

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 10.07.2018	Delivered on 12.07.2018
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CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.29372 of 2011
and M.P.Nos.1 & 2 of 2011

G.Nandhakumar

... Petitioner

Vs.

Dhanalakshmi

...Respondent

PRAYER: The Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records of the criminal proceedings pending against them in C.C.No.190 of 2011 on the file of learned Judicial Magistrate No.I, Coimbatore and quash the same.

For Petitioner : Mr.P.M.Duraisamy
For Respondent : No appearance

ORDER

The petitioner is facing trial in C.C.No.190 of 2011 pending on the file of the learned Judicial Magistrate No.I, Coimbatore on a compliant filed by the respondent for offences under Sections 499, 500 & 501 of IPC.

2. Despite receipt of notice and their names have been printed in the cause list, there was no representation for the respondent/complainant.

3. The respondent / complainant is none other than the wife of one late Devendra prasad, brother of the petitioner. There seems to be dispute amongst them with regard to inheritance and sharing of properties and on earnings of late Mr.Giridhari Prasad, father of the petitioner and Father-in-law of the respondent/complainant. In pursuant to their disputes, there are several cases pending against them and there is no cordial relationship between them.

4. In perusal of the complaint, it is seen that the respondent / complainant is referring to letters dated 28.01.2003 and 15.07.2003 respectively, being the letters issued by the petitioner making accusation against the respondent and her son, which are defamatory. A notice dated 10.09.2003 was also issued by the respondent/complainant to the petitioner and copy of the same was also sent to the important family members. On receipt of the notice, the family members pacified the respondent not to initiate any legal action against the petitioner and hence she had not taken any action against the petitioner. Still the petitioner has been continuing his acts and on 01.02.2011, the petitioner had sent two separate postal covers with family photographs to the respondent and her son and termed the respondent's son in defamatory words and questioned about his paternity, accusing that the respondent's son was born to the respondent's paramour which caused the respondent intense misery and damaged her self respect, dignity and character assassination, which eventually caused great deal of mental stress, pain and agony to the respondent. The harassment of the petitioner was continuing. The questioning of the respondent's son paternity with defamatory statements has caused her to issue a legal notice dated 01.03.2011 to the petitioner which was received on 03.03.2011, but the petitioner had not sent any reply denying about his acts.

5. Added to it on 23.03.2011, the petitioner when came to attend his case of civil dispute at Coimbatore, he is said to have again repeated the derogative and defamatory statements against the respondent and her son, which caused respondent to file a case against the petitioner.

6. On the contrary, the contention of the petitioner is that most of the allegations made against the petitioner in the complaint are all of the year 2003 and thereafter, which are all time barred under Code of Criminal Procedures and the only allegation is that on 01.02.2011, the petitioner is said to have sent some postal covers in which in one of the photo of the respondent's son, the petitioner has marked some defamatory words and also on 23.03.2011, when the respondent had appeared before the Civil Court in Coimbatore, the petitioner is said to have again repeated the derogative and defamatory statements against her son, which caused respondent to file a case against the petitioner.

7. It is an admitted case that there is a partition suit against the petitioner and the respondent and there are civil disputes between them with regard to the estate left over by the petitioner's father and the respondent's father-in-law and defamatory case is filed is only to wreck vengeance and to spite the petitioner, the above case has been initiated.

8. The Lower Court has failed to look into the facts that the defamatory words and statements do not find place in the complaint and there is no incident shown by the petitioner that due to these words, she had been defamed. Further it is the fundamental principle that in case of defamation, the person who is said to have been defamed, has to show how the imputation had harmed the person's reputation directly or indirectly in estimation of others. On going through the complaint, it is seen that there is no reference and mention about the respondent being looked down was lowered down in the estimation of others and on the above factual and legal matrix, it is found that the respondent has not made a case of defamation, to be proceeded with against the petitioner.

9. In view of the above, this criminal original petition is allowed and the case pending in C.C.No.190 of 2011 on the file of learned Judicial Magistrate No.I, Coimbatore is set aside. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No1,
Coimbatore.

+1cc To Mr.P.M. Duraiswamy, Advocate, S.R.45603.

Cr1.O.P.No.29372 of 2011

NM (CO)
BM 02/08/2018.

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