



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.16883 of 2013

and

MP(MD)No.1 and 2 of 2013

M.Venkatesan

... Petitioner / Accused

-vs-

N.Desraj

... Respondent/ Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in connection with C.C.No.1 of 2012 on the file of the learned Judicial Magistrate No.I, Thanjavur, pending investigation and quash the same.

For Petitioner

: M/s.L.Shaji Chellan

S.Jessi Mathui Fathima

For Respondent

: No Appearance

ORDER

The petitioner is an office bearer of the Trade Union. The complainant/respondent herein is employed as Mechanic, Grade II, in Government Automobile Works, Tanjore.

2.The members of the Union in which, the petitioner is an office bearer have some grievance, regarding the promotion granted in favour of the complainant/respondent herein. Therefore, they conducted a protest in this regard on 25.04.2012 and a demand was also raised by the petitioner's union to cancel the promotion given to the respondent herein. In the wall posters published against the complainant, the promotion given to the respondent was categorized as irregular.

3.Contending that pasting of such posters has lowered his image in the eye of general public, the impugned private complaint was filed.

4.The learned Judicial Magistrate No.I., Tanjore, took cognizance of the said private complaint and issued summons to the



petitioner's herein.

5. The learned counsel appearing for the petitioner would submit that the petitioner being an office bearer of the trade union fought for the welfare of co-employees and therefore, the demand made by the petitioner can not be said to be defamatory, and the said act cannot be a defamation under Section 499 of IPC. The 8th exception reads that it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation. In the present case the petitioner's union made a demand to the Government of Tamil Nadu, questioning the promotion granted to a person. Any aggrieved individual is definitely entitled to complain that the promotion ought not to have been granted to a particular person. Whether promotion was rightly given or not is to be decided by a Court of law. Merely because the promotion is categorized as irregular and improper, the person making the said statement cannot be held guilty of criminal defamation. The respondent's case is not that the petitioner did not act in good faith. In fact, the function of a trade union office bearer is precisely to raise and espouse such grievances. The petitioner has acted in good faith in the discharge of his function as an office bearer of a trade union. This act does not amount to a criminal defamation and the trial court Magistrate, ought not to have taken the complaint lodged by the respondent herein on file. Hence, the Proceedings in C.C.No.1 of 2012 on the file of the learned Judicial Magistrate No.I, Thanjavur, is quashed.

6. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.1 of 2012, is liable to be quashed. Consequently, connected MP(MD)Nos.1 and 2 of 2013, are closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I, Thanjavur.

+ 1 cc TO Mr.S.Shaji Chellan , Advocate in SR No. 60570

das

AE/KKR/SAR2/14.05.2018/2P/3C

CRL.O.P. (MD) No.16883 of 2013

and

MP (MD) No.1 and 2 of 2013

10.04.2018