

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.4802 of 2020
and Crl.MP.Nos.2754 & 2755 of 2020

Seeman

.. Petitioner/Accused A1

Vs.

City Public Prosecutor,
High Court Campus,
Chennai 600 104

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records in C.C.No.99 of 2019 on the file of the Principal Sessions Judge, Chennai and quash the same as illegal, arbitrary and abuse of process of law.

For Petitioner : Mr.S.Xavier Felix

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor.

O R D E R

This petition has been filed to quash the proceedings in C.C.No.99 of 2019 on the file of the Principal Sessions Judge, Chennai, thereby taken cognizance for the offences under Section 500 of IPC as against the petitioner and another.

2. The present complaint was lodged against the petitioner and another on the allegation that the petitioner had given a Press interview to news media channels alleging the Central Government and the Chief Minister of Tamil Nadu and the same was telecasted by the Sathiyam Television.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the Chief Co-ordinator of Naam Tamilar Katchi. He further submitted that as per the G.O.Ms.No.820 Public (Law and Order-H) Department dated 20.11.2019, the Government of Tamil Nadu accorded sanction to the City Public Prosecutor to lodge the complaint as against the petitioner and one, Mr.Shanmugasundaram, Chief News Editor of Sathiyam Television, Royapuram, Chennai based upon the letter forwarded by the Inspector of Police, Intelligence, SBCID vide

letter No.C.4.No.21133/C dated 29.07.2019, and in pursuance of the aforesaid Government Order, the present complaint has been lodged by the respondent against the petitioner.

4. He further submitted the Press statement made by the petitioner is not a defamatory interview but only a criticism which was made to create awareness amongst the public in the good faith which is in ordinarily decent and respectful language, and therefore the right of criticism cannot be atrophied by constant launching of criminal prosecution for defamation on each and every issue to silence the critics because when criticism in a vibrant democracy in this matter is crippled, the value of the democracy best defined as the "Government of the People, by the People, for the People" would lose cherished values. Further the present complaint has been lodged against the petitioner with a malafide intention with the view to curtail the freedom of speech and expression of the petitioner guaranteed under Article 19(1)(a) of the Indian Constitution due to political vendetta and as such the aforesaid press statement of the petitioner did not harm the reputation of the Hon'ble Chief Minister of Tamil Nadu. Hence he prayed to quash the proceedings against the petitioner.

5. Heard Mr.S.Xavier Felix, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent.

6. On perusal of the complaint, the petitioner had given a Press interview to news media stating allegations against the Central Government and the Hon'ble Chief Minister of Tamil Nadu, which was also telecasted by a television channel. Thereafter, in pursuant to G.O.Ms.No.820 Public (Law and Order-H) Department dated 20.11.2019, the Government of Tamil Nadu accorded sanction to the City Public Prosecutor to lodge the complaint as against the petitioner and one, Mr.Shanmugasundaram, Chief News Editor of Sathiyam Television, Royapuram, Chennai as per the letter forwarded by the Inspector of Police, Intelligence, SBCID vide letter No.C.4.No.21133/C dated 29.07.2019, and as such the present complaint has been lodged by the respondent against the petitioner.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of

the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in CrI.A.No.1572 of 2019 dated 17.10.2019 in the case of Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

9. Further the Hon'ble Supreme Court of India also held in the order dated 02.12.2019 in CrI.A.No.1817 of 2019 in the case of M.Jayanthi Vs. K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.
.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.99 of 2019 on the file of the Principal Sessions Judge, Chennai, and this petition is liable to be dismissed. When this Court is about to dismiss the petition, the learned counsel for the petitioner seeks permission of this Court to withdraw the petition.

11. Accordingly, this criminal original petition is dismissed as withdrawn. However, the trial court is directed to complete the trial within a period of twelve weeks from the date of receipt of copy of this Order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

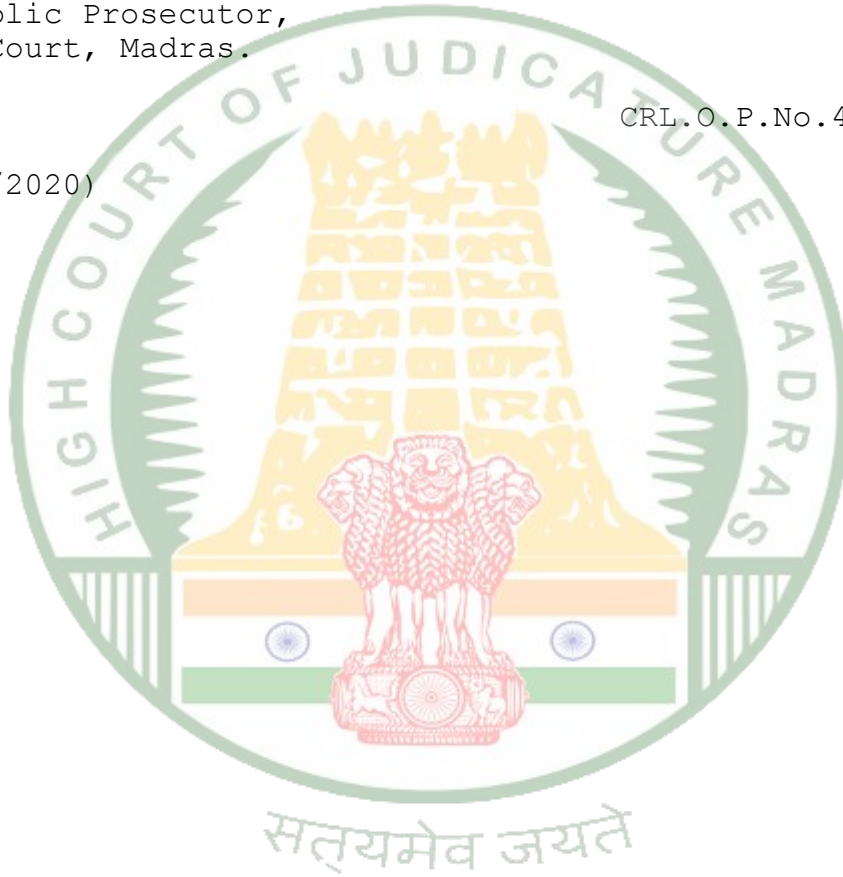
1.The Principal Sessions Judge,
Chennai

2.City Public Prosecutor,
High Court Campus,
Chennai 600 104

3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.4802 of 2020

SKS (CO)
RMP (06/10/2020)



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