



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.07.2019
PRONOUNCED ON : 30.08.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.(MD).No.4144 of 2017

and

CrI.M.P.(MD)Nos.3012 and 3013 of 2017 and 1380 of 2018

Ravichandran : Petitioner/ Sole Accused

Vs.

S.K.Ramanathan : Respondent/ Complainant

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in C.C.No.88 of 2016 on the file of the learned Judicial Magistrate No.I, Thanjavur and quash the same.

For Petitioner : Mr.A.Arun Prasad
For Respondent : Mr.V.S.Kumaraguru

ORDER

This petition has been filed to quash the private complaint lodged by the complainant / respondent in C.C.No.88 of 2016.

2. The petitioner is the sole accused in the above said case for the offence under Sections 500 and 501 IPC based on the complaint given by the respondent herein. The respondent / complainant is a member of one Tamil Nadu Elementary School Teachers Federation the petitioner / accused is the District Secretary of the Federation Thanjavur District. The complainant / respondent opposed various activities of the accused / petitioner, in the federation and he has filed various complaints against the accused, and a criminal case in Crime No.24 of 2016 is also also pending in this regard.

3. According to the respondent / complainant, on 08.07.2016, the petitioner / accused, printed and published pamphlets and wall posters stating that an agitation will be conducted, for to taking departmental action against the complainant and thereby defamed respondent / complainant. In the circumstances, he has filed the private complaint on the file of the learned Judicial Magistrate No.I, Thanjavur, who has taken cognizance of the offence, and issued



summons to the petitioner. Now challenging the same present quash petition has been filed.

4. The learned counsel for the petitioner would contend that the petitioner did not print and publish any pamphlets or wall posters against the respondent / complainant. It is only the federation namely, the Tamil Nadu Elementary School Teachers Federation, Thanjavur District has issued the pamphlets to conduct an agitation to take action against the complaint / respondent for his anti social activities. The agitation was presided over by the State President and Treasurer of the Federation and so many other Office Bearers have also participated. The petitioner was one of the participant in the agitation and he has not published any defamatory statements against the respondent / complainant. That apart on the very same allegation, the complainant already filed a suit against the petitioner herein claiming damage for a sum Rs.5,00,000/- for damaging his reputation, in O.S.No.308 of 2018 on the file of the Principal Sub Court, Tanjore and the same is pending, and the petitioner cannot maintain the criminal complaint.

5. Per contra, the learned counsel appearing for the respondent vehemently contended that, the petitioner has published a pamphlet and also wall posters with an intention and knowledge, to defame the petitioner and conducted agitation against him, which clearly constitute an offence under Section 499 IPC punishable under Section 500 IPC. Pamphlets issued by the petitioner clearly reveals that the petitioner intentionally made imputation, thereby defamed the petitioner. Considering all the materials available on record, the learned Judicial Magistrate taken cognizance of the offence and there is no reason to quash it. That apart the respondent's suit is only for damages, which no way bars the petitioner from filing a criminal complaint.

6. I have considered the rival submissions made on either side and perused the records carefully.

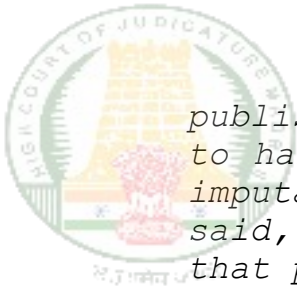
7. The allegation in the instant case is that the petitioner has published a pamphlet and also affixed a wall poster framing the petitioner as an anti social element, and conducted agitation to take departmental action against the complainant / respondent. That imputation has been made with an intention to harm the reputation of the petitioner.

8. Section 499 of the Indian Penal Code defines defamation, and it contains 10 Exceptions and 4 Explanations. The relevant portion reads as follows:-

" 499. Defamation –

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or

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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 expected, to defame that person."

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9. To constitute an offence of defamation, it requires a person to make some imputation concerning any other person. Such imputation must be made either 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. Imputation could be by words, either spoken or written or by making signs or visible representations. Imputation could be either made or published. The essence of publication is the communication of defamatory imputation to persons other than the persons against whom the imputation is made.

10. A perusal of the pamphlets alleged to have been issued by the petitioner, it could be seen that the pamphlet has been issued by the Office Bearers of the Tamil Nadu Ele School Teachers Federation. The above pamphlets has been issued regarding an agitation being conducted by the federation against the complainant / respondent, condemning his illegal activities and to take departmental action against him. The said agitation was presided by one Chandran, State President and one Jeevanantham, Treasurer and so many office bearers were also participated in the agitation. The petitioner was one of the participant in the above said agitation and the pamphlet was not issued by the petitioner herein.

11. In the above circumstances, the allegation made in the complaint that the petitioner has published the pamphlet is totally incorrect, and the allegations made in the pamphlet was not made by the accused but only by the above said Federation. Hence, it cannot be held that the petitioner made any imputation, which harms the reputation of the petitioner. In my considered view no *prima facie* offence is made out against the petitioner and hence, the criminal complaint filed against the petitioner is liable to be quashed. Accordingly, C.C.No.88 of 2016 pending on the file of the learned Judicial Magistrate No.I, Thanjavur is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar



To
The Judicial Magistrate No.I,
Thanjavur.

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