



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.08.2019
Delivered on : 30.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P. (MD) .No.11561 of 2014
and
M.P. (MD) Nos.1 and 2 of 2014

S.Varadan,
Editor -cum- Publisher,
Kalaikadir Newspaper,
Mahalakshmi Media Private Limited,
Barbekt Press,
Nettimedu,
Salem.

: Petitioner/ 3rd Respondent

Versus

Vasu

: Respondent/ Petitioner

Prayer: Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the private complaint in C.C.No.81 of 2012 on the file of the Judicial Magistrate Court, Musiri, Trichy District and quash the same.

For Petitioner : Mr.M.Bindran
For Respondent : Mr.V.Sasikumar,
Legal Aid Counsel

O R D E R

This petition has been filed to quash the private complaint filed for the offences under Sections 500 and 501 of the Indian Penal Code.

2. The petitioner is the third accused in this case. The private complaint has been filed by the respondent on the ground that, the petitioner, being an Editor -cum- Publisher of one Kalaikadir Daily Newspaper, has published a defamatory imputation that, A-1 and A-2 in this case have given a complaint against the respondent/complainant before the District Collector, Trichy, that the respondent is conducting a Kangaroo Court and also threatening the employees of the Panchayat Union including A-1 and A-2, who are the President and Vice President of the Panchayat Union. According to the respondent, the publication of the news item harmed the



reputation of the respondent. Hence, he has filed the private complaint and the learned Judicial Magistrate, Musiri, has taken cognizance of the offence and issued summons.

3. Earlier, notice was ordered to the respondent, notice was also served on him and his name was also printed in the cause-list, but, none appeared on his behalf. Hence, this Court appointed one Mr.V.Sasikumar, Advocate, as Legal Aid Counsel for the respondent.

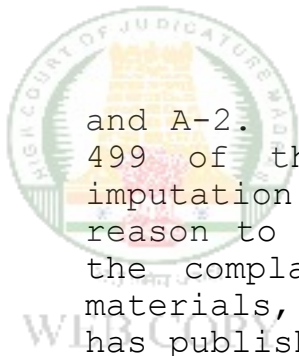
4. I have heard the learned counsel appearing for the petitioner and the Legal Aid Counsel appearing for the respondent and also perused the materials available on record carefully.

5. The private complaint has been filed on the ground that, the petitioner/A-3, being the Editor -cum- Publisher of the Kalaikadir Daily Newspaper, published a news item alleging that A-1 and A-2, who are the President and Vice President of the Panchayat Union, have given a complaint against the respondent/complainant, as if he is conducting a Kangaroo Court and threatening A-1 and A-2, that imputation harmed the reputation of the complainant, hence, the petitioner committed the offences under Sections 500 and 501 of the Indian Penal Code.

6. Section 499 of the Indian Penal Code defines the offence of 'defamation'. However, there are ten exceptions and four explanations under the above provision. Section 499 of the Indian Penal Code reads 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 excepted, to defame that person."

7. To constitute an offence of defamation, it should be established that, a person makes some imputation with intention, or knowledge, or having a reason to believe that such an imputation will harm the reputation of the person against whom the imputation is made. The imputation can be, by words, either spoken or written, by making signs, or a visible representation. The imputation could be either made or published. The essence of publication under Section 499 of the Indian Penal Code is, the communication of defamatory imputation to the person other than the person against whom the imputation is made. But, in the instant case, on a perusal of records, it could be seen that the petitioner/A-3 only published a news item regarding a complaint given by A-1 and A-2 against the respondent/complainant before the District Collector, Trichy. The news item only refers to the representation said to be given by A-1



and A-2. As stated earlier, to bring home an offence under Section 499 of the Indian Penal Code, it should be established that imputation has been made with intention, or knowledge, or having a reason to believe that such imputation will harm the reputation of the complainant. But, on a perusal of the complaint and other materials, absolutely, there is nothing to show that the petitioner has published the news item with the intention, or knowledge to harm the reputation of the complainant. The petitioner only published the representation said to have been given by A-1 and A-2 before the District Collector, Trichy. In the absence of any specific allegation that the above publication has been made with an intention, or knowledge to harm the reputation of the complainant, the petitioner cannot be charged either under Section 500 or 501 of the Indian Penal Code. In the above circumstances, I am of the considered opinion that no prima facie case is made out against the petitioner. Hence, the complaint filed against the petitioner in C.C.No.81 of 2012, pending on the file of the Judicial Magistrate Court, Musiri, Trichy District, is liable to be quashed and accordingly, it is quashed.

8. In fine, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

9. While appreciating the service rendered by Mr.V.Sasikumar, Legal Aid Counsel, appearing for the respondent, the Legal Services Committee, attached to the Madurai Bench of Madras High Court, is directed to pay the fees payable to him.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To
The Judicial Magistrate,
Musiri, Trichy District.

COPY TO:

The Secretary, Legal Aid Authority,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M. BINDRAN, Advocate (SR-84805[F] dated 03/09/2019)

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-84952[F] dated 03/09/2019)

Order made in
Crl.O.P.(MD).No.11561 of 2014
30.08.2019
(2/2)

SML

MS/16.09.2019/3P.5C

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