



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.04.2018  
Pronounced on: 11.06.2018

CORAM :

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

Crl.R.C.No.84 of 2011

1.M.SP.Subramaniam  
2.R.M.Palaniappan

..Petitioners

Vs.

State by Sub Inspector of Police,  
Kannankurichi Police Station,  
Salem

..Respondent

Prayer: Criminal Revision Petition is filed under Section 397 and 401 Cr.P.C. against the order of the Learned Additional District and Sessions Judge (Fast Track Court No.I) at Salem in C.A.No.54 of 2010 dated 15.06.2010 conforming the conviction passed by the learned Judicial Magistrate, No.IV, Salem in S.T.C.No.1098 of 2007 dated 04.02.2010.

For Petitioners : Mr.A.K.Kumarasamy  
For Respondent : M/s. T.P.Savitha  
Government Advocate(Crl.Side)

O R D E R

This revision has been filed by these petitioners against the judgment rendered in Criminal Appeal No.54 of 2010 by the learned Additional District Sessions Judge, Fast track Court No.1, Salem, in which the learned Additional District Sessions Judge, Salem has confirmed the conviction and sentence passed by the learned Judicial Magistrate No.4, Salem in STC. 1098 of 2007 directing to pay a fine of Rs.200/- each. In order to check the correctness of the said judgments, these revision petitioners approached this Court by way of revision petition.

2. The case of the prosecution is as follows:

The defacto complainant namely V.L. Ramanathan S/o. Lakshmana Chettiyar, filed a private complaint against these revision petitioners for the offences punishable under section 3 r/w 12 of Press and Registration of Books Act 1967. The said complaint has been forwarded to the respondent police for



registering the case and to investigate the same. The defacto complainant had stated that he is one of the Executive Committee members of Salem, Nagarathar Sangam situated at Yercaud. He also hold the post of Secretary and Treasurer in the said Nagarathar Sangam and also the Secretary in the Elaighar Sangam. Previous to the occurrence, the said two sangams were merged as one. Thereafter, the defacto complainant becomes the Executive Member in the said merged Sangam. At that time, one M.S.P.Subramaniam was presided over the post of President and the first petitioner and the second petitioner herein were holding the post of Treasurer and Secretary respectively. During that time, the defacto complainant found that the accounts of the Sangam have not been settled for the past for 6 to 7 years, for which he filed a suit before the District Munsif Court, Salem in O.S.No.816 of 2005 and the same was returned by the District Munsif Court, Salem. But the present revision petitioners have issued a bit notice stating that the suit filed by the V.L. Ramanathan was dismissed by the Munsif Court, Salem. As a result of which, the V.L. Ramanathan defacto complainant has felt ashamed and also subjected to mental agony.

3. Thereafter, subsequent to publishing the bit notice, the defacto complainant filed a private complaint as above. After getting direction from the Judicial Magistrate, No.4, Salem, the respondent registered a case and filed a charge sheet. On which, the case has been taken on file as S.T.C.No.1098 of 2007. Subsequent to taking cognizance, during the time of trial, 4 witnesses were examined on the side of the prosecution and after completing all the formalities as provided at Chapter XX of Cr.P.C., the learned Judicial Magistrate No.IV, Salem had convicted the present petitioners and sentenced them to pay a fine of Rs.200 each. In the criminal appeal the learned Additional District Judge, (Fast Track Court No.I), Salem has confirmed the sentence awarded by Trial Court.

4. Today when the matter is taken for hearing, Mr.A.K.Kumarasamy, learned counsel appearing for the revision petitioners and Ms.T.P.Savitha, learned Government Advocate (Crl.Side) appearing for the respondent have advanced their arguments.

5. The first and foremost contention raised by the learned counsel appearing for the revision petitioners is taking cognizance for the offence under Section 3 r/w 12 of Press and Registration of Books Act 1967 is legally not correct. The present petitioners are not being the publishers, invoking the said provisions against them is erroneous. On the other hand, the learned counsel appearing for the respondent filed a counter and argued that the judgments rendered by the Trial Court and the First Appellate Court is legally correct.



6. In the said circumstances, it is necessary to see the Section 3 and Section 12 of the said Act, 1967 which is extracted below:

'3. Particulars to be printed on books and papers- Every book or paper printed within (India) shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) (the name) of the publisher, and the place of publication.

12. Penalty for printing contrary to rule in section 3- Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding (two thousand) rupees, or by simple imprisonment for a term not exceeding (six months), or both.'

7. Now, on go through the said provision, it would be applicable to the publisher and to printing press. Further Section 12 of the said Act also deals only with the printing press and publishers.

8. In the said circumstances, on going through the allegations levelled against the petitioner, it appears that they published pamphlets by printing the subject as the suit filed by the defacto complainant was dismissed. The said act was also admitted by the petitioners and the same is also mentioned in the affidavit filed by them before the learned District and Sessions Court. Further, it is an admitted fact that in the pamphlet issued by the petitioners, the name of the press and name of the publishers were not printed. In the said circumstances, as per Section 3 of the Act it should be the duty of the printer who prints a book or paper to print his name and the place of printing and also the duty of the publisher to print the name of the publisher and place of publication. So the said act is no way attracted with the allegations levelled against this petitioner. Utmost if the defacto complainant, feels the words used by the petitioners are a defamative in nature, it should be dealt with by way of filing of private complaint. In the said circumstances, without understanding the provisions enabled in the Act, the learned magistrate passed an order for Registration of the case which is illegal. Moreover, the First Appellate Court also without understanding the definition of penal provisions mentioned in the Act, confirmed the conviction and sentence awarded by the Trial Court. So, both Courts have committed manifested error and pronounced the perverse judgment.



9. So, in the light of the above discussions, this court comes to the conclusion that this revision petition is allowed. The conviction and sentence passed by the Trial Court is set aside. The Trial Court is directed to refund the fine amount paid by the petitioners. Bail bond, if any, executed by the petitioners shall stand cancelled.

msv

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Additional District and  
Sessions Judge(Fast Track Court NO.I),  
Salem.

2.The Judicial Magistrate No.IV, Salem

3.The Chief Judicial Magistrate, Salem

4.The Sub Inspector of Police,  
Kannankurichi Police Station,  
Salem.

5.The Public Prosecutor  
High Court, Madras

+1cc to M/s.A.K.Kumarasamy, Advocate Sr.No.36514

GP(CO)

sm:29.6.2018

Cr1.R.C.No.84 of 2011