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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P. (MD)No.11951 of 2015

and

M.P. (MD)Nos.1 and 2 of 2015

1. M.Manoharan
2. Arudselvi

... Petitioners/Accused Nos.1 & 2

Vs.

Ma.Vetrivel

... Respondent/Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to S.T.C.No.244 of 2013 on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.Karthikeya Venkitachalapathy

For Respondent : Mr.C.Jegannathan

O R D E R

The petitioners herein and the respondent are the sons and the daughters of Late.Manimuthusamy. It is seen that there is a family trust in his name and dispute has arisen between the second petitioner Arudselvi and the respondent Vetrivel. The second petitioner lodged a complaint before the Inspector of Police, Woraiyur police station on 29.06.2012. Thereupon, the said police authority summoned the respondent herein. Enquiry was conducted. The respondent had given an undertaking before the police. Recording the same, the case was closed. Thereafter the respondent issued a legal notice dated 08.08.2012 and followed the same by filing the impugned private complaint for defamation. The learned Judicial Magistrate took cognizance of the complaint and issued summons to the petitioners herein. To quash the same, the criminal original petition has been filed.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the complainant submitted that the petitioners have seriously damaged the reputation of the respondent by lodging the false complaint and that therefore, the respondent was justified in launching the impugned private complaint and that this Court will not be justified in invoking the inherent



powers of this Court. I am not persuaded by the objections of the learned counsel appearing for the respondent. As rightly pointed out by the learned counsel appearing for the petitioners, the case on hand will fall within the Eighth Exception to Section 499 of I.P.C which reads as under:-

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"Eighth Exception: Accusation preferred in good faith to authorised person

It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation."

4. In this case, the second petitioner has only lodged a complaint before the jurisdictional police authority. The case was closed by referring the undertaking of the respondent. This indicates that the complaint was lodged in good faith. Otherwise, the question of good faith would be a question of fact. In this case, the materials enclosed in the typed set of papers would clearly show that the accusation by the second petitioner against the respondent was preferred in good faith. It is not in dispute that no First Information Report was registered by the respondent. There was also no causing of paper publication. Except knocking the doors of the jurisdictional police, the second petitioner has not done anything else.

5. Under these circumstances, I am of the view that the continuance of the impugned prosecution can only be construed as an abuse of legal process and quashing the same, would secure the ends of justice. The impugned private complaint stands quashed. The criminal original petition stands allowed. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

pmu

To

The Judicial Magistrate No.IV, Tiruchirappalli.



The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-93866[F] dated 23/10/2019)

+1 CC to Mr.M. KARTHIKEYA VENKITACHALAPATH, Advocate (SR-93972[F] dated 23/10/2019)

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VB(28.01.2020) 3P 6C