



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P (MD)No.22886 of 2015

and

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

G.Subramanian

... Petitioner

Vs

C.Moiyar

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.292 of 2013 pending before the learned Judicial Magistrate, Karaikudi, Sivagangai District and quash the same.

For Petitioner : Mr.S.Karthik

For Respondent : Mr.R.Sundarsrinivasan

ORDER

The petitioner is facing trial in C.C.No.292 of 2013 on the file of the Judicial Magistrate, Karaikudi. It is a private complaint instituted by the respondent herein for the offences under Sections 499 and 500 of IPC r/w Section 200 of Cr.P.C.

2.The respondent was a councillor during the relevant point of time. The petitioner had lodged a complaint before the Chairman of Municipality alleging that the respondent was demanding bribe amount from the builders. That furnished the cause of action for maintaining the impugned complaint.

3.The learned counsel appearing for the petitioner/accused submitted that the petitioner has only lodged a complaint in good faith to an authorised person and therefore, he falls within the exception to Section 499 of IPC.

4.I am unable to agree with the petitioner's contention that this is good enough ground for quashing the impugned proceedings.



5.As rightly pointed out by the learned counsel appearing for the complainant / respondent, if the defence of the petitioner/accused is that the accusation was preferred in good faith, that is a factual aspect and the same will have to be necessarily established only before the Court below in a regular trial. It is not a ground for quashing the proceedings by invoking the inherent powers of this Court. Therefore, leaving all the contentions and the defences of the petitioner, the criminal original petition stands dismissed.

6.However, taking note of the fact that it is only a private complaint, the personal appearance of the petitioner is dispensed with. The Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charge, to examination under Section 313 of Cr.P.C., and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by his counsel. If the petitioner's counsel is also absent, the benefit of dispensing the personal appearance of the petitioner will stand automatically vacated. It is made clear that this Court has not pronounced anything on the merits of the matter. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

To

The Judicial Magistrate, Karaikudi, Sivagangai District.

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-103872[F] dated 06/12/2019)

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-104580[F] dated 12/12/2019)

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10.12.2019

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SDS (03.06.2020) 2P-4C

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