



Crl.O.P(MD).No.15285 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 24.08.2023

Delivered On : 25.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.15285 of 2020

and

Crl.M.P.(MD)Nos.7389 of 2020 and 10107 of 2023

J.P.Vijaya Raj

...Petitioner

Vs

Rethinamani

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the private complaint in S.T.C.No.38 of 2019 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram and quash the same as illegal.

For Petitioners	: Mr.G.Anto Prince
For 1 st Respondent	: Mr.C.Kishore

ORDER

This petition is filed to quash the charge sheet in S.T.C.No.38 of 2019 pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram.



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2. According to the petitioner, the respondent gave a private complaint

before the learned Judicial Magistrate No.I, Padmanabhapuram and based on the complaint, the learned Judicial Magistrate No.I, Padmanabhapuram has taken cognizance and the same was taken on file as S.T.C.No.38 of 2019 for the offence under Sections 500, 501 and 502 of IPC. The second respondent daughter's husband on 05.08.2018 assaulted his daughter and sent her out of matrimonial home and therefore, a complaint was preferred against him in All Women Police Station, Kuzhithurai. Thereafter, he appeared before the Police and upon undertaking before the police station, he took his wife and children to home. While so, on the same day in the night, 07.08.2018, he killed his wife i.e., daughter of second respondent by strangulation and FIR has been registered to that regard by Thuckalay Police against her husband. While so, on 10.08.2018, the petitioner who is the editor and publisher of Thina Thanthi Newspaper, Nagercoil Edition in page no.15, Mavatta Seithikal page, a news have published by the petitioner as “தக்கலை அருகே இளம்பெண் கொலை, வாலிபருடன் கள்ளத்தொடர்பு வைத்து இருந்ததால் கொன்றேன், கைதான கணவர் பரபரப்பு வாக்குமூலம்”, which is a false news and against the facts, which amount to a defamatory statement. In fact the petitioner herein was Publisher and Editor at Thina Thanthi Edition in Nagercoil presently working as an Editor, Printer and Publisher Daily Thanthi at Chennai Head Office. The alleged defamatory published in Daily Thanthi dated 10.08.2018 at Nagercoil



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Edition is only based on the information gathered by the report of the Daily Thanthi from the police. The aforesaid news is not a false news and not a defamatory in nature. In fact the news published is not at all at the instance of anybody. Therefore, the averments in the private complaint that the news published is neither defamatory nor false. Hence, the pending charge sheet is liable to be quashed.

3.No counter was filed on the side of the respondent.

4.The learned counsel appearing for the petitioner has argued that the petitioner preferred a private complaint before the learned Judicial Magistrate No.I, Padmanabhapuram alleging that the petitioner published defamatory statement that “தக்கலை அருகே இளம்பெண் கொலை, வாலிபருடன் கள்ளத்தொடர்பு வைத்து இருந்ததால் கொன்றேன், கைதான கணவர் பரபரப்பு வாக்குமூலம்”. In fact, the aforesaid news was gathered from the police and based on the information given by the police only, the petitioner published the aforesaid news and the averments made in the private complaint that the news published is neither defamatory nor false. Therefore, the pending charge sheet is abuse of process of law and the charge sheet is liable to be quashed.



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5.The learned counsel appearing for the private respondent contended that the respondent is the father of the deceased Shyla and the said Shyla married to one Beckli Devanand. Due to family dispute, the daughter of the respondent lodged a complaint against her husband Beckli Devanand before Thuckalay Police on 05.08.2018. Thereafter, on 07.08.2018, the husband of Shyla appeared before the police and given undertaking not to harass his wife and taken the defacto complainant's daughter to his house and on the same day, at night, the said Beckli Devanand killed his wife I.e. daughter of defacto complainant by strangulation and thereby, Thuckalay police registered the case in Crime No.278 of 2018 for the offence under Section 302 of IPC. While so, on 10.08.2018, the petitioner published the defamatory news in Nagercoil Edition in quarter page stating that the daughter of complainant had illicit intimacy with some other person. But in fact the aforesaid news is utterly false and it affect the dignity of the deceased. Therefore, the respondent being the father of the deceased filed the complaint before the learned Magistrate and the learned Magistrate has taken cognizance in S.T.C.No.38 of 2019 for the offence under Sections 500, 501 and 502 of IPC. Therefore, the petitioner has to face the trial and at this stage, this Court need not interfere with the proceedings.

6.Heard both sides and perused the materials available on records.



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7. On perusal of records, it is admitted fact that the news has been published by the petitioner in Thina Thanthi Newspaper, Nagercoil Edition. According to the petitioner, he gathered information from the police and based on the information, he published the news.

8. According to the respondent, the aforesaid news published by the petitioner is false and it affects the dignity of the respondent's daughter who died.

9. The words published by the petitioner is “தக்கலை அருகே இளம்பெண் கொலை, வாலிபருடன் கள்ளத்தொடர்பு வைத்து இருந்ததால் கொன்றேன், கைதான கணவர் பரபரப்பு வாக்குமூலம்”.

The matter published in the daily newspaper is with regard to chastity of the women. The petitioner also admitted that the news was published by him. But his contention is that only based on the information given by the police, he published the news. At this stage, this Court cannot look into the matter whether the aforesaid matter published by the petitioner is not false or information given by the police and the same has to be decided by the trial Court based on the evidence. However, the trial is at initial stage. Thereby, as per the averments in the complaint, there are *prima facie* materials available to



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constitute the offence and thereby, the learned Magistrate has also taken cognizance. Hence, without trial, at this stage, this case cannot decide the veracity of the complaint and there is no reasonable ground to quash the proceedings. Hence, this petition is liable to be dismissed.

10.At this juncture the learned counsel appearing for the petitioner prayed before this Court that if this Court is not inclined to allow this petition may order for dispensing the personal appearance of accused before the trial Court.

11.As far as dispensing the personal appearance of the petitioner is concerned, he has to approach the trial Court and if the application is filed by the petitioner, the trial Court has to decide the application in accordance with law and on merits.

12.Therefore as discussed supra, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

25.09.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

<https://www.mhc.tn.gov.in/judis>



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To

1.The Judicial Magistrate No.I, Padhamanabhapuram.



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P. DHANABAL,J.

Mrn

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