

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.07.2020
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos.1509 & 1679 of 2020
and Crl.MP.Nos. 922, 923, 1057 and 1058 of 2020

1. R.Krishnamurthy
Sub Editor,
Dinamalar Newspaper,
No.39, Whites Road,
Chennai - 600 014.

2. Dr.R.Lakshmipathy,
Managing Director,
Dinamalar Newspaper,
No.39, Whites Road,
Chennai. - 600 014.

3. L.Adimoolam,
Director,
Dinamalar Newspaper,
No.39, Whites Road,
Chennai. - 600 014.

... Petitioners in Crl.O.P.
No.1509 of 2020

1. R.Ramasubbu
News Editor,
Newspaper Printer,
Dinamalar Publications,
New Standard Press,
No.153, Bangalore Road,
Chenpakkam,
Vellore - 632 013.

2. R.R.Gopalji,
Newspaper Publisher,
Dinamalar Publications,
No.153, Bangalore Road,
Chenpakkam,
Vellore - 623 013.

...Petitioners in Crl.O.P.
No.1679 of 2020

Vs.

A.Nandhini,
D/o. G.Annamalai,
No.1116, New Street,
Nehru Nagar,
Saidapet, Arani,
Tiruvannamalai - 632 301.

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

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of criminal complaint in C.C.No.84 of 2019 on the file of the Judicial Magistrate, Arani and quash the same.

For Petitioners

in Crl.O.P.1509/2020 : Mr.S.Elambharathi

in Crl.O.P.1679/2020 : Mr.N.Ramesh

For Respondent

in both Crl.O.Ps. : Mr.K.Krishnan

COMMON ORDER

These petitions have been filed to quash the proceeding in C.C.No.84 of 2019 on the file of the Judicial Magistrate, Arani, thereby taken cognizance for the offences under Sections 499, 500, 501 and 502 of IPC, as against the petitioners.

2. The learned counsel appearing for the petitioners in both petitions would submit that the petitioners are arrayed as A1 to A5 on the complaint lodged by the respondent herein. The trial Court has taken cognizance for the offences punishable under Sections 499, 500, 501 and 502 of IPC alleging that the petitioners published news item thereby the statement is defamatory in nature. The first accused is the news editor, the second accused is the sub-editor, the third accused is the newspaper publisher, the fourth accused is the Managing director of edition, and the fifth accused is the printer and publisher of Dinamalar newspaper.

2.1. He further submitted that the petitioners published a news item in Dinamalar daily on 25.07.2017 on the basis of the FIR in Crime No.5 of 2019 dated 22.07.2019, on the complaint lodged by the respondent herein on the file of the All Women Police Station, Arani, Thiruvannamalai. In fact, the said FIR uploaded in the public website and it is a public document. The respondent claims that she was defamed by the publication of news item published by the petitioners herein. Further submitted that the ingredients for the offence of defamation are not at all attracted as against the petitioners and the news item published by them is true as it is nothing but verbatim reproduction of FIR registered on the complaint of the respondent. Therefore the entire news item is not a story and it being primarily a true report of the complaint lodged by the respondent herein and it attracts the first exemption under Section 499 of IPC.

2.2. He further submitted that there is absolutely no intention for the petitioners to publish the news items in no way lowers the respondent in the eyes of others and therefore, they had no intention to publish the news items to tarnish the name of the respondent in the public. Even then, the learned

Magistrate, without conducting any enquiry mechanically had taken cognizance for the above said offences. Therefore the entire proceedings is liable to be quashed and sought for quashment of the entire proceedings.

3. Per contra, the learned counsel appearing for the respondent would submit that there are specific allegations as against the petitioners and admittedly they published the news items only to tarnish the name of the respondent with false statements. Further all the points raised by the petitioners have to be considered only during the trial before the trial Court and it cannot be considered here that too under Section 482 of Cr.P.C. Therefore, he sought for dismissal of the quash petition.

4. Heard Mr.S.Elambharathi, learned counsel appearing for the petitioners in CrI.O.P.1509 of 2020, Mr.N.Ramesh, learned counsel appearing for the petitioners in CrI.O.P.No.1679 of 2020 and Mr.K.Krishnan, learned counsel appearing for the respondent in both petitions.

5. There are totally five accused in C.C.No.84 of 2019 on the file of the learned Judicial Magistrate, Arani, in which the petitioners are arrayed as A1 to A5. All the petitioners are Editor, Sub-editor, Managing Editor, Printer and Publisher of Dinamalar Tamil daily. According to the respondent, the petitioners have published news items on 25.07.2019, thereby defaming the respondent among the public. It is seen from the news item that the petitioners have published the said news on the basis of the complaint lodged by the respondent as against her own husband and his family members before the Inspector of Police, All Women Police Station, Thiruvannamalai. On receipt of the said complaint the concerned Police official registered a case in Crime No.5 of 2019 for the offences under Sections 294(b), 498(A), 406, 323, 324, 354(C), 506(2) of IPC and Section 4 of Dowry Prohibition Act, 1961, as against her husband and other in-laws. The entire news items is nothing but verbatim reproduction of FIR registered in Crime No.5 of 2019 dated 22.07.2019. Once it is uploaded in the official website, it become public document. Therefore, the petitioners are not the authors of the allegations made in the complaint lodged by the respondent herein. Further the news items published only on the strength of FIR registered as against the accused persons viz., the husband and other family members of the respondent herein. Therefore it attracts the first exception of the offences under Section 499 of IPC. It is relevant to extract the exception of Section 499 of IPC

"First Exception -Imputation of truth which public good requires to be made or published.-It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it

is for the public good is a question of fact."

