

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.07.2019

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P No.15586 of 2015
and
M.P No.1 of 2015

1.S.Karthikeyan

2.E.Sudeesh Kumar ... Petitioners/Accused 1 & 2

Vs.

Joseph Manoharan,
Secretary General of Federation of
Tata Communications Limited
Employees Unions, Residing at
Block-D-11, Tata Communications
Limited Staff Quarters,
No.45, Uthamar Gandhi Salai
(Nungabakkam High Road)
Chennai-600 034.

... Respondents/Complainant

Prayer :Criminal Original Petition filed under Section 482 of
Criminal Procedure Code, praying to call for the entire records
concerned in C.C No.163 of 2013 on the file of the XIV
Metropolitan Magistrate Court, Egmore, Chennai and quash the
same insofar relates to the petitioners are concerned.

For Petitioners : Mr. C.Prakasam

For Respondent : No Appearance

ORDER

This petition has been filed seeking to quash the
proceedings in C.C No.163 of 2013 pending on the file of the XIV
Metropolitan Magistrate Court, Egmore, Chennai.

2. The respondent has initiated proceedings against the
petitioners and one more accused person for an offence of
criminal defamation. The petitioners are ranked as A1 and A2.

3. A3 had filed Cr1.O.P No.8060 of 2014 before this Court
challenging the proceedings initiated by the respondent. It
will be relevant to extract the portions of the order hereunder.

"4. Brief of the facts set out in the petition is that the respondent herein committed so many irregularities in regarding with Videsh Sanchar Nigam Employees Co-operative House Site Society Limited (hereinafter referred to as "VSNL") for purchase of land from Government of India and selling the same to the members, since the petitioner is being one of the members in the above said Co-operative Society, but her husband is Editor in Fortnightly Magazine called as "Gnayiru" and he published whatever irregularities committed by the complainant in the above said Co-operative Society, but the respondent with intend to threat the petitioner's husband for not to publish anymore news against him, therefore, he falsely implicated the petitioner's name in his private complaint, even though there is no averment made in the above said complaint stating that the petitioner defamed the complainant's name, but he has not at all stated how the petitioner defamed him except the complainant made averment that she distributed the magazine among the staff quarters members. In that complaint, it is not stated that the petitioner distributed the magazine to whom and also not examined them and moreover he has not at all stated anything about that the staff, who received the magazine from the petitioner and asked the complainant inregarding with above said irregularities, hence the alleged offences under Sections 499, 500 and 501 of IPC not at all attracted against the petitioner. The respondent has been falsely implicated the petitioner's name in his private complaint is abuse of process of law and threatening her husband for not to publish any articles against him. Hence, the petitioner has approached this Court for seeking appropriate relief.

6. There are totally three accused in C.C No.163 of 2013, in which the petitioner herein is the third accused. She has none other than the wife of the first accused. According to the complainant, there is no specific averments on allegations as against the petitioner/A3. The wife of the first accused, she has been falsely implicated as the third accused. Further, it is seen that the allegations in the complaint on the first accused viz., the Editor in Fortnightly Magazine called as "Gnayiru" the public news is that he is the Secretary General of Federation of Tata Communications Limited Employees Unions, and he was misappropriated funds to the tune of Rs.12.5 Crores. The said money was circulated by the third accused. It is also seen that the offences under Sections 499 and 500 IPC are extracted hereunder:

499. Defamation - Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

7. However, the said mistakes squarely applicable to the petitioner and even it is seen from the complaint that there is absolutely no specific averments as against the petitioner to attract the offences under Sections 499 and 500 of IPC as against the petitioner. The present complaint is nothing but a clear abuse of process of law. Therefore, the complaint cannot be sustained as against the petitioner.

4. The petitioners are the Editor, Publisher and Printer of a Fortnightly.

5. The learned counsel for the petitioners submitted that the publication was made in the fortnightly magazine on the basis of the enquiry conducted by the Society and the petitioners by themselves did not make any allegations or cause any defamatory statements against the respondent. The learned counsel further submitted that A3 is none other than the wife of A1 and this Court has already quashed the proceedings insofar as A3 is concerned. Therefore, the learned counsel submitted that the same order will enure to the benefit of the petitioner also. The learned counsel concluded his arguments by submitting that what was published in the fortnightly was the findings that were made against the respondent in Section 81 enquiry conducted under the Co-operative Societies Act.

6. There is no appearance for the respondents.

7. In the considered view of this Court, the petitioners as Editor, Publisher and Printer have only published the report wherein certain irregularities were found against the respondent. Therefore, this will squarely fall within the exception I of Section 499 of IPC.

8. That apart this Court has already quashed the proceedings insofar as A3 is concerned.

9. The proceedings as against the petitioners is an abuse of process of Court and the same requires interference of this

Court in exercise of its jurisdiction under Section 482 of Cr.P.C

10. In the result, the proceedings in CC No. 163 of 2013 pending on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai is quashed and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

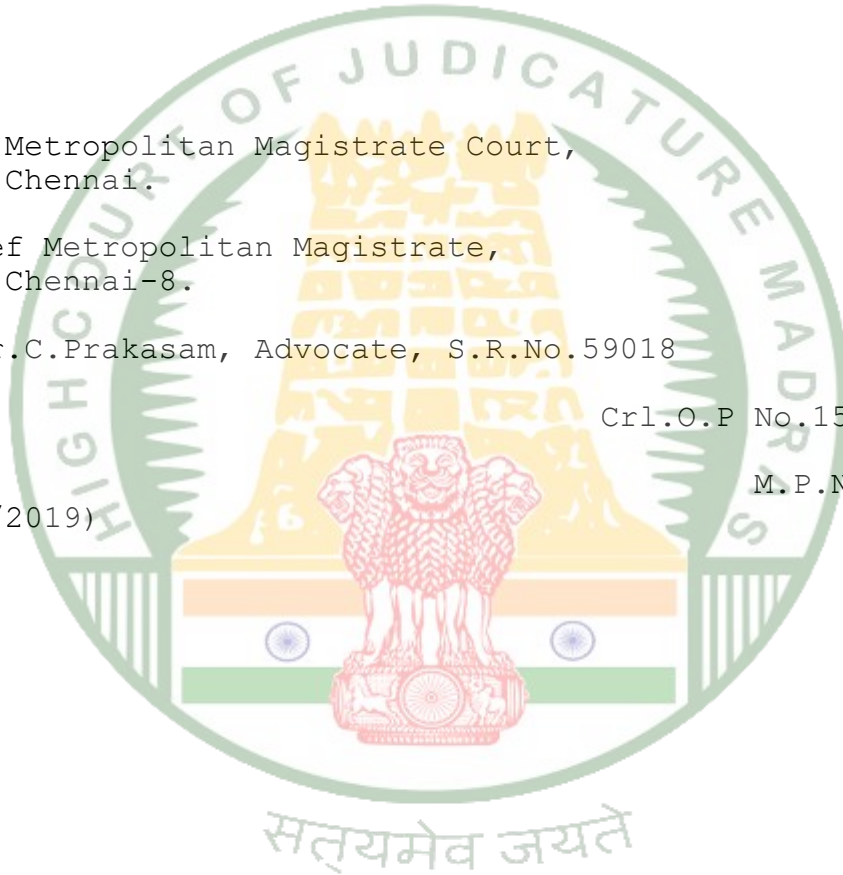
1.The XIV Metropolitan Magistrate Court,
Egmore, Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.59018

CrI.O.P No.15586 of 2015
and
M.P.No.1 of 2015

RRS (17/07/2019)



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