



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.25277 of 2015
and M.P.No.1 of 2015

1.Dr.R.Krishnamurthy
2.Dr.R.Lakshmipathy

.. Petitioners/Accused

Vs.

The City Public Prosecutor
City Civil Court Buildings,
Chennai - 600 104.

.. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and to quash the proceedings in C.C.No.24 of 2015 pending on the file Principal District and Sessions Judge, Chennai.

For Petitioners .. Mr.S.Elambharathi

For Respondent .. Mr.E.Raj Thilak
Govt. Advocate (Cr1. Side)

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.24 of 2015 on the file of the Principal District and Sessions Court, Chennai and to quash the same.

2.Heard Mr.S.Elambharathi, learned counsel for the petitioners and Mr.E.Raj Thilak, Government Advocate (Criminal Side) on behalf of the respondent.

3.It is to be mentioned that the 1st petitioner had unfortunately expired pending the present Criminal Original Petition. This petition has been filed taking advantage of Section 482 Cr.P.C., seeking interference with further proceedings in C.C.No.24 of 2015 now pending on the file of the Principal Sessions Court, Chennai.



4.The main ground urged by Mr.S.Elambharathi, learned counsel for the petitioners is that the respondent / City Public Prosecutor cannot file a defamatory complaint, particularly when any report is not with respect to discharge of official duty. It is urged that the report in the instant case is not with respect to a discharge of official duty and therefore, the City Public Prosecutor cannot assume jurisdiction and taken up himself / herself to represent a public servant or the Government itself and launch a criminal proceedings against such report.

5.Mr.S.Elambharathi, learned counsel is strengthened by the judgment reported in (2018) 6 SCC 676, K.K.Mishra V. State of Madhya Pradesh and Another and also more importantly in a series of writ petitions in which a common order was passed by a learned Single Judge of this Court reported in 2020 SCC OnLine Mad 1023, N.Ram, Editor-in-Chief, Printer & Publisher "The Hindu" Kasturi & Sons Limited V. Union of India, Represented by its Secretary to Government, Ministry of Law and Company Affairs and Others, wherein the authority of the City Public Prosecutor came to be examined and the learned Single Judge of this Court stated that the City Public Prosecutor cannot launch prosecution with respect to any report which only gave information about the public servant and not with respect to discharge of official duty.

6.I am informed that the order in the said writ petitions had been stayed by the Division Bench. But in the meanwhile, I am also informed by Mr.E.Raj Thilak, learned Government Advocate (Criminal Side) that the Government is issuing Government orders withdrawing such prosecutions and it is also informed that the present C.C.No.24 of 2015 is also likely to be withdrawn.

7.But, at any rate, since the very authority of the respondent is being questioned, I would interfere with the further progress and thereby exercise the power under Section 482 of Cr.P.C., in the interest of justice and quash further proceedings in C.C.No.24 of 2015 now pending on the file of the Principal Sessions Court, Chennai. It is to be noted that charges against the 1st petitioner had naturally abated owing to his death. Therefore, the further progress of C.C.No.24 of 2015 is quashed with respect to the 2nd petitioner herein.

8.With the above observations, the Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar



smv

To

1.The City Public Prosecutor
City Civil Court Buildings,
Chennai-600 104.

2.Principal District and Sessions Judge,
Chennai.

+2ccs to Mr.S.Elambharathi, Advocate Sr No.46277

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and M.P.No.1 of 2015

KV (CO)
PR (23/09/2021)