

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Crl.O.P No.22714 of 2009

and M.P.No.1 of 2009

1. V.L.Ramanathan

2. PL.Ramanathan

... Petitioners / Accused 1 & 2

Vs.

RM.Palaniappan

... Respondent/Complainant

Prayer : - Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the criminal proceedings against the petitioners herein for the offence u/s 500 of IPC in C.C.No.72 of 2009 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioners : Mr.R.M.Venkatesh

For Respondents : Mr.A.K.Kumarasamy

ORDER

This Criminal Original Petition has been filed praying to call for the records and quash the criminal proceedings against the petitioners in C.C.No.72 of 2009 on the file of the Judicial Magistrate No.III. Salem.

2. It is averred in the petition that the respondent / complainant as Secretary of the Society had not called for the General Body and accounts were not shown to the members. The petitioners initiated a suit for rendition of accounts of the Society in O.S.No.816 of 2005. Since the suit was initiated, the defacto-complainant and his team members terminated the first petitioner from the Committee as well as from his basic membership. Challenging the termination, the first petitioner filed suit in O.S.No.82 of 2009. During April 2008, the Reporter of Nakeeran, a bi-monthly magazine interviewed the petitioners. During the interview, the petitioners gave their opinion and their views in writing. They told the reporter about the non-compliance of mandatory provisions of law by not calling for the Annual General Body Meeting for several years and about getting loan from the Bank without getting General Body's approval.

3. When the magazine was published, the petitioners found few facts which were not exposed by them. Both the petitioners

had sent a letter on 03.06.2008 to the Publishers that few facts, which were not stated by them were published in the magazine and since they are not authors of the subject matter, they cannot be held liable for the consequences.

4. The respondent / complainant with the malafide intention to harass the petitioner and in order to take revenge had initiated the C.C.No.72 of 2009 for the offence under Section 500 IPC. Therefore, the same is liable to be quashed.

5. The learned counsel appearing for the petitioner contends that the alleged defamatory portion was not stated by the petitioners to the Reporter of the magazine and therefore, they are no way responsible for the defamatory contents in the magazine and therefore, the proceedings as against the petitioners is to be quashed.

6. The learned counsel appearing for the respondent per contra contends that whether the petitioners stated defamatory statements to the Reporter or not are matter for evidence and the same is to be decided only by the trial court and therefore, this petition is to be dismissed.

7. The only contention of the petitioners is that they have not stated the alleged defamatory portion found in the magazine to the Reporter of the magazine. Therefore, it is to be found out whether the alleged defamatory portion was given by the petitioners to the Reporter and the same is possible only by the trial court by allowing the parties to let in evidence.

8. On seeing the matter published in the magazine, the defacto complainant filed the complaint before the learned Judicial Magistrate, prima facie making a case against the petitioners for the offence under Section 500 IPC. There is no abuse of the process in this case and therefore, this Criminal Original Petition is liable to be dismissed.

In fine, this Criminal Original Petition is dismissed. The trial Court is directed to dispose of the C.C.No.72 of 2009 pending on its file, within a period of four months from the date of receipt of a copy of this order and report the same to the Registry. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS)

/true copy/

Sub Asst. Registrar

To

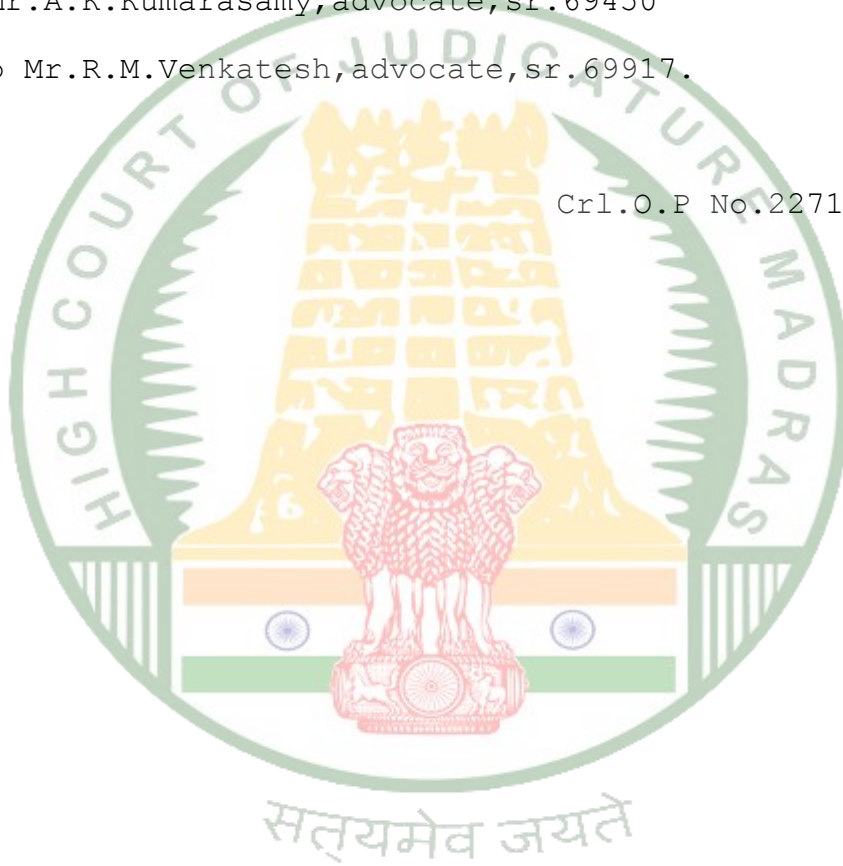
1. The Judicial Magistrate No.III
Salem.
2. do thro' The Chief Judicial Magistrate,
Salem.
3. The Public Prosecutor,
High Court of Madras, Chennai.

+1 cc to Mr.A.K.Kumarasamy, advocate, sr.69450

+2 cc's to Mr.R.M.Venkatesh, advocate, sr.69917.

ak(co)
krd 26/12

Crl.O.P No.22714 of 2009



WEB COPY