



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 25.06.2018
DELIVERED ON : 17.07.2018

CORAM :

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD) No.614 of 2016

X.Jeyaraj ... Petitioner/Defacto Complainant

vs.

Mr.Murugesan,
The Commissioner,
Padmanabhapuram Municipality,
Kanyakumari District

... Respondent/Complainant

PRAYER:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to set aside the order passed in Crl.M.P.No.2869 of 2016 on the file of the learned Judicial Magistrate, Padmanabhapuram dated 09.08.2016.

For Petitioner : Mr.C.K.M.Appaji
For Respondent : Mr.Pala Ramasamy

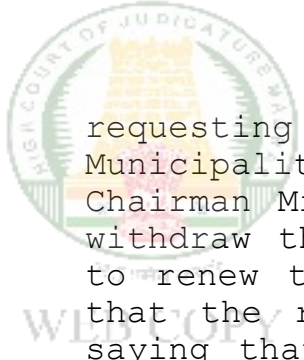
ORDER

Heard Mr.C.K.M.Appaji, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for the respondent.

2.This petition has been filed to set aside the order passed in Crl.M.P.No.2869 of 2016 on the file of the learned Judicial Magistrate, Padmanabhapuram dated 09.08.2016.

3.The petitioner filed a complaint before the learned Judicial Magistrate, Padmanabhapuram under Section 200 Cr.P.C. r/w. 190(1)(a) Cr.P.C., for the offences punishable under Section 500 of IPC. The learned Judicial Magistrate, Padmanabhapuram dismissed the petition under Section 203 of Cr.P.C. Against the order of dismissal, this petition has been filed.

4.On the side of the petitioner, it is stated that the petitioner is a contractor and there was a proposal to blacklist the petitioner which was later cancelled. Thereafter, no contract was given to the petitioner and he used to take contract work in the Municipality and other Departments in and around Padmanabhapuram, Nagercoil and due to some personal motive in the year 2006, one Mr.Ravengill wantedly delayed the payment of Bills to the petitioner and created a financial crisis thereby, prevented the petitioner from taking contracts and he passed a resolution



requesting to add the name of the petitioner in the blacklist of the Municipality contractors. But after his period, when another Chairman Mrs. Sathyadevi was appointed, she passed a resolution to withdraw the proposal for blacklist and the petitioner was allowed to renew the contractor's license in the Municipality. Even after that the respondent did not give any contract to the petitioner saying that the petitioner is blacklisted by the Municipality and the name of the petitioner is not included in the blacklist and to add a person in the blacklist, the Municipality has to pass a resolution to declare a contractor in the blacklist and forward it to the Commissioner of Municipal Administration, Chennai. The C.M.A. is the competent authority to pass appropriate orders and the District Collector is also the competent authority to declare a contractor in the blacklist.

5.It is stated that one John Muthu Kumar took a contract to construct Amma Unavagam at Thuckalay market and even after the completion of the work, the accused have not passed the Bill and he sent a complaint to the Chief Minister on 14.06.2015 and it was forwarded to the R.D.M.A. Tirunelveli. Since there was no reply, he sent another letter to the R.D.M.A. under the RTI Act. In the reply, it is stated that he has completed the work after 190 days instead of 60 days and that he has conducted the work under the supervision of a person who has been under the blacklist of the Municipality. Again the said Johns Muthu Kumar sent a letter to the respondent on 09.04.2016 to furnish the name of the person who has been blacklisted on 05.05.2016. The accused sent a reply that the name of the person blacklisted is one X.Jeyaraj, who is the petitioner herein. This reply was known to all persons in Kanyakumari District, which diminished the reputation of the petitioner among the various Departments, Contractors, employees and general public. Therefore, the petitioner sent a legal notice to the accused on 17.05.2016 for the offence of defamation and to compensate the complainant for Rs.25,00,000/- (Rupees Twenty Five Lakhs only). The accused received the notice on 19.05.2016 and there is no reply so far. Due to the act of the respondent, the petitioner was put to shame before the public and his reputation was gone down in the eyes of public. The public shun and avoid him from the society and thus the petitioner is defamed and his future business is in question. After recording the sworn statement, the learned Judicial Magistrate passed an order to dismiss the private complaint.

6.On the side of the respondent, it is stated that information was given only as a reply to the letter under RTI Act. It is the duty of the respondent to give the address under the RTI Act. The petitioner has not examined any person. The petitioner filed a writ petition before this Court which was dismissed on cost. Being a public servant, it is the duty of the respondent to give information under RTI Act. Section 500 of IPC is not applicable to this case. Mere furnishing of the information cannot be termed as publishing any information to humiliate a person. It is further stated that in W.P.(MD)No.897 of 2008, the petitioner was imposed with payment of



cost for suppressing the material facts. It is further stated that in the year 2008, the name of the petitioner was blacklisted. In the year 2011, in the order of blacklisting, the petitioner's name was cancelled but the petitioner was not included in the list of contractors. It is further stated that if the information under RTI Act is wrong, the petitioner has to approach only the Appellate Tribunal and he has no right to approach this Court.

7. Records perused. On the side of the petitioner, it is stated that in the year 2011, a resolution has been passed cancelling the inclusion of the petitioner's name in the blacklist. It is found that the respondent fairly admitted that the resolution has been passed for inclusion of the petitioner in the blacklist. It is stated that the information was furnished to a person by name Muthukumar in the petition. The petitioner has narrated all those incidents and all the correspondence between one Muthukumar and the respondent and that the respondent had made an allegation against the said Muthukumar for not completing the work within the time stipulated and for engaging some other person for completing the work. When the said Muthukumar asked for clarification under RTI Act, the information was given as the person is one X.Jeyaraj.

8. On the side of the petitioner, it is stated that the petitioner is not blacklisted. It is not published in any public magazine and not posted in public. This information is given only to an individual and how this information defamed the petitioner in the public is not clearly elicited. If the information given under RTI Act is wrong, the concerned person can approach the Appellate forum as mentioned in the RTI Act. More over the petitioner has not filed any document to prove that he is the X.Jeyaraj as mentioned in the document obtained under the RTI Act. The petitioner has failed to prove that the impugned document was published by the respondent in any public place. The petitioner failed to prove that the respondent is having motive to harm his reputation. If the information furnished under RTI Act is wrong, it is left for the person concerned to approach the Appellate authority. There is no merits in this petition, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar(CS-IV)

To

The Judicial Magistrate, Padmanabhapuram.

+1cc to Mr.C.K.M.Appaji, Advocate, SR.No.73167.

+2cc to Mr.Pala Ramasamy, Advocate, SR.No.73492 & 73715.

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