



Crl.O.P.No.15488 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.10.2023

DELIVERED ON : 03.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.15488 of 2021
and Crl.M.P.Nos.8467 and 8468 of 2021

1. T.S.Natarajan
2. T.T.Shanmugasundaram
3. T.N.Velmurugan
4. M.K.Dhanasekaran
5. N.Ambikavathi
6. R.Murugesan
7. R.Elango @ S.R.Karthikeyan
8. M.M.Balakumaran
9. T.E.Arthanari
10. R.Ravi Kumar
11. A.Shanmugam

... Petitioners

-Vs-

O.P.A.Jeyaraj Mudhaliar

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C to quash the Private complaint in S.T.C.No.451 of 2021 on the file of Judicial Magistrate, Thiruchengode lodged by the respondent.

For Petitioners : Mr.V.P.Sengottuvel, Senior Counsel
for M/s K.Indu Priya



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For Respondent : Mr.N.Manokaran

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.451 of 2021 on the file of Judicial Magistrate, Thiruchengode lodged by the respondent.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The respondent filed a private complaint for the offences punishable under Sections 120 B, 500, 501 and 504 of IPC. The community Panchayat called Sengunthar Pavadi Panchayat (herein after called as “Panchayat”) at Thiruchengode has more than 8000 families from its 37 sub-sect living in and around Thiruchengode as its Members of Senguntha Mudhaliyar community. It is administered by 37 elected representatives from the same community with the office bearers known as two Natamai Karrargal and Nine Kariya Karrargal. It has several immovable properties worth about several crores. It leased out the said properties for rent. The rental income is being used for social service such as educating children of people belonging to poor and needy in the said community. The office bearers periodically submit accounts in the General



body meeting. The general body consist of the respondent and six others. While being so, the respondent and six others, who belong to five families who are neither Natamai Karrargal nor Kariya Karrargal of the said Panchayat, on 07.08.2020 approached some of the tenants of the buildings and represented that they are Natamai Karrargal and Kariya Karrargal and had collected several lakhs of rupees being rental amount. They also directed them to pay rents in future to them by false representation as if they are Natamai Karrargal and Kariya Karrargal. They also issued pamphlets stating that they are waiving the rental amount payable by the tenants for three months commencing from March, 2020 and offered 10% discount for the rental amount for the subsequent months until lifting of lockdown imposed by the Government due to Covid -19 pandemic. They attempted to grab properties of the Panchayat including fixed deposit to the tune of Rs.3,00,00,000/-. Therefore, the 8th petitioner herein lodged a complaint before the Inspector of Police, Thiruchengode Police Station and an FIR came to be registered in Crime No.1260 of 2020 for the offences under Sections 419, 420 and 211 of IPC against the respondent and others. They approached the Trial Court for anticipatory bail in C.M.P.No.833 of 2020, in which the 8th petitioner also intervened by way of an application in C.M.P.No.836 of 2020 and opposed the grant of anticipatory bail. The anticipatory bail filed by the respondent and six others was dismissed and they



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approached this Court for anticipatory bail in Crl.O.P.No.13642 of 2020. The

8th petitioner also filed an intervening petition in Crl.M.P.No.5370 of 2020.

However, this Court by an order dated 10.09.2020, granted anticipatory bail on certain conditions. The investigation in Crime No.1260 of 2020 is pending. As a counter blast to the FIR, the respondent issued a legal notice dated 06.10.2020 claiming damages for loss of reputation as if the petitioners had erected a flux board mentioning their names and circulated messages through whatsapp and facebook.

4. On receipt of the same, the petitioners also issued reply by notice dated 20.10.2020. Further, the brother of the respondent herein submitted a representation before the Revenue Divisional Officer against the first and second petitioners herein alleging some irregularities in the administration of the Panchayat. On receipt of the same, the Revenue Divisional Officer initiated proceedings under Section 107 Cr.P.C and the same was rejected by an order dated 12.04.2021. In the meanwhile, the respondent filed the present impugned complaint alleging that the petitioners had erected a flux board mentioning their names and thereby caused damages to their reputation.



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WEB COPY 5. A perusal of records revealed that the following notice was erected:-

“

முக்கிய அறிவிப்பு

திருச்செங்கோடு, செங்குந்தர் பாவடி பஞ்சாயத்து
மாகாநாட்டிற்கு எதிராக மோசடி செயலில் ஈடுபட்ட ஏழு
நபர்களான

1. O.P.A.குணசேகரன், s/o O.P.அங்கப்பமுதலியார், S.N.D.ரோடு, திருச்செங்கோடு.
2. T.V.வைரம், s/o வெங்கடாஜலம் முதலியார், அண்ணா நகர், திருச்செங்கோடு.
3. O.P.A.தங்கவேல், s/o O.P.அங்கப்பமுதலியார், S.N.D.ரோடு, திருச்செங்கோடு.
4. O.P.A.ஜெயராஜ் s/o O.P.அங்கப்பமுதலியார், குமரேசபுரம், திருச்செங்கோடு.
5. R.M. ராம ரத்தினம், s/o மாரிமுத்து முதலியார், பக்தச்சலம் நகர், திருச்செங்கோடு.
6. A.T. மோகன சுந்தரம், s/o தங்கவேல் முதலியார், பாவடி தெரு, திருச்செங்கோடு.
7. G.மணிகண்டன், s/o O.P.A.குணசேகரன், குமரேசபுரம், திருச்செங்கோடு.