6. In this regard the learned counsel appearing for the petitioners relied upon the judgment reported in (2016) 9 SCC 473 in the case of Youth Bar Association of India Vs. Union of India in which, the Hon'ble Supreme Court of India held that the contents of FIR, irrespective of whether published in a newspaper as a news event or not, are in public domain. Once the Police itself, as per law declared by the Supreme Court is required to publish the FIR, one fails to see how the petitioners as editor/publisher of the newspaper can be proceeded against in an action for defamation for publishing the contents thereof. He also relied upon the judgment reported in (2011) 184 DLT 596 in the case of Vineet Jain Vs. NCT of Delhi in which, it was held that fair reporting pertaining to a matter of public concern, a news item containing statements of true facts emanating from a proper source i.e., police, is not actionable for the offence of criminal defamation; a fact pertaining to an FIR being registered as recorded in the FIR made public, was also held to be not amounting to a criminal defamation.

7. Therefore, the contents of FIR irrespective of whether published in a newspaper as a news event or not, are in public domain. It is not actionable for the offences of defamation. That apart, the petitioners are the Editor, Sub editor, Director, Printer and Publisher of the newspaper. Except those persons, who had no personal knowledge about the contents of alleged defamatory news item could be prosecuted for an action of defamation. In addition, it must also be averred in the complaint that such person had the intention to harm or had knowledge or reason to believe that the imputation will harm the reputation of the complainant.

8. On perusal of FIR clearly shows that only on the complaint lodged by the respondent herein, the Inspector of Police, All Women Police Station, Arani, Thiruvannamalai District registered a case in Crime No.5 of 2019 and whatever the allegations made by the respondent in the said FIR have been published by the petitioners in the Tamil Daily. Therefore, the fact of FIR being registered with the contents thereof has been published. The publication of the news item pertains to a matter of public interest and the publication is a true and a faithful report of a fact, as such the petitioners have not carried out any investigative journalism. Therefore the said proceedings is nothing but clear abuse of Court and it cannot be sustained as against the petitioners.

9. In view of the above discussion, both the Criminal Original petitions are allowed and the proceeding in C.C.No.84

of 2019 on the file of the Judicial Magistrate, Arani, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

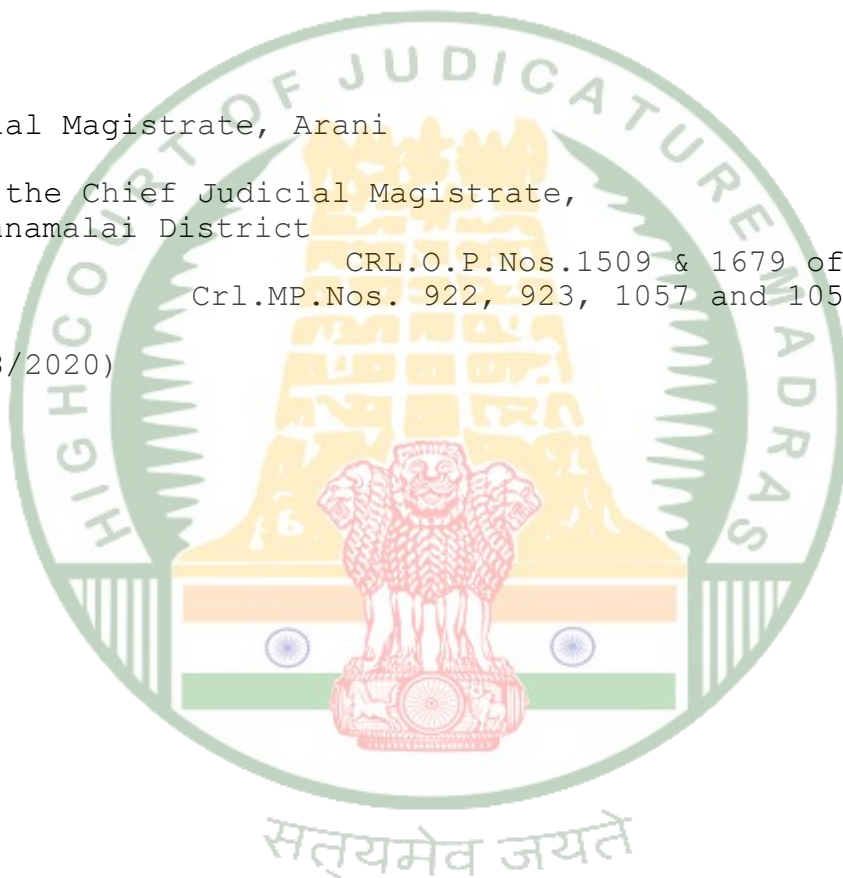
rts
To

The Judicial Magistrate, Arani

2.Do thro the Chief Judicial Magistrate,
Thiruvannamalai District

CRL.O.P.Nos.1509 & 1679 of 2020 and
Crl.MP.Nos. 922, 923, 1057 and 1058 of 2020

A.SK(26/08/2020)



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