

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.3120 of 2021

and

CrI.MP.Nos.1774 & 1776 of 2021

- 1.K.Ashokan, Son of Krishnamurthy
Publisher
- 2.S.Madhavan,
S/o.Subramanian,
Printer.
- 3.Ra.Kannan, Son of Raj
Editor
- 4.Pa.Thirumavelan, Son of Padigaram,
Reporter
"Ananda-Vikata' ...Petitioners/Accused

.Vs.

City Public Prosecutor
High Court Campus,
Chennai.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, call for the records in respect of C.C.No.8 of 2013, on the file of the Principal Sessions Judge, Chennai and quash the same as against the petitioners/accused.

For Petitioners : Mr.N.Ramesh

For Respondent : Mr.C.Raghavan
Government Advocate (CrI.Side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings initiated against the petitioners for an offence punishable under Section 500 and 501 IPC.

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

3.The learned counsel for the petitioners 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 City 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 petitioners have 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 petitioners in the name of freedom of press cannot make such defamatory and derogatory allegations against the former Chief Minister and the petitioners will have to necessarily face the trial before the Court below and prove their 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:

“சொந்தகங்களின் பிடியில்
“நத்தம் விஸ்வநாதனின் மருமகன் கண்ணனைப் பார்த்தால்
தான் காரியம் நடக்கும் என்பது திண்டுக்கல்லைக் கடந்துவிட்ட உண்மை”.

7.Section 199(2) of Cr.P.C., provides a special procedure with regard to the initiation of proceedings for prosecution for defamation of a public servant. However, to maintain such a prosecution, the allegations must directly touch upon acts or conduct of the concerned servant in discharge of his or her public function. If the defamatory statement is personal in nature, this special procedure will not apply and it is only the concerned person who has to file the complaint in

his or her individual capacity. The law on this issue is well settled and the learned counsel for the petitioners has rightly relied upon the judgments mentioned supra.

8.The allegations based on which the criminal complaint was filed and which has been extracted supra, does not in any way touch upon the conduct of the aggrieved person in discharge of her public function. The allegation even if taken as it is, only can be construed as a personal defamation. Therefore, the complaint that was filed by the City Public Prosecutor cannot be maintained since it does not satisfy the requirements of Section 199(2) of Cr.P.C. It is seen that this complaint is pending from the year 2013 onwards without any progress. No useful purpose will be served by keeping this complaint pending.

9.In the result, this Court has absolutely no hesitation to quash the proceedings in C.C.No.8 of 2013, on the file of the Principal Sessions Judge, Chennai and accordingly, the same is quashed.

10.Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sessions Judge,
Chennai.

2.The City Public Prosecutor
High Court Campus,
Chennai.

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and
Crl.MP.Nos.1774 & 1776 of 2021

SKY (CO)
RMP (17/03/2021)