

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.14285 of 2015

ORDER :

The petitioners are A.1 to A.11 in C.C.No.276 of 2015 on the file of the learned III Additional Judicial First Class Magistrate, Tirupathi. The learned Magistrate has taken cognizance for the offence punishable under Section 499 read with 500 IPC. It is on the private complaint of the *de facto* complainant/1st respondent herein filed on 14.10.2015 by following the procedure contemplated by Sections 200 to 204 read with 190 Cr.P.C. the said cognizance was taken. The private complaint mentions that place of offence is surrounding area of the complainant's house and at entire Chittoor District, itself confines not beyond Chittoor District for whatever the alleged defamation sought for taking cognizance.

2. The date of offence mentioned as since June 2001 to 02.09.2015. It is only to see within the jurisdiction of entire Chittoor District between 01.06.2001 till 02.09.2015 any acts from any of the accused tantamounts to defamation constituted. With this, coming to the facts, the sum and substance is that pursuant to the three fire policies 06324, 06325 and 06326 covering the stocks in the godown for the contract of Insurance of the red sandal stocks, there was a fire broke out on 29.06.1996 and a claim was made. Crime No.184 of 1996 was registered for the fire accident of the so-called stock insured by the three policies supra.

3. There was inventory of the unaffected stocks till 06.07.1996 by the Forest Officials, who seized the stocks through panchanama under Form-C of the A.P. Forest Act. It is mentioned that false allegations against the complainant were made and police got filed Criminal Cases viz., C.C.Nos.123 of 1996 and 576 of 1998 and one of the case i.e., C.C.No.123 of 1996 was quashed when *de facto* complainant approached the High Court invoking Section 482 Cr.P.C. The complaint did not disclose what is the quash petition what is the order and even the complaint did not enclose any such order. Leave it even taken the same as true, further mentioned of acquitted in C.C.No.576 of 1998, that order is not filed even among the enclosed documents 1 to 5 of the complaint, much less date of acquittal, needless to mention any appeal preferred mentioned without number and ended in dismissal. The complaint averments further show from para 8 that orders were issued on 21.05.2001 and 01.06.2001 repudiating the complainant's claim in respect of policy numbers 06324 and 06325 for the burnt and un-burnt material respectively. It is averred that the repudiation was made by the Insurance Company and the officials on its behalf five years after the said fire accident of 1996, though claim was recommended for payment by the Branch Manager in 1998. Coming to the alleged defamatory statements it is mentioned in para 8 page 6 onwards that Insurance Regulatory and Development Authorities and Appellate Authority of the Union of India got the complainant's claim re-investigated and re-surveyed and finding that

repudiation was grossly erroneous and unlawful and set aside the survey report and passed orders on 20.06.2007 directing the Insurance Company to discharge the liability based on fresh survey report. It is further averred that the Appellate Authority in the High Court of Delhi, where appeal against the orders filed not accepted the recommendation of the Branch Manager by letter, dated 05.01.1998, but relying upon the repudiation order dated 21.05.2001 and 01.06.2001 in respect of both the claims.

4. There allegations are made against the complainant alleging violation of Forest Rules involving in illegal and smuggling activities. It is complained as defamatory mainly. Coming to para 9, on complainant's appeal, the Central Information Commission, New Delhi, directed the Insurance Company to furnish the information and on its failure Central Information Commission issued show-cause notice to A.1 and in response A.7 furnished reply, dated 23.08.2013, stating such type of recommendation made by Branch Manager not acceptable and the repudiation thereby holds good. This is the sum and substance among the five documents on which document No.4 reply notice allegedly contain no way mentioned as same is defamatory with any statement therein. Coming to para 10 reply furnished by A.5 in the letter, dated 23.01.2012, was in an arrogant tone and complainant has to face himself the criminal charges and also stated complainant was dealt with by senior management. If at all he

has to face the criminal charges in using the arrogant tone *per se* not defamatory even from that reply, dated 23.01.2012, so far as A.5 concerned. It is further averred that complainant along with Mr.G.Devasahayam, a retired State Government Officer, attended a meeting, pursuant to the High Court order or appellate authority's order, convened at Mumbai on 07.02.2012. A.5 communicated the response on 10.02.2012. There is nothing defamatory therefrom, leave about even appeal filed against that before the Apex Court in Civil Appeal No.7264 of 2013 that was covered by disposal order, dated 02.09.2015.

5. Now one of the contentions of the counsel for the 1st respondent is that in the complaint para 2 date of offence mentioned since June 2001 to 02.09.2015 and placed reliance on an expression of a Single Judge of this Court in **Dr.R. Mahalakshmi vs. Nirmala Reddy and another**¹, where it is no doubt observed that allegations made in the counter or written statement or other pleading if it is defamatory, cognizance can be taken for the offence under Section 500 IPC. Even taken for arguments sake, any pleading before the authority in repudiation of the claim contains any statement of defamatory nothing even mentioned to that extent as discussed supra in the private complaint, that pleading was long prior to the disposal by the Appellate Authority in 2013 terminated from the merger in the Supreme Court appeal by dated 02.09.2015. However, the Supreme

¹ 2015 (1) ALT (Crl.)(A.P.) 238 (S.B.)

Court order, dated 02.09.2015, not gives any cause of action, much less the appellate authority order of 2013 but for what is the date of the original counter or pleading if at all contend defamatory which is long prior to 2013.

6. The date mentioned in the private complaint in this regard paras 10 and 11 were prior to the so-called meetings or findings communicated by 10.02.2012. Once such is the case, the punishment for defamation as per Section 500 IPC is simple imprisonment for two years or fine or both. As per Section 468 Cr.P.C. for the offence punishable up to 3 years above one year, the limitation is three years. Even taken on face value of the complaint averments and even taken for arguments sake, any of the pleadings in the proceedings prior to 10.02.2012 communication contains defamatory statement from that time of communication, the complaint is hopelessly barred by limitation of filed beyond three years as it was filed on 14.10.2015. Needless to say, even the so-called notice, dated 01.06.2001 document No.1 placed reliance with the complaint that was containing several allegations which are *per se* alleged defamatory that notice communicated, dated 01.06.2001, is within no lapse of time at least by end of June 2001 if at all contains defamatory statement from the date of communication, the limitation of three years commences that was also barred by time long prior to 2004 June end. Having regard to the

above, the complaint is hopelessly barred. Thereby, the proceedings are quashed as unsustainable.

7. Accordingly, the criminal petition is allowed quashing the proceedings against the petitioners/A.1 to A.11 in C.C.No.276 of 2015 on the file of the III Additional Judicial First Class Magistrate, Tirupati. The bail bonds of the petitioners/A.1 to A.11, if any, shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

29th November 2018.

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Dr. B. SIVA SANKARA RAO, J

