

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
RESERVED ON

:  
30.06.2017  
DELIVERED ON

:  
04.09.2018  
CORAM  
THE HONOURABLE MR.JUSTICE C.T.SELVAM  
Crl.O.P.Nos.4945 and 4946 of 2013  
and  
M.P.Nos.1 and 1 of 2013

Sun TV Network represented by  
Kalanithi Maran  
Chairman  
Sun TV Network Limited  
Corporate Office, Murasoli Maran Towers,  
73, MRC Nagar Main Road,  
MRC Nagar, Chennai - 600 028. ... Petitioner in Crl.O.P.No.4945/2013

V.Raja  
The Chief News Editor  
Sun TV Network Limited  
Corporate Office, Murasoli Maran Towers,  
73, MRC Nagar Main Road,  
MRC Nagar, Chennai - 600 028. ... Petitioner in Crl.O.P.No.4946/2013

vs

C.V.Ilangovan  
S/o.Venkatesan ... Respondent in both petitions

Criminal Original Petitions filed under Section 482 Cr.P.C. praying to call for records in C.C.No.84 of 2013 on the file of learned Judicial Magistrate, Tambaram and quash the same.

For Petitioners : Mr.Ravi for  
Mr.B.K.Girish Neelakantan

For Respondent : Mr.S.Sairaman  
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C O M M O N O R D E R

Petitioners seek quash of proceedings in C.C.No.84 of 2013 on the file of learned Judicial Magistrate, Tambaram.

2. Respondent has preferred a complaint alleging commission of offence u/s.500 IPC informing as objectionable a news telecast in the Sun News Channel which informed that land belonging to Kamarajapuram Quarry Workers Welfare Sangam at Pammal Municipality was sought to be usurped by the AIADMK Women's Union Deputy Secretary Sundari, Susheela and Rani and that respondent/complainant was hand-in-glove with them. Seeking quash thereof, the present petitions have been filed.

3. Heard learned counsel for petitioners and learned counsel for respondent.

4. The complaint is of an objectionable telecast by a television channel. Respondent/complainant has cited four witnesses other than himself and produced four documents viz., (1) Lawyer's Notice dated 13.12.2012 (2) Acknowledgment cards □ 2 Nos. (3) Rejoinder notice with postal receipts dated 09.01.2013 and (4) Telegrams sent on 10.01.2013. Apart from claiming high status and repute in society as a Member of the Legislative Assembly and AIADMK party member for over 40 years, respondent/complainant has stated that first accused, as the Chairman and Managing Director of the entire Sun Network System, has overall control over the network and it is his responsibility to see whether the news telecast has good background, was authentic or was true or false. The Managing Director/Chairman could not look only to the profit to the TV channel but ought to be anxious and vigilant in allowing employees to telecast and he cannot escape by merely saying that he has no knowledge. As regards second accused, it is alleged that as Chief Editor, he had a duty to sort out programmes so as not to hurt anybody and that without his knowledge and consent, no programme will be telecast and only on his instructions, the same would be done. His failure to cause a reply to notice, rejoinder and telegram sent by complainant's counsel amounted to admission of guilt.

5. From what is above recorded, it is clear that there is very little to proceed upon. Complaint of the present nature cannot reach fruition on mere oral testimony. To prove as a fact that the offending telecast indeed was effected, it would be necessary to produce documentary proof in the form of CD/tape. No such document has been produced. This Court is unable to accept the submission of learned counsel for respondent that persons examined have spoken to the offending telecast and hence, the truth or otherwise of the allegation was a matter for trial. This Court also is unable to accept the submission of learned counsel for respondent that compact disks were produced before trial Court. A copy of the licence agreement dated 14.07.2006 with validity period of 10 years entered into between first petitioner and the Ministry of Information and Broadcasting is produced. The same is in standard Form-1(A). Article □ 8 deals with 'Monitoring and Maintenance of Records'. Of particular relevance is Article 8.1 and the same reads thus:

'8.1 The Licensee shall provide the necessary facility for continuous monitoring of the broadcasting service at its own cost and preserve the recordings of broadcast material for a period of three months from the date of broadcast and produce the same to the Licensor or its authorised representative, as and when required.'

Even without going into the question of whether petitioner/accused could be required to produce materials regards the telecast in proof of respondent/complainant allegation, this Court is to take note that where TRAI regulations do not require holding of broadcast material beyond a period of three months and no proof of broadcast has been produced before Court below, the prosecution in C.C.No.84 of 2013 on the file of learned Judicial Magistrate, Tambaram, is a case going nowhere.

The Criminal Original Petitions shall stand allowed. The proceedings in C.C.No.84 of 2013 on the file of learned Judicial Magistrate, Tambaram, shall stand quashed. Connected miscellaneous petitions are closed.

04.09.2018

Index:yes/no

Internet:yes

To

The Judicial Magistrate,  
Tambaram.

C.T.SELVAM, J

gm

Pre-delivery order

in

Crl.O.P.Nos.4945 and 4946 of 2013

04.09.2018