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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

Crl.OP No.17965 of 2013

and

MP.Nos.1 & 2 of 2013

Parimala Baskaran

...Petitioner/Complainant

- Vs -

1. R.Vetriselvan

Government Advocate,

Karaikkal, Pondicherry.

2. Dr.S.Anandkumar

...Respondents/Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order made in Crl.Revision Petition No.1 of 2012 dated 18.01.2013 passed by the learned District Judge, Karaikkal, confirming the order passed by the learned Judicial Magistrate-II, Karaikkal in CC/STR.No. /2011 dated 28.10.2011.

For Petitioner : Mr.A.Nagarathinam

For Respondents: Mr.Saikrishnan

for R1

R2: No Appearance.

ORDER

This Criminal Original Petition has been filed to set aside the order dated 18.01.2013 passed in Crl.Revision Petition No.1 of 2012 by the learned District Judge, Karaikkal, confirming the order passed by the learned Judicial Magistrate-II, Karaikkal in CC/STR.No. /2011 dated 28.10.2011.

2. The petitioner filed rent control proceedings before the Rent Controller (Principal District Munsif), Karaikkal in RCOP.No.15/2009 against the second respondent. The second respondent/tenant filed counter, in which, he has averred some defamatory words. Therefore, during pendency of the said RCOP, the petitioner filed a complaint under Section 200 Cr.P.C before the learned Judicial Magistrate-II, Karaikkal and the learned Magistrate failed to take the cognizance of the offence and dismissed the said petition. There against, the petitioner filed the Revision case in Crl.R.P.No.01/2012 before the learned District Judge, Karaikal and the said revision was



dismissed on 18.01.2013. Aggrieved over the said order of the learned District Judge, the petitioner is before this Court by way of this present petition.

3. The learned counsel for the petitioner would submit that the counter affidavit filed by the second respondent was drafted by the first respondent. There is personal allegations in the proceedings in RCOP and the same was filed only willful default and personal occupation, in which, the second respondent made some defamatory words. Therefore, she has filed a complaint before the learned Judicial Magistrate-II, Karaikal. After taking sworn statement, the learned Judicial Magistrate-II has not taken cognizance of the complaint and dismissed the same. The learned Magistrate failed to consider the counter filed by the second respondent, which was drafted and signed by the first respondent as an Advocate. There is no necessity to utter such scandalous and defamatory words against the landlord and therefore, the learned Magistrate failed to appreciate the scope of Section 499 of IPC and also the averments made in the complaint. When the matter came up to the learned District Judge, Karaikal, he also failed to consider the scope of Section 499 of IPC. Even assuming that the first respondent is the counsel and he is not responsible for the defamatory words, how the second respondent made frivolous allegations against the petitioner, being her tenant. This Court has to set aside the order of the learned District Judge, Karaikal and directed to take cognizance of the complaint filed by the petitioner.

4. The learned counsel for the first respondent would submit that he is only a counsel, who was engaged by the second respondent and as per the instruction given by his client, he has drafted the counter and he has signed only as a counsel on record for the second respondent. Therefore, the first respondent cannot be prosecuted under Section 499 of IPC since he is not the author of the defamatory words. Therefore, the learned Magistrate rightly dismissed the complaint and the learned District Judge, Karaikal also rightly allowed the claim of the respondents. There is no perversity in the order passed by the Courts below and this Court need not invoke Section 482 Cr.P.C and the present petition may be dismissed.



6. It is seen from the records that the petitioner is the landlord and the second respondent is the tenant. The petitioner filed Rent Control proceedings against the second respondent on the ground of own use and occupation in RCOP.No.15 of 2009 before the Rent Controller (Principal District Munsif), Karaikal. The second respondent engaged the first respondent as his counsel and filed counter in the said Rent Control Proceedings. After filing the counter, the petitioner has filed a complaint before the learned Judicial Magistrate No.2, Karaikal stating that in para 4 of the counter, the second respondent has made defamatory allegations against the petitioner and the same was drafted by the first respondent. The learned Magistrate, after recording the Sworn statement and perused the entire records, rejected the complaint. Against the said order, the petitioner filed the Revision before the learned District Judge, Karaikal. The learned District Judge also elaborately gone into the matter and also cited various decisions of the Hon'ble Supreme Court and this Court, ultimately found that the respondents cannot be prosecuted under Section 499 of IPC and therefore, dismissed the revision.

8. On reading of the entire records, it is seen that the counter filed on 18.06.2010, the petitioner has not taken any effective steps before the Rent Controller for striking off the pleadings that the allegations levelled in the counter are scandalous, frivolous and vexatious. After one year of filing the counter, the petitioner has filed the petition and impleaded the counsel, who appeared for the second respondent as first accused. This Court finds that there is no necessity to invoke Section 482 of Cr.P.C. There is no merit in this petition and the same is liable to be dismissed.



9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The District Judge,
Karaikkal.
2. The Judicial Magistrate-II,
Karaikkal.

+2 cc to Mrs.N.Kavitha Rameshwar Advocate sr99247 & 100037
+1 cc to M/s.Sai & Bharath Advocate sr99244
+1 cc to M/s.A.Nagarathinam Advocate sr99901

Cr1.OP No.17965 of 2013

sj(co)
aa08/01/2020