



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.9351 of 2017

and

Crl.M.P(MD)Nos.6350 and 6351 of 2017

Prof.S.Nagaraja Pillai

...Petitioner/Accused No.3

Vs.

Kesava Subbaiyah
Founder and President of
Thirukural Aaiyvu Mayyam,
No.A-125, NGO Colony,
Gandhi Nagar, Kottar,
Madhusoothanapuram Village,
Agastheeswaram Taluk,
Kanyakumari District.

...Respondent/complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying this Court to call for the records relating to the proceedings of the Charge sheet in C.C.No.176 of 2016, on the file of Judicial Magistrate No.II, Nagercoil and to quash the same, as against this Petitioner.

For Petitioner

: M/s.V.Kannan

ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.176 of 2016, on the file of Judicial Magistrate No.II, Nagercoil.

2.Heard the submissions of Mr.V.Kannan,learned counsel for the Petitioner and perused the materials placed before this Court.

3.Based on a private complaint filed by the respondent under Section 200 of Cr.P.C, the case was taken on file in C.C.No.176 of 2016, on the file of Judicial Magistrate No.II, Nagercoil. The respondent is the Founder and President of Thirukkural Aaiyvu Mayyam. The first accused is the secretary and Chief Editor of Aaiyvu Kalanchiam of a monthly Research Journal published and despatched by the Kanyakumari Historical and Cultural Research Centre. Since in the issue published in the month of November 2014 relating to Aaiyvu Kalanchiam carries an item of publication under the caption of 'Editors Word' pointing towards the respondent that "he went to Malai for the purpose of purchasing Doctorate Degree", the private complaint was given.



4.It is the case of the Petitioner that there was some motive between the de-facto complainant and the Chief Editor on account of the dispute between the birth place of Thiruvalluvar. It appears that the respondent sent a legal notice to the Petitioner on 1.12.2014. Though a reply notice was sent by the Petitioner, the respondent filed a private complaint. The main point on which the Petitioner has approached this Court is that on a reading of the entire complaint, it does not disclose any offence against the petitioner. Since the petitioner is only a retired English Professor and he is only a Translator, he is in no way connected with the journal of Aaiyvu Kalanchiam.

5.It is stated that in view of the admission of the de-facto complainant about the enmity between the second respondent and the Chief Editor, it has to be seen that no serious crime attracting the offence under Section 499 has been spoken to by the respondent as against the Petitioner and that therefore Section 499 IPC is not attracted against the Petitioner. This Court has also gone through the complaint in C.C.No.176 of 2016. The complaint disclose an offence under Section 499 of IPC. The Petitioner is a member of Editorial Board of the journal in which the offending statements are published and hence he cannot say that he is not connected with the journal. The suit filed for damages is to compensate the de-facto complainant..In such circumstances, the motive alleged cannot be the sole ground on which, a criminal case can be quashed. The allegations found in the complaint and charge-sheet are required to be proved based on the evidence. Unless a full-fledged trial is conducted, the truth will not come and that the Petitioner in the meanwhile had approached this Court to quash the criminal case without waiting for the verdict from the trial Court.

6.In view of the above, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous Petitions are dismissed. In view of the dismissal of this Criminal Original Petition, the learned counsel for the Petitioner requested this Court to dispense with the personal appearance of the petitioner before the Court below. Considering the nature allegations levelled against the Petitioner and considering the above facts and circumstances, the personal appearance of the petitioner is dispensed with unless and until the presence of the Petitioner is specifically required by the Court below.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

The Judicial Magistrate No.II,
Nagercoil.

+1cc to Mr.V.Kannan, Advocate Sr.No.67250

VSN

VB/KK/SAR2/01/08/2017/3P/3C

ORDER MADE IN

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