



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.A.(MD)No.295 of 2011

Dr.A.Sebastian

... Appellant/Complainant

Vs.

1.Prof.N.Baskaran

2.Prof.Akbar Sheriff

3.Prof.N.Senthamarai

4.Tharian Methew

5.N.R.Swaminathan

6.V.S.Karmic

7.Sekar Gupta

... Respondents/ A1 to A7

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C, to call for the records in C.C.No.782 of 1997, from the Court of Judicial Magistrate No.II, Trichy, dated 01.04.2008, set aside the judgment of acquittal, deal with the accused according to the due process of law.

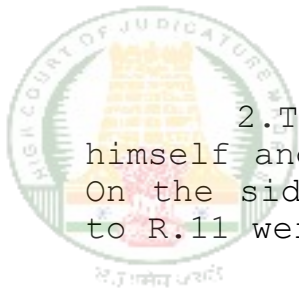
For Appellant : No appearance

For Respondents: Mr.S.Velpandian for R1 to R3

: Mr.T.Lajapathi Roy for R4

J U D G M E N T

The complainant in C.C.No.782 of 1997, on the file of the learned Judicial Magistrate No.II, Trichy, is the appellant in this appeal. The appellant was the Zonal Secretary of Association of University Teachers during the year 1993-1995. While so, on 21.09.1997 a paper publication was made in Indian Express containing allegedly defamatory information. According to the complainant, the respondents herein should therefore be prosecuted and punished for the offence under Sections 120(b) r/w. 500 and 501 of I.P.C. He therefore filed the aforesaid private complaint.



2.The case taken on file and tried. The appellant examined himself and four others as witnesses. Exs.P.1 and P.2 were marked. On the side of the accused three witnesses were examined. Exs.R.1 to R.11 were marked.

3.The learned Trial Judge after a detailed consideration of the evidence on record by judgment dated 01.04.2008 acquitted all the accused. Aggrieved by the same, this criminal appeal came to be filed.

4.When the matter was taken up for hearing on 17.07.2019, Mr.D.Senthilkumar, learned counsel submitted that the case was filed by Mr.N.Nataraj Vallatharasu and that therefore, the name of Mr.N.Nataraj Vallatharasu may be printed in the cause list and the matter was posted under the caption "for dismissal" on 22.07.2019. When the matter was taken up for hearing today, there is no representation for the appellant. I therefore have no other option but to go through the evidence on record and hear the learned counsel appearing for the respondents and dispose of the matter.

5.As rightly pointed by the learned counsel appearing for the respondents routine and genuine association rivalries has given rise to this prosecution. The learned Trial Magistrate has given a specific finding in paragraph 19 that the accused had only acted in good faith and passed certain resolutions against the complainant herein. The accused were under the *bono fide* belief that they were acting in furtherance of the interest of the Association. The newspaper has only published the resolution passed in the Association. This cannot give rise a prosecution for defamation. It is seen that the appellant made complaint in the year 1997. We are now in the year 2019. More than 22 years have lapsed. Obviously all the parties herein must have retired from service and are probably not even associated with the Association. Their current membership in the Association itself appears to be doubtful. I do not find any reason to keep this stale issue alive. This is an appeal against acquittal. No case has been made out for interference. The criminal appeal stands dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar



To:

The Judicial Magistrate No.II, Trichy.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate SR-76953[F] dated 23/07/2019

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22.07.2019

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