

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.O.P.No.1918 of 2013

and

M.P.Nos.1 and 2 of 2013

Mohammed Israth
S/o.Naina Mohammed

.. Petitioner

vs.

T.S.Haneefa
S/o.Saithu Mohammed

... Respondent

Criminal Original Petition filed u/s.482 of the Code of the Criminal Procedure praying to call for records relating to the proceedings in C.M.P.No.11122 of 2012 on the file of learned Judicial Magistrate, Gudalur, The Nilgiris and quash the same.

For Petitioner : Mr.Ravi for
M/s.B.K.Girish Neelakandan

For Respondent : No appearance

O R D E R

Petitioner seeks quash of proceedings in C.M.P.No.11122 of 2012 on the file of learned Judicial Magistrate, Gudalur, The Nilgiris.

2. Heard learned counsel for petitioner. There is no appearance for respondent.

3. C.M.P.No.11122 of 2012 on the file of learned Judicial Magistrate, Gudalur, Nilgiris, is an action for defamation alleging that in publishing a news article the complainant was defamed and his reputation was ruined. What has been found to be defamatory is in effect the contents of a First Information Report published as a news article. Although exceptions to Section 499 IPC including the first exception viz., 'imputation of truth which public good requires to be made or published' is to be pleaded and proved, this Court is of the view that it

would not be out of bounds to consider the possibility of conviction in a case of the present nature being bleak and on such consideration, order quash of proceedings of the case at the Court below.

4. The decision of the Supreme Court in Rohan Nitin Redij v. The State of Maharashtra [2015 SCC Online Bom 4116] informs thus:

"3. There is no bar in Chapter XXI of the Criminal Manual for supply of a certified copy of FIR, filed before the Court. In the case of Ajay Chaudhary v. State, in Writ Petition (Cri) No.468 of 2010, the Division Bench of the Delhi High Court has held that FIR is a public document and, therefore, a person, who is in custody of the same has the liability to give a copy thereof to the person who has interest in the same or whose interest is adversely affected by the same.

4. In the instant case, it is not in dispute that the First Information Report is forwarded to the Magistrate. The FIR being a public document, within the meaning of Section 74 of the Indian Evidence Act, under Section 76 of the Indian Evidence Act, every public officer having the custody of a public document, which any person has right to inspect, is bound to give to such person a certified copy on payment of legal fees thereof."

5. Though in decision in Primero Skill & Training Pvt. Ltd. v. Selima Publications Pvt. Ltd. & Ors. [2017 SCC Online Del 7619], the Delhi High Court was dealing with a civil action inter alia seeking damages, its observations are relevant:

"7. On a reading of the English translation aforesaid of the impugned article it was felt that the defendants no.1 to 6 therein had in their role as Journalist/News Reporter only reported the filing of the complaint, the registration of the FIR and the investigation thereon by the Police officials as a news event. It was thus enquired from the counsel for the plaintiff as to how the actions of the defendants no.1 to 6 could be said to be defamatory of the plaintiff. It was further put to the counsel for the plaintiff that today's newspapers, at least in Delhi, daily have at least two full pages if not more devoted to filing of the cases in the Courts, orders thereon, happenings in the Court, lodging of complaints/FIRs and whether not the same constitute news events which public has a right to know and whether not the said right of the newspapers, their editors and publishers and of the public would be curtailed if it were to be held that no reporting as news could be made till the final order of the last Court.

13. Having given further thought to the matter, I remain of the same view as on the day when the suit had come up for admission, that this suit does not deserve to be entertained and deserves to be thrown out at the threshold to save the defendants, who do not appear to be persons with much monetary means, from travelling to Delhi, engaging an Advocate, appearing and contesting this suit at Delhi.

14(b) As per the law aforesaid declared by the Supreme Court, the contents of FIR, irrespective of whether published in a newspaper as a news event or not, are in public domain. Once the Police itself, as per law declared by the Supreme Court is required to publish the FIR, I fail to see how the defendants no.1 to 6 as editor/publisher of the newspaper or the defendant no.7 as complainant, can be proceeded against in an action for defamation for publishing the contents thereof."

6. This Court finds itself in agreement with the view expressed by the Delhi High Court, herein above extracted. This Court also notes that in the instant case, the publication was of the year 2008, the respondent caused notice in the year 2010 and very much belatedly moved an action in the year 2012. A further ground for quash is that the complaint stands barred u/s.468 Cr.P.C. Section 468(2) Cr.P.C. prescribes a period of limitation of three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Section 499 IPC punishable u/s.500 IPC permits not more than simple imprisonment for a term which may extend to two years.

For the aforesaid reasons, the Criminal Original Petition is allowed. The proceedings in C.M.P.No.11122 of 2012 on the file of learned Judicial Magistrate, Gudalur, The Nilgiris, is quashed. Connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gm
To
The Judicial Magistrate,
Gudalur,
The Nilgiris.

Cr1.O.P.No.1918 of 2013

rk(co)
ss(4/8/2017)