



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.O.P. (MD) .No.12459 of 2014

and

M.P. (MD) No.1 of 2014

R.N.Murugan,
Editor, Printer and Publisher,
Dinakaran Daily,
Dinakaran Press,
No.126/4, South Bypass Road,
Vannarapettai,
Tirunelveli-627 003.

: Petitioner/Accused No.2

Versus

1.M.Inbam : 1st Respondent/Complainant

2.Balagan : 2nd Respondent/1st Respondent

Prayer: Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to C.C.No.281 of 2013 on the file of the learned Judicial Magistrate, Tenkasi, Tirunelveli District and quash the same.

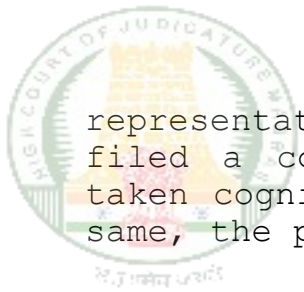
For Petitioner : Mr.V.Karthikeyan,
For Mr.J.Ravindran
For Respondent No.1 : Mr.B.Anandan
For Respondent No.2 : No Appearance

O R D E R

This petition has been filed to quash the criminal proceedings in C.C.No.281 of 2013 on the file of the learned Judicial Magistrate, Tenkasi, Tirunelveli District.

2. The petitioner is the second accused and the charge against him is for an offence under Section 500 of the Indian Penal Code. To quash the same, the present petition has been filed.

3. The case of the first respondent/complainant is that, the petitioner is the Editor and Publisher of Dinakaran Tamil Daily at Tirunelveli. On 16.10.2012, the petitioner/A-2 published a defamatory statement against the complainant. The above statement related to a representation said to have been given by A-1/the second respondent herein against the complainant before the District Collector, Tirunelveli. Alleging that, publication of that



representation harmed the reputation of the complainant, he has filed a complaint, and the learned Judicial Magistrate has also taken cognizance of the offence and issued summons. Challenging the same, the present petition has been filed.

4. The learned counsel appearing for the petitioner would contend that, the petitioner only published the representation given by A-1 to the District Collector, Tirunelveli against the complainant. It is a true and he published in good faith. Even, in the complaint filed by the first respondent, absolutely, there is no averment that the above publication has been made with an intention, to harm the reputation of the complainant and in the absence of any such allegation, the petitioner/A-2 cannot be made liable for the offence under Section 500 of the Indian Penal Code.

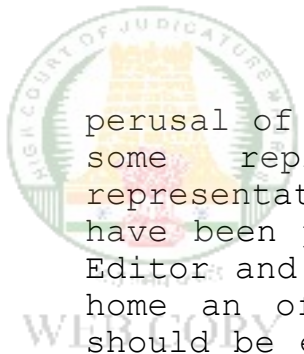
5. Per contra, the learned counsel appearing for the first respondent would contend that the petitioner has deliberately published the representation said to have been given by A-1 to the District Collector, Tirunelveli, which harmed the reputation of the complainant. The petitioner herein, being Editor and Publisher of the newspaper, has full knowledge that the publication would harm the reputation of the complainant and with an intention, he made publication, which squarely attracts the offence under Section 500 of the Indian Penal Code

6. I have considered the rival submissions and also perused the records carefully.

7. 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."

8. 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, from the



perusal of records, it could be seen that A-1 in this case has given some representation against the complainant. Giving of representation is not disputed. The contents of the representation have been published in the newspaper, for which, the petitioner is Editor and Publisher at Tirunelveli. 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 before the District Collector, Tirunelveli. 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 under Section 500 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/A-2. Hence, the complaint filed against the petitioner/A-2 in C.C.No.281 of 2013, pending on the file of the learned Judicial Magistrate, Tenkasi, Tirunelveli District, is liable to be quashed and accordingly, it is quashed.

9. In fine, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Judicial Magistrate,
Tenkasi,
Tirunelveli District.

+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-74560[F] dated 10/07/2019)

+1 CC to M/s.B.ANANDAN, Advocate (SR-74816[F] dated 11/07/2019)

Order made in
Crl.O.P. (MD) .No.12459 of 2014

tsg/sml

JM/12.09.2019/3P/4C

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