



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:18.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.OP (MD) No.21494 of 2013

and

M.P (MD) .No. 1 of 2013

R.Avudayappan

...Petitioner/Sole Accused

Vs.

Muthukaruppan

Public Prosecutor

District and Sessions Court

Tirunelveli District

... Respondent/Complainant

Prayer: This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to Special Case No.12 of 2013 pending on the file of the learned III Additional District and Sessions Judge, Tirunelveli and quash the same.

For Petitioner : Mr.S.Ravi

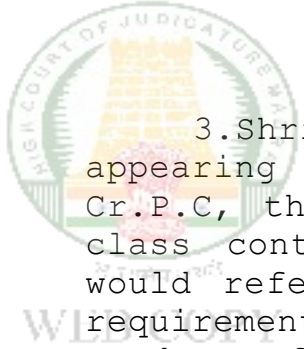
For Respondent : Mr.K.K.Ramakrishnan

Addl., Public Prosecutor(Crl.Side)

O R D E R

The petitioner has filed this criminal original petition for quashing the impugned proceedings in Special Case No.12 of 2013 pending on the file of the learned III Additional District and Sessions Judge, Tirunelveli, Tirunelveli District.

2.The private complaint has been filed by the Public Prosecutor of District and Sessions Court, Tirunelveli District, Tirunelveli. The petitioner herein is a former Speaker of Tamil Nadu Legislative Assembly. He is said to have made a defamatory attack while addressing a public meeting on 15.02.2013 at Jawahar Ground, Palayamkottai, Tirunelveli organized by a political party known as Dravida Munnetra Kalagam. The defamatory attack was on Ms.J.Jeyalalitha, the then Chief Minister of Tamil Nadu. Since the person defamed happened to be a high dignitary, namely, the then Chief Minister of State, the respondent herein had filed the impugned private complaint under Section 199(2) Cr.P.C. r/w Section 500 of I.P.C. To quash the same, this criminal original petition has been filed principally on the ground that the petitioner has not uttered anything with regard to the public function discharged by the then Hon'ble Chief Minister and that the complaint filed by the Public Prosecutor is per se not maintainable.



3. Shri.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the respondent submitted that in Section 199(2) Cr.P.C, there are two classes of persons referred to. The first class contains the list of high dignitaries. The second class would refer to all public servants. His contention is that the requirement that the offence in question must pertain to the conduct of the person concerned in the discharge of his public function, would apply only in the case of public servants and not in the case of the high dignitaries. He took this Court through the 41st report of the Law Commission of India and also referred to the decision of the Hon'ble Supreme Court reported **in (2016) 7 SCC 221 (Subramanian Swamy Vs. Union of India, Ministry of Law and others)**. He placed emphasis on Paragraph No.144 occurring in the said Judgment.

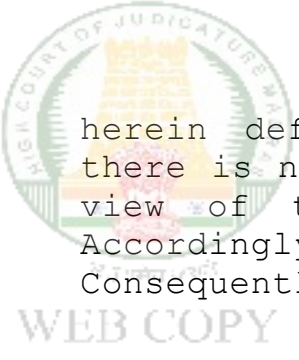
4. He further submitted that the person defamed in this case not only happened to be a high dignitary, but also a woman. The Hon'ble Supreme Court in the decision reported **in (2015) 1 SCC 192 (Charu Khurana v. Union of India)** had highlighted the importance attached to the dignity of women. In the present case, the petitioner herein had spoken recklessly and defamed the personal character of the then Chief Minister and that therefore the impugned complaint is maintainable.

5. Though Thiru.K.K.Ramakrishnan, learned Additional Public Prosecutor for the respondent addressed lengthy arguments in this regard and demanding dismissal of this Criminal Original Petition, this Court is not impressed with the contentions for the simple reason that the issue on hand is no longer *res integra*.

6. The Constitution Bench of the Hon'ble Supreme Court in the decision **reported in CDJ 2018 SC 391 (K.K.Mishra vs. the State of Madhya Pradesh)** had categorically held that Section 199 (2) Cr.P.C. provides for a special procedure with regard to initiation of a prosecution for offence of defamation committed against the constitutional functionaries and public servants mentioned therein. However, the offence alleged to have been committed must be in respect of the acts/conduct in the discharge of public functions of the concerned functionary or public servant, as the case may be.

7. Thus, in view of the aforesaid ratio, the distinction sought to be drawn by Mr.K.K.Ramakrishnan becomes irrelevant. The requirement that the offence in question must pertain to discharge of public function would apply not only in the case of public servant but also in the case of high dignitary referred to in the above said provision.

8. This Court went through the contents of the complaint in question. A reading of the same would reveal that the petitioner



herein defamed the then Hon'ble Chief Minister personally and there is not one word pertaining to her public function. In this view of the matter, the impugned proceedings stand quashed. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional District and Sessions Judge,
Tirunelveli, Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
3. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Ravi ,Advocate Sr.No.68538

MSA

VB/PN/SAR1/10.07.2018/3P/6C

**CRL.OP (MD) No.21494 of 2013
and**

**M.P (MD) .No. 1 of 2013
18.06.2018**