

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2018

Coram:

The Honourable Mrs. Justice R. HEMALATHA

Crl.O.P.No.23836 of 2013

and

M.P.No.1 of 2013

Dr.S.Ramadoss

...Petitioner/Accused

Versus

The Public Prosecutor,
Ariyalur District,
Representing the Government
of Tamil Nadu.

...Respondent/Complainant

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in C.C.No.1 of 2013 on the file of the Principal District and Sessions Judge, Ariyalur, Ariyalur District and quash the same.

For Petitioner : Mr.K.Balu

For Respondent : Mr.T.Shunmugarajeswaran,
Govt. Advocate (Crl.Side)

ORDER

Heard the learned counsel for the petitioner and Mr.T.Shunmugarajeswaran, learned Government Advocate (Criminal Side) for the respondent.

2.1. The petitioner is the accused in C.C.No.1 of 2013 on the file of the Principal District Sessions Court, Ariyalur. The learned Public Prosecutor, Ariyalur District has filed the said complaint against the petitioner herein for the alleged offences punishable under Sections 499 & 500 of I.P.C.

2.2. In the complaint in C.C.No.1 of 2013, it is alleged that the petitioner/accused is the founder of the Pattali Makkal Katchi and that on 07.02.2013 in a Public Meeting held at about 06:00 p.m at Kamarajar Thidal, Ariyalur, petitioner/accused spoke against the late Honourable Chief Minister intending to harm her reputation in respect of her conduct in the discharge of the public office.

<https://hcservices.ecourts.gov.in/hcservices/>

3. According to the respondent/complainant, the speech made by the petitioner/accused is per se defamatory in nature. A perusal of the speech made by the petitioner herein shows that there is no ingredient to attract the offences punishable under Sections 499 & 500 of I.P.C. The petitioner/accused is the founder of the Pattali Makkal Katchi and there will be

offence of defamation and it is relevant to extract the 3rd Exception of Section 499 IPC which reads as follows:

"Third Exception—Conduct of any person touching any public question. — It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further."

In the instant case, Government has been very sensitive and the utterance made by the petitioner cannot said to constitute an act of defamation. It is also worthwhile to extract the decision rendered in A.Vijaykanth Vs. Public Prosecutor (2017) 11 SCC 319 in which it is held thus,

"1. Heard Mr.G.S.Mani, learned counsel for the petitioner, Mr.Venkkata Ramani, learned Additional Advocate General for the State of Tamil Nadu and Mr.Ranjit Kumar, learned Solicitor General for the Union of India.

2. It is submitted by Mr.Mani, learned counsel appearing for the petitioner that though the constitutional validity of Sections 499 and 500 of the Indian Penal Code (IPC) and Section 199 of the Code of Criminal Procedure, 1973 (Cr.P.C) has been upheld in Subramanian Swamy Vs. Union of India, yet the present case, apart from the constitutional validity, also harps on the concept of fair criticism, discernment 2 and dissection of activities of the State Government and disapproval of views taken in the matters of administration and policy decisions. Mr.Mani, learned counsel would emphatically submit that the petition also raises a question whether the authority who is entitled to launch a prosecution under Sections 499 and 500 IPC through the Public Prosecutor should do it against a person solely because he is critical or has a different opinion.

3. The learned counsel would further submit that the office of the Public Prosecutor has its own independence; and the Public Prosecutor has been conferred an independent role under the provisions of the Cr.P.C and he cannot become a post office in the hands of the authorities to file prosecutions for criminal defamation without scrutinizing whether a case is made out or not. It is urged by him that a sustained democracy is predicated fundamentally on the idea of criticism, dissent and tolerance, for the will, desire, aspirations and sometimes the desperation of the people on many an occasion are expressed through such criticism. Mr.Mani would submit that the citizenry right to criticize cannot be atrophied by constant launching of criminal prosecution for defamation on each and every issue to silence the critics because when criticism in a vibrant democracy in this manner is crippled, the democracy which is best defined as the "Government of the People, by the People, for the People" would lose its cherished values.

5. Issue Notice."

4. In view of the same, I hold that further proceedings in C.C.No.1 of 2013 are hereby quashed.

5. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Public Prosecutor,
Ariyalur District.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Balu, Advocate Sr.43094

Cr1.O.P.No.23836 of 2013

sr[co]
srg 26/07/2018

WEB COPY