of amendment in the S.P.T., C.N.T Act, Land Acquisition Act and Labour Laws the petitioner address to general public could incite violence and on a vague allegation the said F.I.R was registered. He submits that the right of speech is a fundamental right of the petitioner. He further submits that cognizance under section 188 I.P.C is required to be taken in light of section 195 Cr.P.C wherein it has been provided that under section 172 to 188 I.P.C, the court cannot take cognizance except on a complaint in writing of a public servant concerned or some other public servant to whom he is administratively subordinate. He submits that in view of that, the F.I.R itself is not maintainable. He further submits that this issue has already been decided by this Court in the case of the present petitioner itself in Cr.M.P No.1861 of 2022 by order dated 11.11.2022. He further submits that in deciding the said case, this Court taken note of the judgment of the Hon'ble Supreme Court in the case of ***C. Muniappan and Others v. State of Tamil Nadu***, reported in ***(2010) 9 SCC 567***.

2. Issue notice.
3. Learned counsel for the respondent State Mr. Aditya Kumar waives notice. He will take instruction and file counter affidavit within three weeks.
4. Let this matter appear on 21.11.2023.
5. Till the next date, no coercive steps shall be taken against the petitioner in connection with Adityapur P.S.Case No.418 of 2014, corresponding to G.R. No.1208 of 2014 presently corresponding to G.R. Case No.858 of 2021, pending in the court of learned Judicial Magistrate, 1st Class, West Singhbhum, Chaibasa.

(Sanjay Kumar Dwivedi, J.)