

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.26176 and 26177 of 2013

1.R.Elayaselvan
2.D.Prakash
3.C.N.Ramakrishnan
4.Paramasivan
5.Sakthivel
6.Sivasubramaniam
7.Jeeva Thangavel
8.M.P.Kasi
9.S.P.Sekar
10.J.D.R.Vadivel Raja
11.Bagath Singh
12.Manikandan
13.Elangovan
14.Mano Soundar
15.Arul Kumar
16.Selvakumar
17.Sethuraman
18.Aravind

... Petitioners in Crl.O.P.No.26176/2013

Nakkheeran Gopal ... Petitioner in Crl.O.P.No.26177/2013

Vs.

City Public Prosecutor
City Civil Court Buildings,
High Court Campus
Chennai 600 104.

... Respondent in both Crl.O.Ps.

Prayer in Crl.O.P.No.26176 of 2013:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.31 of 2013 on the file of the Principal District and Sessions Judge at Chennai and quash the same against the petitioners.

Prayer in Crl.O.P.No.26177 of 2013:

Petition filed under Section 482 of Cr.P.C., seeking to call for records and quash the proceedings in C.C.No.31 of 2013 on the file of Principal Sessions Court, Chennai against the petitioner's employee - reporters arrayed as accused 1 to 18 in the complaint in C.C.No.31 of 2013.

For Petitioners : Mr.P.T.Perumal
For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

C O M M O N O R D E R

Crl.O.P.No.26176 of 2013 has been filed seeking to call for the records in C.C.No.31 of 2013 on the file of the learned Principal District and Sessions Judge at Chennai and to quash the same as against the petitioners.

2. Crl.O.P.No.26177 of 2013 has been filed seeking to call for the records in C.C.No.31 of 2013 on the file of the Principal Sessions Court, Chennai and to quash the proceedings against the petitioner's employee - reporters arrayed as accused 1 to 18 in the complaint in C.C.No.31 of 2013.

3.Since the relief sought for in both the criminal original petitions are one and the same, they are disposed of by way of a common order.

4.The petitioners in Crl.O.P.No.26176 of 2013 are the Chief Reporters/ Reporters of the Tamil Bi-Weekly 'Nakkheeran' and they are arrayed as A1 to A18 in the complaint in C.C.No.31 of 2013. They are residing in various places throughout Tamil Nadu and all of them are the employees of M/s.Nakkheeran Publication at various places in Tamil Nadu.

5.The petitioner in Crl.O.P.No.26177 of 2013 is the Editor, Printer and Publisher of the Tamil Bi-Weekly 'Nakkheeran' and is arrayed as A19 in the complaint in C.C.No.31 of 2013 and has filed the

criminal original petition seeking to quash the proceedings in C.C.No.31 of 2013 as against A1 to A18/ the petitioners in Crl.O.P.No.26176 of 2013.

6.The brief facts of the case is that Nakkheeran Bi-Weekly Magazine dated 3-6 August, 2013, carried an article in page No.40-42, titled as 'Kl';fpa eph;thfk;! ke;jphpnah eoifa[ld; Fk;khsk;;' and in the end of the article it has been recorded by the publisher that the article was conceived out of the news collected by 'our Reporters'. Immediately after the article was published, the respondent was accorded sanction to prosecute 20 persons including the petitioners under Section 199 (2) of Cr.P.C. Vide G.O.Ms.No.913 dated 29.08.2013 issued by the Public Department. The respondent/ complainant based on the said

Government Order filed a criminal case in C.C.No.31 of 2013 before the learned Principal Sessions Judge, Chennai for prosecuting 20 accused for the alleged offences under Sections 500 and 501 r/w. 109 of I.P.C. Hence, these petitions.

7.The learned counsel appearing for the petitioners would submit that the petitioners in CrI.O.P.No.26176 of 2013/ A1 to A18 are not

responsible for publication of the news item. He would further submit that A19 and A20 in the complaint in C.C.No.31 of 2013 are ready to face the trial.

8.The learned counsel appearing for the petitioners would further submit that the appearance of A19 and A20 namely, Nakheeran Gopal and A.Kamaraj respectively, before the Trial Court may be dispensed with for the present and would further submit that they are ready to appear as and when necessary arise for completion of the trial. Accordingly, he pray for allowing these criminal original petitions.

9.The learned Additional Public Prosecutor appearing for the respondent would submit that the necessary ingredients required for the offence under Sections 500 and 501 r/w. 109 of I.P.C. was established. He would further submit that only after perusing the news item, the Government accorded sanction for prosecuting 20 persons and all the issues are triable issues which cannot be decided in the petition filed under Section 482 of Cr.P.C. Accordingly, he prayed for dismissal of the criminal original petitions.

10.Heard the submissions made on either side and perused the materials available on record.

11.In the complaint there is no specific allegation made against the accused. Simply in paragraph nos.2 and 13 of the complaint in C.C.No.31 of 2013, the respondent has made allegation against the accused as if they have made false and malicious statements defaming the Hon'ble Minister for Revenue during the relevant period. However, now A19 and A20 namely, Nakheeran Gopal and A.Kamaraj respectively, are ready to face the trial.

12.Hence, I have no hesitation to allow these criminal original petitions in respect of A1 to A18. Considering the request made by the learned counsel appearing for the petitioners, this Court directs the learned Principal District and Sessions Judge at Chennai, to expedite the trial in C.C.No.31 of 2013 and complete the same as early as possible. The appearance of A19 namely, Nakheeran Gopal, before the Trial

Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of A19, for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary.

13. These criminal original petitions are accordingly allowed and the proceedings in C.C.No.31 of 2013 on the file of the learned Principal District and Sessions Judge at Chennai, is hereby quashed as against the petitioners in CrI.O.P.No.26176 of 2013/ A1 to A18. Consequently, connected miscellaneous petitions, if any, is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge
at Chennai.
2. The City Public Prosecutor
City Civil Court Buildings,
High Court Campus
Chennai 600 104.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.P.T.Perumal , Advocate SR.No. 12187

CrI.O.P.Nos.26176 and
26177 of 2013

A.SK(16/03/2020)

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