



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2019

CORAM

**THE HON'BLE MR.JUSTICE P.N.PRAKASH**

**Cr1.O.P. (MD) No.422 of 2014**

**and M.P.Nos.1 and 2 of 2014**

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Muthu Thiyagarajan

... Petitioner

-vs-

P.Elangovan

... Respondent

**Prayer:** Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the private complaint of the respondent in C.C.No.227 of 2013 on the file of Judicial Magistrate, Periyakulam, quash the same.

For Petitioners :Ms.J.Anandavalli

For Respondents : Mr.V.Rajiv Rufus

**O R D E R**

On 25.02.2019, this Court passed the following order:

"Notices were served on Mr.P.Elangovan, learned counsel for the respondent/complainant herein and he entered appearance through M/s.Dhana Law Associates and V.A.Dhana Aravinda Balaji, Advocates. However, on 29.09.2018, M/s.Dhana Law Associates filed a memo of withdrawing their appearance for the respondent/complainant. The name of the respondent/complainant is now printed in the cause list. Despite which, there is no appearance for the respondent/complainant. Hence, this Court appoints Mr.V.Rajiv Rufus, Advocate, Enrolment No.99/2003 (Cell No.94876 82817) to represent the respondent/complainant.

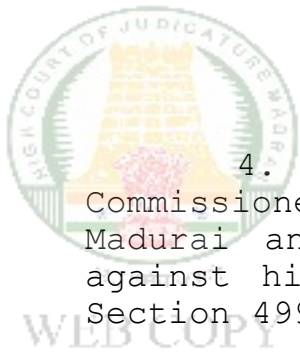
2.The learned counsel for the petitioner is directed to serve typed set of papers and copies of the petition to Mr.V.Rajiv Rufus, learned counsel and print the name of Mr.V.Rajiv Rufus, learned counsel for the respondent/complainant and also the name of the respondent/complainant in the cause list.

3.The matter is adjourned to 04.03.2019."

2. Heard the learned counsel for the petitioner, the learned counsel for the respondent and perused the records.

<https://hcservices.ecourts.gov.in/hcservices/>

3. For the sake of convenience, the parties will be referred to by their name.



4. Muthu Thiyagarajan, the quash petitioner is the Joint Commissioner of Hindu Religious and Charitable Endowment Department, Madurai and he is seeking to quash the private complaint filed against him in C.C.No.227/2013 by Elangovan for an offence under Section 499 IPC on the file of the Judicial Magistrate, Periyakulam.

5. This Court carefully perused the private complaint. It is the case of Elangovan that one Chinna Nagappan sent a complaint to the Chief Minister's Cell making certain allegations against the officials of the HR & CE Department; the said complaint was forwarded by the Chief Minister's Cell to the office of the Joint Commissioner for HR&CE, Madurai, for enquiry; Muthu Thiyagarajan, who was then the Joint Commissioner of HR&CE Department conducted enquiry on the complaint given by the said Chinna Nagappan and sent a report dated 04.03.2013 to the Government with a copy marked to Chinna Nagappan. In that report, it is stated that the complaint has been engineered by Elangovan, since Elangovan had taken a temple property on lease in connivance with the Executive Officer of the Temple, without the approval of the Joint Commissioner, for which, action is being taken against Elangovan for eviction and therefore, Elangovan has set up Chinna Nagappan to lodge a complaint. It is alleged by Elangovan in the private complaint that Chinna Nagappan brought the letter dated 04.03.2013 sent by Muthu Thiyagarajan near a Market place at 9.00 a.m. on 18.05.2013 and read the letter aloud before Elangovan and his relative Muthu Kamatchi and friend Kannan and therefore, Elangovan was defamed.

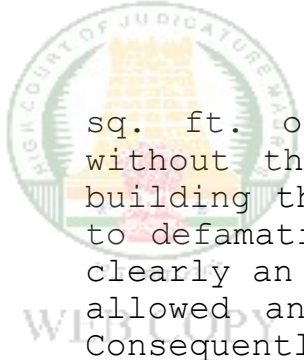
6. Mr.Rajiv Rufus submitted that Elangovan strongly supported the private complaint by contending that the imputations in the report dated 04.03.2013 are *prima-facie* defamatory in nature. He also contended that it is beyond the scope of the duty of Muthu Thiyagarajan to have issued the communication dated 04.03.2013 and therefore, no sanction to prosecute him is required.

7. Per Contra, Ms.J.Anandavalli, learned counsel for Muthu Thiyagarajan, the Joint Commissioner refuted the contentions.

8. This Court gave its anxious considerations to the rival submissions.

9. Even according to the private complaint, Chinna Nagappan sent a complaint to the Chief Minister's Cell, which was, in turn, forwarded to the office of the Joint Commissioner of HR&CE Department to look into it. Only in those circumstances, Muthu Thiyagarajan in the capacity of Joint Commissioner of HR&CE Department conducted enquiry and sent a report dated 04.03.2013 to the Government with a copy marked to Chinna Nagappan.

10. At the outset, this Court does not find anything defamatory in the report dated 04.03.2013. From the records of the HR&CE Department, the Joint Commissioner is of the view that Elangovan has taken a temple property in S.No.1432A measuring 2626



sq. ft. on lease through the Executive Officer of the Temple, without the knowledge of the Joint Commissioner and has built a building thereon. This finding of a public authority cannot amount to defamation. Therefore, the prosecution of Muthu Thiyagarajan is clearly an abuse of process of law and accordingly, this petition is allowed and the charge sheet in C.C.No.227 of 2013 is quashed. Consequently connected Miscellaneous Petitions are closed.

11. This Court places on record its appreciation to Mr.V.Rajiv Rufus for effectively representing the case of Elangovan.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS )

RR

To:  
The Judicial Magistrate,  
Periyakulam.

1 CC to M/s.V.RAJIV RUFUS, Advocate ( SR-54244[F])

+1 CC to M/s.J.ANANDHAVALLI, Advocate ( SR-54672[F])

**Cr1.O.P. (MD) No.422 of 2014**  
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**15.03.2019**

**DS/ /SAR- (26.04.2019) 3P 4C**