



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	17.11.2021
PRONOUNCED ON	01.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRIMINAL REVISION CASE NO.925 OF 2017

1.Gayathri
2.Girija
3.Elankumaran
4.Srinivasan

.. Petitioners/
Defacto Complainants

Vs.

1.Selvaraj
2.J.Geetha

.. Respondents/
Accused

PRAYER:

This Criminal revision Petition filed under Section 397 and 401 of Cr.P.C., against the order passed by the learned Chief Judicial Magistrate, Erode in CMP.No.1014/2017 on 12.06.2017.

For Petitioners : Mr.S.Veeraraghavan

For Respondents : Mr.J.James

ORDER

This Criminal Revision Petition has been preferred to set aside the order of the learned Chief Judicial Magistrate, Erode, dated 12.06.2017 passed in C.M.P.No.1014/2017.

2. The petitioners/defacto complainants have filed a private complaint before the learned Chief Judicial Magistrate under Sec.200 Cr.P.C for punishing the accused for the offence under Sec.500 IPC.

3.The short facts of the complaint:



It is alleged that the petitioners were doing garment business. The accused, are the distant relatives of the 1st petitioner and they used to visit the house of the complainant and were in friendly terms. During such interactions, at the instance of the 2nd accused, the 1st petitioner got a loan of Rs.3,33,000/- from her and was paying it in intervals with a minimum interest. However the 1st respondent grabbed a sum of Rs. 9,83,100/- by charging exorbitant interest. In due course, the accused had also obtained blank cheques from the petitioners and misused it subsequently.

3.1. Despite the loan amount was repaid, the accused gave a police complaint on 24.06.2016 by stating that the petitioners had cheated them and defrauded a sum of Rs. 10,69,000/-. On due enquiry, the complaint was closed on 25.06.2016; however a news was published on 25.06.2016 in a daily newspaper 'Thina Thanthi' that the petitioners have cheated the accused. The above news was a scandalised statement given against the petitioners just to damage their reputation in the eyes of the public. The defamatory statements are given in order to harass the petitioners.

4. The learned Chief Judicial Magistrate had dismissed the complaint under Section 203 of Cr.P.C. Aggrieved over that the petitioners have filed this present Criminal Revision Petition.

5. Heard Mr.S.Veeraraghavan, learned counsel for the petitioners and Mr.J.James, learned counsel for the respondents.

6. The learned Chief Judicial Magistrate, Erode, has chosen to dismiss the petition by reasoning out that the news published in the Thinthanthi daily dated 25.06.2016 was reported about the complaint given to police and no offence under Sec.500 IPC can be taken as made out against the respondent/accused.

7. The learned counsel for the petitioners submitted that the news was published only at the instance of the accused just in order to defame the petitioners, despite the petitioners did not owe any money; the news item would itself serve as a prima facie material to take cognizance against the accused for the offence under Sec.500 IPC and the learned Chief Judicial Magistrate ought not to have dismissed the petition under Sec.203 Cr.P.C.



8. The fact that the petitioners and the respondents involved in certain business transaction between themselves at some point of time is not in dispute. During that occasion they had money transactions between themselves. It is alleged by the respondent/accused that the petitioners owed money to them and a complaint was given to the District Crime Branch, Erode. Though the complaint was given for cheating, the complaint was treated as a petition and a preliminary enquiry was made. The said enquiry was completed on the next day (25.06.2016) and it has been recorded that the petitioners did not owe any money to the respondent /accused and there is no ground for registering a case for cheating or fraud.

9. It is to be noted that a news item can be published in a daily newspaper on 25.06.2016 only from the news collected by the reporter on the previous day itself, because Daily Thanthi is a morning daily. As on 24.06.2016, the complaint was pending and the action initiated was not completed. Based on the above said complaint, a news was published in the Daily Thanthi on the next day.

10. A Reading of the news item would show that it has just reiterated the contents of the complaint. From the above news it cannot be stated that this information was given to the reporters only by the respondent /accused. It would have been good if the reporters had verified the status of the complaint and its veracity before publishing. The petitioners have not chosen to implead the Editor and publishers who had published the news without verifying its correctness. Whatever may be the case it is seen that the news item contains only the allegations made in the complaint.

11. It might be true that the accused would have felt happy for seeing their complaint published and the petitioners got embarrassed. But that alone cannot be a prima facie material to charge the accused for the offence of defamation. The materials placed before the court should show that the respondents/accused had actively played a role to defame the petitioner by publishing defamatory content against the petitioner. Since the news item just contained the contents of the complaint, the learned Chief Judicial Magistrate had chosen to reject it by recording a finding that it cannot serve as sufficient material to make out a case of defamation against the accused. Since the Courts below had dismissed the complaint for want of requirement of prima facie materials for taking cognizance, I do not find any reason for interference.



In the result this Criminal Revision Case stands dismissed and the order of the learned Chief Judicial Magistrate, Erode, dated 12.06.2017 passed in C.M.P.No.1014/2017, is upheld.

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Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jrs

To

The Chief Judicial Magistrate, Erode.

Copy To

The Record Keeper, Criminal Section,
High Court, Madras.

+2ccs to Mr.S.Veeraraghavan, Advocate, S.R.No.62544

Criminal Revision Case No.925 of 2017

AJS(CO)
PM/10/12/2021