ஆகியோர் மீது 10.08.2020 அன்று பாவடி பஞ்சாயத்து சார்பாக முன்று பிரிவுகளில் போடப்பட்டு இந்நபர்கள் காவல் துறை தேடி வந்தது. இந்நிலையில் மேற்படி நபர்கள் நாமக்கல் மாவட்ட முதன்மை நீதிமன்றத்தில் முன் ஜாமின்கோரி மனு தாக்கல் செய்தார்கள். மேற்படி முன் ஜாமின் மனுவானது எண்ணில் கனம் மாவட்ட முதன்மை நீதிபதி அவர்கள் விசாரணைக்கு எடுத்து மேற்படி விசாரணையில் மேற்படி நபர்களுக்கு செங்குந்தர் பாவடி பஞ்சாயத்து செயல்பாட்டில் எவ்விதமான பதவியும் கிடையாது எனவும் அவர்களின் செயல்பாடு சட்டவிரோதமானது என்று கூறி மேற்படி முன் ஜாமின் மனுவை தள்ளுபடி செய்து உத்திரவிட்ட காரணத்தினால் மேற்படி நபர்கள் தலைமறைவாக உள்ளனர். எனவே,



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குற்ற பின்னணிக் கொண்ட இந்த ஏழு நபர்களுடனும் செங்குந்தர் பாவடி பஞ்சாயத்து கடைகளை வாடகைக்கு எடுத்தவர்களை எந்தவிதமான தொடர்பும் வைத்துக் கொள்ளவேண்டாம் என்று கேட்டுக்கொள்ளப்படுகிறார்கள். மேலும், இத்தகவல் 37 கோத்திரத்தின் உறவின் முறையார்களுக்கும் இதன் மூலம் தெரிவிக்கப்படுகிறது.

இப்படிக்கு,
நிர்வாகம், செங்குந்தர் பாவடி பஞ்சாயத்து, பெரிய பாவடி,
திருச்செங்கோடு.

6. The respondent already caused legal notice to the petitioners. On receipt of the same, the petitioners also issued reply dated 20.10.2020. Though they denied that they never erected any flux as alleged by the respondent, the above said notice was erected by the Administrators of the said Panchayat. Even assuming that the petitioners caused the said notice by erection of flux board, it revealed about the registration of FIR as against the respondent and others, they approached for anticipatory bail before the District Court and the same was dismissed. It requested the tenants not to have any contact with them and not to pay any rents for their respective portion of tenancy.

7. Admittedly, investigation is pending in Crime No.1260 of 2020 registered for the offences under Sections 419, 420 and 211 of IPC on the file of the Inspector of Police, Thiruchengode Police Station. Further, the



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respondent and others filed an anticipatory bail and the same was dismissed.

Thereafter, they approached this Court and this Court granted anticipatory bail by an order dated 10.09.2020 in Crl.O.P.No.13642 of 2020. Therefore, the said notice was issued in good faith and also it is truth. In fact, the brother of the respondent also initiated proceedings under Section 107 Cr.P.C before the Revenue Divisional Officer and the same was also dismissed by an order dated 12.04.2021 in proceedings M.C.01/2021/C. Therefore, the present complaint has been lodged only to wreck vengeance as against the petitioners.

8. In this regard, it is relevant to extract the judgement reported in **(1992) SCC CrL. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."



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9. It is relevant to extract the provisions under Section 499 IPC

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

*Fourth Exception.—**Publication of reports of proceedings of courts.**—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.*

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Therefore, publishing criminal case pending against the accused is not defamation.

Eighth Exception.—Accusation preferred in good faith to authorised person.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception.—Imputation made in good faith by person for protection of his or other's interests.—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

10. In the alleged defamation notice stated that the tenants are directed not to have any contact with the accused in Crime No.1260 of 2020. Therefore, it would come under the above exception. Therefore, the offence under Section 500 of IPC is not at all made out as against the petitioners. The other offences



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under Sections 501 and 504 IPC are also not attracted as against the petitioners from the above said notice. The Trial Court, without considering the above, had mechanically taken cognizance. Therefore, the entire proceedings cannot be sustained as against the petitioners and it is liable to be quashed.

11. In view of the above, the proceedings in S.T.C.No.451 of 2021 on the file of Judicial Magistrate, Thiruchengode, is hereby quashed as against the petitioners. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petitions are closed.

03.11.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
mn



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G.K.ILANTHIRAIYAN, J.

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To

1. The Judicial Magistrate, Thiruchengode.
2. The Public Prosecutor,
High Court, Madras.

Pre-delivery order made in
CrI.O.P.No.15488 of 2021
and CrI.M.P.Nos.8467 and 8468 of 2021

03.11.2023