



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.21454 of 2013

and

MP(MD)No.1 of 2013

Sivasankari

... Petitioner

Vs.

S.Shanmugasundaram

... Respondent

Prayer : This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the case lodged by the respondent in C.C.No.106 of 2013 pending on the file of Judicial Magistrate Court No.III, Dindigul and quash the same as illegal.

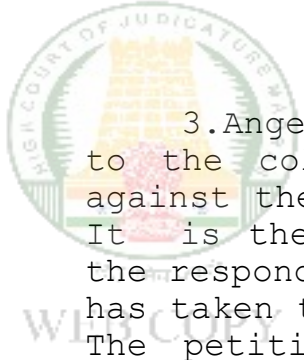
For Petitioner : Mr.R.G.Sankar Ganesh

For Respondent : Mr.Senthurpandian

ORDER

The petitioner is facing trial in C.C.No.106 of 2013 on the file of the learned Judicial Magistrate No.III, Dindigul. It is a private complaint instituted by the respondent herein under Section 500 IPC.

2.The respondent is a practicing lawyer. The petitioner herein was his client. The petitioner was locked in matrimonial litigation. The respondent represented the petitioner in those proceedings. Due to some reasons, the relationship between the petitioner and the respondent came under strain and the petitioner did not want the respondent to continue to represent her as her counsel. She therefore asked for change of vakalat. Angered by the demand of the petitioner in seeking change of vakalat, the respondent sent a letter dated 22.12.2010 to the college management in which the petitioner was employed. The respondent wanted the college management to instruct the college staff by name Murugesan to apply for eschewing of the evidence that he had tendered in favour of the petitioner herein. The letter dated 22.12.2010 sent by the respondent to the college management makes a very strange reading. If the client does not want to continue the professional services of a lawyer, the lawyer should unhesitatingly give change of vakalat and also return the relevant papers. Of course, if he has any claim for payment of balance fee, the lawyer would certainly be entitled to make a demand for payment of the same. But, beyond that he should not do anything to cause hardship to the client. That would be most unprofessional. The respondent has done precisely that.



3. Angered by the aforesaid communication sent by the respondent to the college management, the petitioner unleashed a complaint against the respondent and marked the same to various authorities. It is the said communication sent by the petitioner that forced the respondent to institute the present complaint. The court below has taken the same on file and issued summons to the petitioner. The petitioner after getting divorce from her first husband appears to have got remarried. She also appears to have settled in Australia. The events are more than 7 years old. The petitioner had chosen to send the complaint to the various authorities only as a response to the letter sent by the respondent on 22.12.2010 to the college management in which the petitioner was employed. Interestingly, the respondent has not chosen to make any reference to his letter dated 22.12.2010 in the complaint in question.

4. The learned counsel for the respondent submitted that the petitioner has defamed the fair name of the respondent who appears to be having long years of standing in the bar. This Court posed a specific question to the learned counsel for the respondent that whether the petitioner indulged in the offending act after the respondent wrote his letter dated 22.12.2010 or before that. In response thereto, the learned counsel for the respondent produced a copy of the offending letter dated 03.01.2011 sent by the petitioner. It clearly shows that it was after the initial shot was fired by the respondent.

5. This Court is therefore of the view that the respondent is simply not justified in seeking to prosecute the petitioner for defamation. However, the learned counsel for the petitioner undertakes that he will also let the matter lie as they are and she will not take any further action against the respondent. The learned counsel for the petitioner on instructions from the petitioner expressed unconditional and sincere apology to the respondent. The petitioner realizes that she overacted and ought to have avoided making the aforesaid allegations. She unconditionally withdraws the same.

6. Recording the above said submission made by the learned counsel on instruction from the petitioner, this Court has no hesitation to quash the impugned complaint in CC No.106 of 2013 on the file of the learned Judicial Magistrate Court No.III, Dindigul. Accordingly, it stands quashed.

7. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

The Judicial Magistrate No.III, Dindigul.

+1CC to Mr.R.G.Sankar Ganesh, Advocate, SR.No. 73243

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SKM

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