



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.4643 of 2015

and

MP(MD)Nos.1 & 2 of 2015

1.Kannan

2.Satheesh Kumar

3.Jeyapandi

4.Nithyanantham

... Petitioners / Accused 1 to 4

Vs.

Mathavarajan

... Respondent / Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the criminal proceedings pending in S.T.C No.168 of 2015 on the file of the learned Judicial Magistrate, Nilakkottai and quash the same.

For Petitioners : Mr.N.Dilipkumar

For Respondent : Mr.J.Bharathan for Mr.T.R.Jeyapalam

ORDER

One Narayanan and two others filed a suit in a representative capacity before the District Munsif Court, Nilakkottai. Paper publication was made. The petitioners herein are third parties to the said suit. However, they were entitled to lodge their objections questioning the locus standi of the plaintiffs to file a suit in a representative capacity. In their objections, the petitioners herein had stated that the respondent herein namely Mathavarajan who is the son of the first plaintiff and the brother of the second plaintiff had engineered the filing of the suit. This was construed as a defamatory imputation leading to filing of the impugned private complaint. That apart, the petitioners herein are said to have bad-mouthed the complainant before the customers who have come to purchase articles in the provision store run by the petitioners. To quash the impugned private complaint, this petition has been filed.

<https://hcservices.courts.gov.in/hcservices/>
2. The learned counsel appearing for the complainant would contend that there are prima facie materials in the complaint which attract the offence under Section 500 of IPC. He therefore



submitted that the petitioners should establish their defence only in a regular trial and should not short circuit the process by invoking the inherent powers of this Court. Even according to the complainant, the witnesses namely Rajendran, Jesudhass Kamaraj and Chandiran came to the complainant and asked him whether he is submitting false complainants/petitions against the management of Nadar Uravinmurai. It is not in dispute that there is a civil dispute pending between the parties in the matter of management of Nilakkottai Nadar Uravinmurai with regard to the running of the educational institutions.

3.The clear stand of the petitioners herein is that the complainant has been sending petitions to the various authorities and that they are completely lacking in substance. In my view, the petitioners are very much entitled to take such a stand before the civil court. The civil court will have to finally adjudicate the rival claims. Merely because the petitioners herein have taken such stand in the civil suit in question, the impugned complaint has been instituted. The Hon'ble Supreme Court in the decision reported in **1992 Supp (1) SCC 335 (State of Haryana vs. Bhajan Lal)** held that where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, then the proceedings can be quashed. This Court is of the view that the complaint has been lodged more as a counter blast to the stand taken by the petitioners in the civil suit in question.

4.The impugned prosecution is accordingly quashed. This criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)

Skm
To

1.The Judicial Magistrate, Nilakottai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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and

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