



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.07.2019
PRONOUNCED ON : 30.08.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.(MD).No.4145 of 2017

and

CrI.M.P.(MD)Nos.3014, 3015 of 2017 and 1381 of 2018

Ravichandran : Petitioner

Vs.

S.K.Ramanathan : Respondent

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in S.T.C.No.10 of 2016 on the file of the learned Judicial Magistrate No.I, Thanjavur and quash the same.

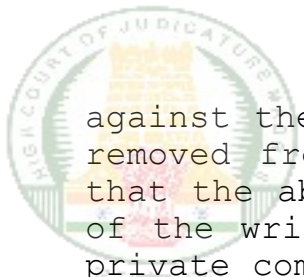
For Petitioner : Mr.A.Arun Prasad
For Respondent : Mr.V.S.Kumaraguru

ORDER

This petition has been filed to quash the private complaint lodged by the complainant / respondent in S.T.C.No.10 of 2016.

2. The petitioner is the sole accused in the above said case registered for the offence under Sections 199, 200, 500 and 501 IPC based on the complaint given by the respondent herein before the learned Judicial Magistrate No.I, Thanjavur under Section 200 Cr.P.C.. The respondent / complainant is a member of one, Tamil Nadu Elementary School Teachers Federation, the petitioner / accused is the District Secretary of the Federation in Thanjavur District. The complainant / respondent opposed various activities of the accused / petitioner in the federation and he has also filed complaint against the accused and criminal case in Crime No.24 of 2016 is also also pending in this regard.

3. Earlier alleging that the petitioner / accused has purchased a house site and also constructed a house without getting permission from the department, and also purchased new house, the respondent / complainant, has sought for some information under the Right to Information Act. Challenging the same, the petitioner / accused has filed a writ petition before this Court in W.P.(MD)No.6888 of 2015, wherein the petitioner / accused made some defamatory remarks



against the respondent / complainant as if the complainant has been removed from the Federation for his illegal activities. Alleging that the above said averment made in the affidavit filed in support of the writ petition harmed the reputation of the complainant, the private complaint has been filed and the learned Judicial Magistrate also taken cognizance of the offence and issued summons to the petitioner. Now, challenging the same the present petition has been filed.

4. The learned counsel for the petitioner would submit that the allegations made in the affidavit filed in support of the writ petition in no way caused damage to the reputation of the petitioner. At the time of filing the complaint, the said writ petition is pending and the matter is subjudiced. Hence, the present criminal complaint alleging defamation is not maintainable.

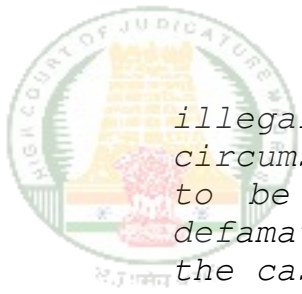
5. Per contra, the learned counsel for the respondent would submit that the petitioner has filed an affidavit before this Court alleging that the respondent / complainant has been removed from the Federation for his illegal activities, which impaired the reputation of the petitioner as it is not true, in the above said circumstances the present complaint has been filed.

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

7. The private complaint has been filed on the ground that the the petitioner has made some averments in the affidavit filed in support of the writ petition filed by the petitioner, against the complainant. Admittedly, at the time of filing of the complaint, the writ petition is pending and yet to be disposed of, it is subjudice. Whether the averments made in the agitation are true or not could be considered only after the disposal of the writ petition. Pending the writ petition the issue cannot be decided in a criminal proceedings.

8. In a similar circumstances, this Court in the case of Geetha Vs. A.K.Dhamodharan [CDJ 2011 MHC 3809], has held as follows:-

"Here, it is pertinent to note that admittedly, the case is subjudice and it is yet to be disposed of. It is confined to comments on cases which are decided by Court and not to those cases which are subjudice. It does not cover pending matters in Court. Pending matters are immune from comments. Considering the same, the respondent/husband herein has filed a divorce petition on the ground of adultery and cruelty. He also filed a suit and made an allegation against her wife, stating that she is leading adultery life with one Anju @ Prakash, who is none other than friend of her elder son. He also pleaded that it is an



illegal act and the case is yet to be disposed of. In such circumstances, whether the fact has been true or not is yet to be decided. Hence, whether the statement is true or defamatory and that has been decided after the disposal of the case. In such circumstances, I am of the opinion, as per the dictum of 1987 (3) SCC 34, pending matters are immune from comments made by the parties. The averments mentioned in the pleadings filed before the judicial forum is not coming under the purview of Section 499 I.P.C., wherein the proceedings are pending and subjudice. Hence, there is no prima facie case has been made out for taking cognizable offence under Sections 499, 500, 501 and 502 I.P.C. against the respondent/husband. So the learned Magistrate has considered all the aspects in proper perspective and came to the correct conclusion and hence, the criminal revision is dismissed as devoid of merits."

9. In the above circumstances, I am of the view that at this stage no prima facie case is made out against the petitioner. Hence, the private complaint lodged by the respondent / complainant is liable to be quashed. Accordingly, the complaint in S.T.C.No.10 of 2016, pending on the file of the learned Judicial Magistrate No.I, Thanajvur District is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Thanjavur.

CRL.O.P.(MD).No.4145 of 2017

Dated:30.08.2019

2/2

MS/17.09.2019/3P.2C