

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.4566 of 2015

and

M.P No.1 of 2015

1.M.Selvam, Partner,
M/s.Zoticus Pharmaceutical
No.71, 2nd Street,
North Jaganatha Nagar
Chennai-600 049.

2.M.Selvam

...Petitioners

Vs.

1.M/s.Sri Ram Pharma
No.4, 7th Main Road,
New Colony,
Chennai-600 044
Rep. by Power of Attorney
A.N.Selvam.

2.Zoticus Pharmaceuticals
Shri Kirthi, Flat No.1, Plot No.158
8th Cross Street, Senthil Nagar,
Kolathur, Chennai-600 099.

3.V.Narayanan, Partner,
M/s.Zoticus Pharmaceuticals
No.152/4B, 8th Street,
Pombuhar Nagar, Kolathur,
Chennai-600 099.

4.V.Naraynan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C No.74 of 2014 pending on the file of the Judicial Magistrate Court, Tambaram and quash the same.

For Petitioner : Mr. B.Harikrishnan

For 1st Respondent : Mr.R.Vasudevan

ORDER

This petition has been filed challenging the proceedings initiated by the respondent for the offence of defamation.

2. The learned counsel for the petitioners submitted that a dispute arose between the partners of M/s.Zoticus Pharmaceutical which culminated in a civil proceedings being initiated in O.S.No.4464 of 2013 by the 4th respondent against the petitioners. The 1st respondent also filed a criminal complaint under Section 138 of Negotiable Instruments Act on the ground that the cheque issued by the firm was dishonoured on the ground of insufficient funds. While these proceedings were pending, the first respondent has filed the present complaint before the Court below alleging defamation.

3. The learned counsel for the petitioners submitted that the entire complaint has been filed based on two letters, which are alleged to have been sent by the petitioners. The two letters are dated 25.07.2013 and 14.08.2013, in which it is alleged that the name of the 1st respondent has been defamed resulting in the loss of his reputation. The learned counsel further submitted that a plain reading of the letters which are mentioned in the complaint, does not make out an offence of defamation.

4. Heard the learned counsel for the first respondent.

5. It is seen from the complaint that the allegations revolves around two letters dated 25.07.2013 and 14.08.2013 which is said to have been sent by the petitioners to the first respondent. A reading of these letters would show that it is a letter which has been sent in the normal course of business. Just because it was marked to the Bank of Maharashtra, that by itself will not make the letter defamatory and thereby, attract the provisions of Sections 499 and 500 of IPC. In the said letter, it has been stated that the first respondent, with an active connivance of another partner has procured products for a lesser value and in the said letter, the petitioners have disputed the claims made by the first respondent and called upon the first respondent to remit the actual value of the products. This amount was directed to be credited to the current account maintained by the petitioners in the Bank of Maharashtra. Therefore, a copy of this letter was marked to Bank of Maharashtra.

6. Even if the complaint is taken as it is, this Court is not able to convince itself that it makes out an offence of defamation under Sections 499 and 500 of IPC. In fact, the interse dispute between the parties, has resulted in this criminal complaint and the criminal complaint itself is an abuse of process of Court. It requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7. In the result, proceedings in C.C No.74 of 2014 on the file of the Judicial Magistrate, Tambaram is hereby quashed, insofar as the petitioners are concerned and accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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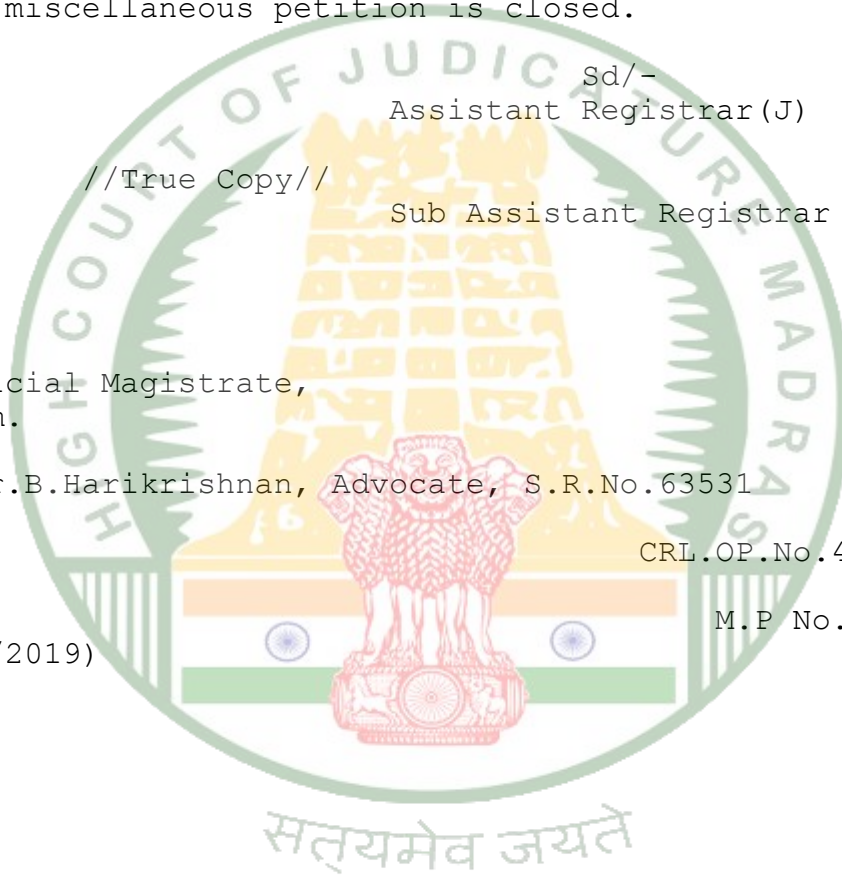
To

The Judicial Magistrate,
Tambaram.

+1cc to Mr.B.Harikrishnan, Advocate, S.R.No.63531

CRL.OP.No.4566 of 2015
and
M.P No.1 of 2015

RRS (30/08/2019)



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