

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.7498 of 2014 and
M.P.Nos.1 & 2 of 2014

The Editor,
Dinamalar,
Daily Tamil Edition,
Admin Office No.39, Whites Road,
Chennai - 600 014

... Petitioner/Accused

Vs.

1.N.Skandavel

2.K.Jagadeesan

3.S.Mohanasundaram

4.S.Tamizhselvan

5.P.Natarajan

... Respondents/Complainant

PRAYER:

Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records in C.C.No.975 of 2014
pending on the file of II Metropolitan Magistrate, Egmore,
Chennai and quash the complaint filed by the respondents.

For Petitioner : Mr.I.Subramaniam,
Senior Counsel
for Mr.S.Elambharathi

For Respondents : Mr.K.P.Chandrasekaran

ORDER

This petition has been filed to quash the complaint in
C.C.No.975 of 2014 having taken cognizance for the offences
under Sections 499 and 500 I.P.C.

2. Mr.I.Subramaniam, Senior Counsel appearing on
behalf of Mr.S.Elambharathi, the learned counsel for the
petitioner submits that the petitioner is the single accused
the offence under Sections 499 and 500 I.P.C. are not at all

attracted against the petitioner. To attract the said offences no averments in the complaint. The news item published by the petitioner does not directly make any imputations against the complainants to attract the offence of defamation. The news item has been published by the petitioner for public and in good faith without any malice. Therefore, the petitioner is entitled for General Exceptions contained in Sections 499 and 500 I.P.C. and no offence has been made out as against the petitioner. As per the General Exception, the news item would not make any defamatory. Therefore, the learned Magistrate ought not to have taken cognizance of the private complaint filed by the respondents herein. Further he submitted that the petitioner is an Editor and he has absolutely no intention to defame or tarnish the image of the complainants among the public. Therefore he prayed for quashment of the entire proceedings in C.C.No.975 of 2014.

3. Per contra, Mr.K.P.Chandrasekaran, the learned counsel for the respondents submits that the petitioner is an editor and he published news item on 23.09.2013 stating that the complainants have been removed from the Office and even then, they are indulged in collecting amounts from the public. The statement is highly defamatory in nature and punishable under Sections 499 and 500 I.P.C. In fact, the respondents caused legal notice on 28.09.2013 calling upon the petitioner to tender unconditional apology. Though it was duly received by the petitioner he did not seek any apology. Therefore, the respondents lodged the complaint and the II Metropolitan Magistrate, Egmore, Chennai has rightly taken cognizance for the offences under Sections 499 and 500 I.P.C. as against the petitioner. He further submitted that the complaint cannot be quashed and all the points raised by the petitioner have to be considered only during the trial and as such he prayed for dismissal of this quash petition.

4. Heard, Mr.I.Subramaniam, Senior Counsel appearing on behalf of Mr.S.Elambharathi, the learned counsel for the petitioner and Mr.K.P.Chandrasekaran, the learned counsel for the respondents.

5. The petitioner is the single accused. The respondents lodged a complaint for the offences under Sections 499 and 500 I.P.C. The petitioner is the Editor of a Tamil daily and published a news item on 23.09.2013 stating that the orders of the Chief Minister are floated in the air by the HR&CE Department in respect of Arulmighu Angalaparameswari and Kasi Viswanathasamy Temple, Choolai, Chennai. The respondents

trustees of the temple have been suspended from their trusteeship of the temple and even thereafter the HR&CE Department did not take any action as against them and the same persons are continuing as trustee members. It is relevant to extract offence under Section 499 I.P.C. and the first exception as follows:

"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. "

"First Exception -Imputation of truth which public good requires to be made or published.-It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact. "

6. The first exception states that imputation of truth which public good requires to be made or published is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Admittedly, the HR&CE Department failed to take any action as against the respondents. Therefore, the news item published by the petitioner does not amount to any defamatory allegations as against the respondents. The petitioner is coming under the said exception. It is also seen that after news item was published by the petitioner, the temple represented by its Executive Officer filed a suit as against the Publisher and Editor of "Dinamalar" for compensation of Rs.1,00,000/-. The said suit was dismissed by an order dated 09.11.2016. Though it was dismissed on the ground of non joinder of necessary parties and also has no jurisdiction, the allegations raised in the complaint have already been dealt with. Therefore, the present impugned complaint is nothing but clear abuse of process of law as such to meet the ends of justice, the proceedings in in C.C.No.975 of 2014 pending on the file of II Metropolitan Magistrate, Egmore, Chennai cannot be sustained as against the petitioner.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.975 of 2014 pending on the file of II Metropolitan Magistrate, Egmore, Chennai is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS iv)

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Sub Assistant Registrar

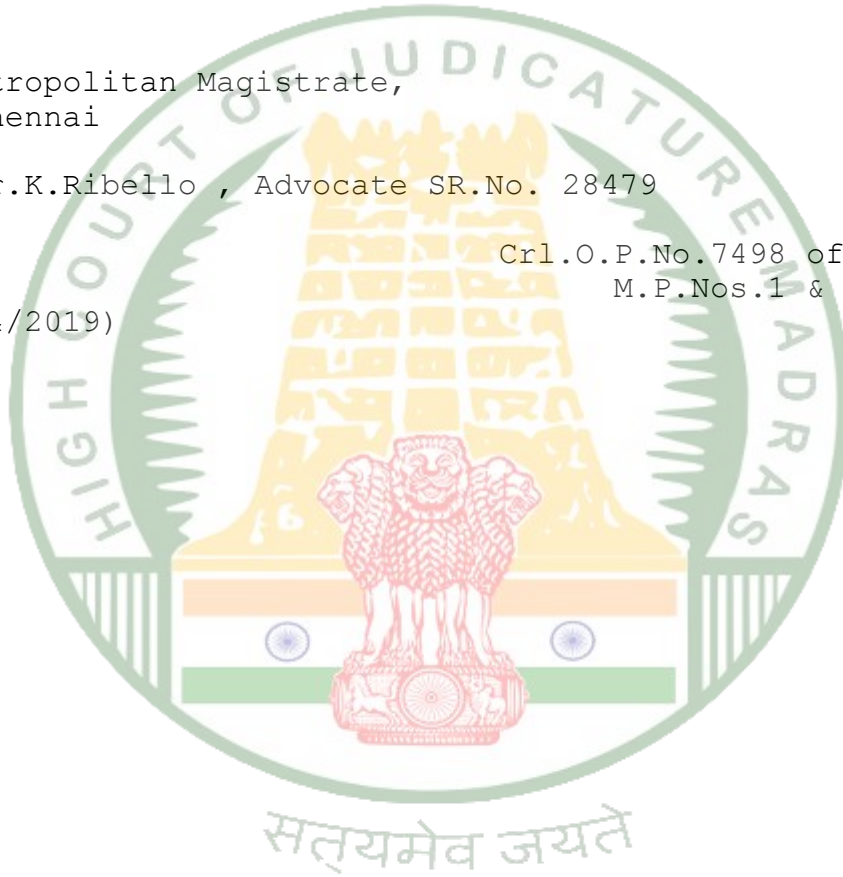
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To

The II Metropolitan Magistrate,
Egmore, Chennai

+1cc to Mr.K.Ribello , Advocate SR.No. 28479

Crl.O.P.No.7498 of 2014 and
M.P.Nos.1 & 2 of 2014

A.SK(27/04/2019)



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