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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

CRL.O.P.Nos. 13509 and 13510 of 2016
and
CRL.MP.Nos. 6944 and 6945 of 2016

Siva. Chellapandiyan

..Petitioner
(in both Crl.O.Ps)

Versus

The District Public Prosecutor
Vellore District,
Vellore.

...Respondent
(in both Crl.O.Ps)

PRAYER in Crl.O.P.No.13509 of 2016: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, call for the records in C.C.No.3 of 2013, on the file of the Principal District and Sessions Judge, Vellore and quash the same.

PRAYER in Crl.O.P.No.13510 of 2016: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, call for the records in C.C.No.1 of 2013, on the file of the Principal District and Sessions Judge, Vellore and quash the same.

For Petitioner :Mr.R. Sankarasubbu
(in both Crl.O.Ps)

For Respondent :Mr.E.Rajthilak
(in both Crl.O.Ps) Government Advocate
(Criminal Side)

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings initiated against the petitioner for an offence punishable under Section 500 of IPC in C.C.Nos.1 & 3 of 2013 on the file of the Principal District and Sessions Judge, Vellore.



2. The complaint has been filed through the District Public Prosecutor under Section 199 (2) of Cr.P.C., r/w the relevant Government Orders.

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3. The learned counsel for the petitioner submitted that even if the allegations made in the complaint are taken as it is, the same does not constitute defamatory allegations with respect to the act or conduct of the then Chief Minister in discharge of her public functions and at the best it can only be treated as a personal defamation. Therefore, the learned counsel submitted that such a complaint cannot be maintained through the District Public Prosecutor and it does not satisfy the requirements under Section 199(2) of Cr.P.C. The learned counsel in order to substantiate his submissions relied upon the judgments of the Hon'ble Supreme Court in K.K.Mishra v. The State of Madhya Pradesh & Anr. reported in (2018) 2 LW Cr1.17 and R.Avudayappan v. Muthukaruppan Public Prosecutor District and Sessions Court, Tirunelveli District reported in (2018) 2 LW Cr1 24.

4. Per contra, the learned Government Advocate appearing on behalf of the respondent submitted that the petitioner has indulged in making wild allegations against the then Hon'ble Chief Minister and thereby have defamed her name in the eyes of the general public. The learned counsel submitted that the petitioner in the name of freedom of press cannot make such defamatory and derogatory allegations against the former Chief Minister and the petitioner will have to necessarily face the trial before the Court below and prove his innocence.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. The defamatory statements that were relied upon from the news item published by the magazine has been extracted in the complaint and for proper appreciation, the same is extracted hereunder: "

In the Cover Page as: The police are government rowdies who have come to suppress the people.....Two DSPs and 200 PCs were watching the spectacle with folded arms, (Ottu porukki parpanathi) the vote-picker Brahmin Jayalalitha was also watching this.....The vote-picker Jayalalitha has not visited the affected people in Dharmapuri. Will people be protected by such parpanathi Jayalalitha? If the names of caste-fanatics are sharpened for use against suppressed people. Will there be protection in the regime of Jayalalitha? The persons of



2. The Public Prosecutor
High Court,
Madras.

3. The District Public Prosecutor
Vellore District

CRL.O.P.Nos. 13509 and 13510 of 2016
and
CRL.MP.Nos. 6944 and 6945 of 2016

GSM(CO)
SP(19/07/2021)