

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.11.2020
Pronounced on : 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.11646 of 2019
and
Crl.M.P.No.6022 of 2019

N.Krishnamurthy,
S/o.Nagappan

... Petitioner/Complainant

versus

J.Latha,
W/o.Jeevanantham

...Respondent/Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the records in CRP No.23 of 2017 on the file of the learned Principal District and Sessions Judge, Vellore dated 20.12.2018 confirming the orders of the learned Judicial Magistrate No.I, Vellore, in Crl.M.P.No.597 of 2015 dated 02.08.2017 and set aside the same.

For Petitioner : Mr.S.Kamadevan

For Respondent : No Appearance

O R D E R

सत्यमेव जयते

This Criminal Original Petition has been filed by the petitioner seeking the relief to call for the records pertains to C.R.P. No.23 of 2017 on the file of the learned Principal District and Sessions Judge, Vellore dated 20.12.2018 confirming the orders of learned Judicial Magistrate No.I, Vellore, in Crl.M.P.No.597 of 2015 dated 02.08.2017 and set aside the same.

2. Heard the learned counsel appearing for the petitioner.

3. Despite of repeated adjournments, neither the respondent nor her counsel appeared before this Court for placing their submissions.

4. It is the grievance of the petitioner that without considering the case of the petitioner, the learned Principal District and Sessions Judge, Vellore, had dismissed the Criminal Revision Petition filed in C.R.P.No.23 of 2017, in which, the learned Judge has confirmed the order passed by the learned Judicial Magistrate No.I, Vellore in Crl.M.P.No.597 of 2015. The specific grievance redressed by the petitioner is that the learned Judicial Magistrate No.I, Vellore, without giving sufficient opportunity to examine the witnesses, who are cited in the complaint, closes the proceedings and dismissed the complaint.

5. Further the averments found in the petition discloses the fact that filing a suit in O.S.No.43 of 2013 on the file of the learned Subordinate Judge, Vellore, is not a bar to the petitioner for filing a private complaint against the respondent for the offences under Sections 499 and 500 of IPC. In otherwise, the petitioner is ready to show the defamatory letter written by the proposed accused before the trial Court.

6. Now, on considering the said averments with the relevant records, it shows that the petitioner herein is running Educational Institutions in various places of Tamil Nadu. The respondent being the known person to the petitioner approached the petitioner and asks some financial assistance. Since the same was refused by the petitioner, the respondent herein wrote a letter to the third party dated 20.12.2012 with false and baseless allegations. Due to the said act of the respondent, the petitioner's name and his firm was very much lowered in the society as well as in his business circle. In the said circumstances, after filing the suit for claiming damages, the petitioner herein filed a private complaint against the proposed accused for the offences under Sections 499 and 500 of IPC.

7. The learned Principal District and Sessions Judge, Vellore, had confirmed the order passed by the learned Judicial Magistrate No.I, Vellore, on two grounds, firstly, the learned Judge has held that the disputed letter alleged to have been written by the respondent was sent to one Ravi, further it was held due to the non-examination of the said Ravi, the petitioner has failed to show prima facie case. Secondly, it was held that

already the petitioner herein filed a suit for damages in O.S.No.43 of 2013 before the Sub Court, Vellore and the same is pending.

8. Now, on going through the validity of the order passed by the learned Principal District and Sessions Judge, Vellore, there is no doubt filing civil suit for claiming damages is not a bar in filing a private complaint under Section 200 Cr.P.C. against the respondent. In a case of ASHOKE KUMAR SARKAR vs. RADHA KANTA PANDEY reported in 1967 CrLJ 455 it was held as 'pendency of a criminal case for defamation is not a bar to a civil suit'. Therefore, the first ground now stated by the learned Principal District and Sessions Judge, Vellore for dismissing the Revision is not at all having any validity. Secondly, the grievance of the petitioner is that he has not given any opportunity to examine Ravi, who only received the letter, which contending the defamatory allegations.

9. In this regard, first of all, we have to point out that though the disputed letter was placed before the Courts below and the same has not been placed before this Court for verification. The petitioner in his typed set of papers had not enclosed the said letter, which shows that the petitioner herein filed this petition without understanding the nature of the petition filed by him. More than that, the averments found in the petition filed before the learned Judicial Magistrate No.I, the petitioner has not stated about the date and time, on which he had gained the knowledge about the disputed letter. In otherwise, the order passed by the Courts below made clear that the petitioner has not taken any steps to examine the said Ravi as a witness to the case of the petitioner. Therefore, prima facie without seeing the disputed letter alleged to have been written by the respondent, this Court cannot hold that the respondent sent a defamatory letter to one Ravi.

10. In otherwise, for the reason that the disputed letter was addressed to one Ravi, in the absence of the relationship between Ravi and the petitioner, the petitioner herein cannot be termed as an aggrieved person. In Macmillan Dictionary, the 'aggrieved party' is defined as 'a person or group of people that has suffered harm such as injury, financial loss, or damage to property'. Therefore, the petitioner first of all shall prove that he is a aggrieved party. Then only, the complainant is duty bound to compensate the aggrieved party for all their financial losses. But here is a case admittedly the disputed letter was not addressed to the petitioner and therefore, it cannot be termed that the petitioner is the

aggrieved party and therefore, he has no locus standi to file this complaint and hence, the order passed by the Court below did not warrant any interference.

11. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sri
To

1.The Principal District and Sessions Judge,
Vellore.

2.The Judicial Magistrate No.I,
Vellore.

+1cc to Mr.S.Kamadevan, Advocate Sr.36878

Crl.O.P.No.11646 of 2019
and
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