



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 18/09/2019

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.17098 of 2014 and
M.P.(MD)Nos.1 & 2 of 2014

Manojkumar Sonthalia,
S/o. Shyam Sundar Sonthalia, No.43,
Haring Ton Road, Chennai.

... Petitioner/Accused No.1

Vs

S.R. Jangid,
S/o.D.R. Jangid, Chief Vigilance
Officer, Madurai Region, State
Transport Corporation, Nagercoil.

... Respondent/Complainant

For Petitioner : Mr.V.Gopinath,
Senior Counsel,
for Mr.P.Andiraj, Advocate.
For Respondent : Mr.R.Senthil Kumar

PRAYER :-

This Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.58 of 2014 pending on the file of the Judicial Magistrate No.I, Nagercoil and quash the proceedings.

ORDER : The Court made the following order :-

The respondent herein was a serving officer in Indian Police service. During the relevant time, he felt aggrieved by the offending publication which was made in "Dinamani" issue dated 04.04.2013 and 02.05.2013. He filed a private complaint under Section 200 of Cr.P.C. r/w. Section 500 of Cr.P.C. before the Judicial Magistrate No.I, Nagercoil. As many as four persons were shown as accused in the said case. The petitioner herein was arrayed as the first accused. The cognizance of the offence was taken and summons were issued to the accused. To quash the same, this Criminal Original petition has been filed.



2. Heard the learned Senior counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. It is not in dispute that "Dinamani" which carried the offending publication is being run by the Express Publications (Madurai) Ltd., Chennai-600 058. It is also not in dispute that Thiru.K.Vaidiyanathan is the Editor of the said daily. Thiru.R.K.Jhunjhunwala is the Printer and publisher. The petitioner herein who is shown as the first accused is only the Director of the Company which is running "Dinamani".

4. I carefully went through the averments set out in the impugned private complaint. The only allegation that is made against the petitioner is that on his instruction the publication was made. The complainant had examined himself. In the list of witnesses, including the complainant, five other witnesses have been shown. Apart from the complainant, the other witnesses only speak about the fact that they have read the offending publication and that as a result, the complainant went down in their esteem. There is absolutely no material to indicate that the offending publication came to be issued at the instance of the petitioner herein. There is zero material to sustain the charge against the petitioner. Since there is no material to fasten penal liability on the petitioner herein, the continuance of the impugned proceedings as far as the petitioner is concerned would be an abuse of legal process.

5. That apart as pointed out by the learned senior counsel, the petitioner is residing at Chennai. He is obviously residing outside the territorial limits of Judicial Magistrate No.I, Nagercoil. Therefore, as held by the Hon'ble Supreme Court in the decision reported in (2013) 1 L.W.(Crl.)241 (National Bank of Oman V. Barakara Abdul Aziz and another), enquiry under Section 202 of Cr.P.C. ought to have been conducted. Of course this aspect of the matter is highlighted only to show that there was no application of mind before taking cognizance of the complaint.

6. In this view of the matter, the impugned proceedings deserve to be quashed. It is accordingly quashed as far the petitioner is concerned. This Criminal Original petition stands allowed. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Ad-I)

// True Copy //

Sub Assistant Registrar(CS)

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TO

1. The Judicial Magistrate No.I,
Nagercoil.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.M.S.Suresh Kumar, SR.No.87810.

**ORDER
IN
CRL OP(MD) No.17098 of 2014 and
M.P. (MD) Nos.1 & 2 of 2014
Date : 18/09/2019**

CS(10.10.2019) 3P 4C