



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.25934 of 2014

1.Dr.R.Krishnamurthy
2.R.Raghavan
3.Dr.R.Lakshmipathy

... petitioners

Vs.

M/s.Pollachi Classic Club and Resorts,
Represented by its Managing Partner,
Mr.A.Kuppuraj, represented by his 'Power Agent,
Mr.K.Krishnaraj, aged 32 years,
Pollachi.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records and to quash the proceedings including the order taking cognizance in C.C.NO.657 of 2014, pending on the file of the Judicial Magistrate No.II, Coimbatore.

For Petitioner : Mr.I.Subramanian
Senior Counsel for M/s.S.IIambharathi

For Respondents : M/s.S.V.Pravin Rathinam

ORDER

This petition has been filed seeking to quash the proceedings in C.C.NO.657 of 2014, pending on the file of the Judicial Magistrate No.II, Coimbatore.

2. The respondent has filed a criminal complaint alleging defamation as against eighteen accused persons. The petitioners before this Court are arrayed as A16, A17 and A18.

3. The news article that was published on 26.03.2013 in the Dhinamalar news paper, Coimbatore edition was the reason for adding these three petitioners as accused persons since they are the Editor, Printer and Publisher of the said news paper. According to the respondent, the news item which was published in the news paper has virtually tarnished the image of the respondent club and it has defamed the respondent club in the eyes of the general public and the news item published by the news paper is per se defamatory.

4. Mr.I.Subramanian, learned Senior Counsel appearing on behalf of the petitioners submitted that the news paper had merely published the resolution that was passed in the meeting held in the club. The contents of the resolution are the ones



made by the office bearers, who had grievances in the manner in which the club was being run. The learned senior counsel submitted that the petitioners, who had merely published the resolution that was passed in the club, by no stretch, can be made as accused persons in this case. The learned senior counsel further submitted that the news paper did not publish their individual opinion on the resolution that was passed by the club and therefore, the offence of defamation cannot be clamped upon the petitioners.

5. The learned senior counsel submitted that the defamation complaint that has been filed against the petitioners, goes directly against the right of the petitioner's freedom of press which is guaranteed under Article 19 (A) of the Constitution of India. The learned senior counsel concluded his arguments by submitting that even if the complaint is read as a whole, no offence of defamation has been made out against the petitioners.

6. The learned counsel for the respondent submitted that the grounds raised by the petitioners cannot be considered by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C and these grounds are more in the nature of defence which can be agitated before the trial Court in the course of the proceedings. The learned counsel further submitted that in the name of freedom of press, the petitioners cannot be permitted to publish whatever comes in their way and the petitioners should take responsibility for having published a scandalous and defamatory article in the news paper, which has completely defamed the respondent club in the eyes of the general public.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. On a plain reading of the news article which was published in Dinamalar on 26.02.2013, it shows that it is a reproduction of the resolution that was passed in the meeting of the office bearers belonging to the respondent club. The publication revolves around the statement made by one Natarajan, who is the Secretary of the club. None of these statements are the personal opinion of the news paper and its publishers.

9. Office bearers of the respondent club have expressed their concern in the manner in which the club is being run in a meeting held in the club. The news paper has merely published whatever was passed as a resolution during the said meeting. This by itself, cannot be a ground to rope in the Editor, Printer and Publisher as accused persons in this case.

10. If this publication is taken as a ground to institute defamation proceedings against the petitioners, it will directly infringe upon the freedom of press guaranteed under Article 19(A) of the Constitution of India.



11. The proceedings insofar as the petitioners are concerned is an abuse of process of Court and the same requires interference by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

WEB COPY

12. In the result, the proceedings in C.C.NO.657 of 2014, pending on the file of the Judicial Magistrate No.II, Coimbatore, is quashed, insofar as, the petitioners are concerned. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Coimbatore.
2. -Do-Thro' The Chief Judicial Magistrate,
Coimbatore.

+1 cc to M/s.S.Elambharathi, Advocate Sr.No.55678

Cr1.O.P.No.25934 of 2014

NRL (CO)
AKM/14.8.19/3P-4C/