



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.227 of 2016

S.H.Merasahib

.. Petitioner

Vs.

T.Neyas

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records in Cr.M.P.No.8244 of 2015 on the file of the Judicial Magistrate, Thiruchandur and set aside the same.

For Petitioner

: Mr.P.Balamurugan

For Respondent

: Mr.M.E.Ilango

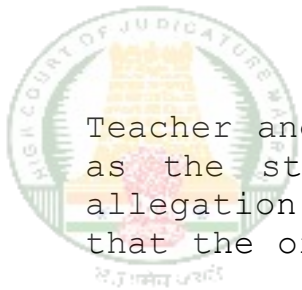
ORDER

Heard Mr.P.Balamurugan, learned counsel appearing for the petitioner and Mr.M.E.Ilango, learned counsel appearing for the respondent.

2.This appeal has been filed to set aside the order passed in Cr.M.P.No.8244 of 2015 dated 21.01.2016 on the file of the Judicial Magistrate, Thiruchandur.

3.The petitioner is working as a teacher from 03.09.2005 and his service was regularised on 29.09.2011. Later the petitioner was charged by the management of the Central Higher Secondary School, Kayalpattinam that he was indulged in homosexual activities with his students. At the time of enquiry, 12 witnesses were examined. The respondent was examined as the 11th witness. After the completion of enquiry, the petitioner was dismissed from his service on the ground of the deposition of the respondent. The allegation of the respondent against the petitioner is baseless and the act of the respondent come under defamation which is punishable under Section 500 of IPC. The petitioner filed a private complaint and gave sworn statement on 06.04.2015 in Cr.M.P.No.8244 of 2015 and the same was dismissed on 21.01.2016.

4.On the side of the petitioner, it is stated that the Judicial Magistrate has not passed any speaking order and in the impugned order, sworn statement which was given by the petitioner is not discussed. It is stated that the petitioner is a



Teacher and the image of the petitioner before the Society as well as the students is important. The respondent has admitted the allegation against the petitioner in his reply notice and prayed that the order passed by the lower Court is to be set aside.

5. On the side of the respondent, it is stated that the remedy available for the petitioner is to file appeal before the lower Appellate forum and he cannot file revision petition before this Court. It is further stated that the reason given by the learned Magistrate in the impugned order under Section 203 of Cr.P.C., in a brief manner is enough. The offence under Section 500 IPC is not maintainable as the respondent gave statement against the petitioner.

6. On the side of the respondent, it is stated that the petitioner has to file an appeal he cannot file a revision petition. Apart from that the Full Bench of the Hon'ble Supreme Court in *Satya Pal Singh v. State of Madhya Pradesh and Others* reported in 2016(2)LW(Cr1.)57, after elaborately considering the scope of Sections 372 and 378(4) Cr.P.C., has held that the victim of the crime, who has prosecuted the accused by way of private complaint has statutory right of appeal within the limit prescribed under Section 372 Cr.P.C., and the complainant in private complaint who is not a victim can file an appeal against the order of acquittal after obtaining the leave to appeal under Section 378(4) Cr.P.C.

7. Records perused. A perusal of the records reveals that the respondent gave complaint against the petitioner only before the Correspondent of the School and he has not published anything to attract the offence under Section 500 of IPC. The petitioner approached this Court against the order passed in Cr.M.P.No.8244 of 2015 dated 21.01.2016, which was dismissed under Section 200 Cr.P.C. The remedy open to the petitioner is to file an appeal before the appropriate forum, however, the petitioner cannot approach this Court by way of revision.

8. With the above observation, this Criminal Revision Petition is dismissed. The petitioner is at liberty to file an appeal before the appropriate forum without adhering to the limitation. The Registry is directed to send this order copy to the lower Court as expeditiously as possible.

Sd/

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar



To

The Judicial Magistrate, Thiruchandur.

+1cc to Mr.M.E.Ilango, Advocate, SR.No. 62009

+1cc to Mr.P.Balamurugan, Advocate, SR.No. 62334

Crl. R.C. (MD) No.227 of 2016
17.04.2018

MRN

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