



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.14027 of 2017

and

Cr.M.P(MD)Nos.9415 and 9416 of 2017

(Through video Conference)

WEB COPY

1.M.Naina Mohamed
2.L.Thajudeen Ahamed
3.M.Mohamed Kasim
4.J.Jafar Ali
5.G.Samsudeen
6.A.Sheik Maideen
7.A.Liyakath Ali
8.M.Sikkander Batcha
9.J.Syed Masoothu
10.M.Hidayathulla
11.P.Nallamohamed
12.A.Mohamed Sikkander
13.K.kalil Ahmed

.. Petitioners/Accused Nos.1 to 13

Vs.

M.Sahul Hameed

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the private complaint in C.C.No.383 of 2016 on the file of the learned Judicial Magistrate, Aruppukkottai and quash the same as illegal.

For Petitioners : Mr.Prem Ayyathurai
for M/s.Ajaml Associates

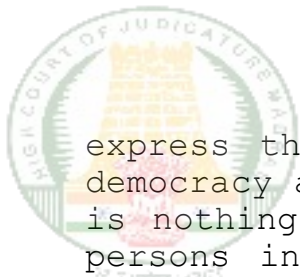
For Respondent : Mr.S.Dheenadhayalan
Legal Aid counsel appointed by this
Court on 30.07.2021

O R D E R

This petition is filed to quash the case in C.C.No.383 of 2016 on the file of the learned Judicial Magistrate, Aruppukkottai initiated by the respondent under Section 500 IPC., is a private complaint alleging that the petitioners herein by circulating the impugned pamphlet during the election campaign for the Jamath had defamed the defacto complainant. The said complaint under Section 200 Cr.P.C., was taken on file.

2.The short point canvassed by the learned counsel for the petitioners is that during the election campaign, the right to

<https://hcservices.ecourts.gov.in/hcservices/>



express the view is the very fundamental to uphold the spirit of democracy and insofar as the contend of the impugned pamphlet, there is nothing defamatory in nature, except citing the fact that named persons in the pamphlet owe arrears to the Jamath to the tune of Rs.1,00,00,000/-[Rupees one crore only] and therefore, the Jamathars or voters must be very conscious about them.

3. The learned counsel for the defacto complainant/respondent would submit that the said allegation is a false allegation just to malign the defacto complainant and take advantage of the said malign campaign to succeed in the election. In fact, the entire rental arrears to the Jamath was cleared in two instalments one on 22.08.2016 and another on 26.08.2016 and therefore, the contend of the pamphlet being a false statement to defame the defacto complainant, the same has to be tried in accordance with law and Section 482 Cr.P.C. of the Court cannot be invoked to quash the same.

4. This Court on perusing the records and the contention of the learned counsel for the petitioners as well as the learned counsel for the respondent arrive at the irresistible conclusion that the defacto complainant may have a semblance of right to initiate proceedings under Section 500 Cr.P.C. for defamation only if there is material to show that the impugned pamphlet was circulated after 26.08.2016, the date on which the defacto complainant himself admits that he discharged debts to the Jamath, otherwise it is an admitted fact that on 26.08.2016 the defacto complainant was in arrears to the Jamath. The election to the Jamath was on 28.08.2016 which we can see from the impugned pamphlet. So it is an inferential fact that this impugned pamphlet ought to have been circulated prior to the election date. In the complaint, we do not find when this pamphlet was circulated, if the contend in the complaint is accepted as truth, the truthfulness of the impugned pamphlet cannot be infringed or doubted in the light of the defacto complainant's own admission.

5. Therefore, this Court finds no merit in this petition and accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

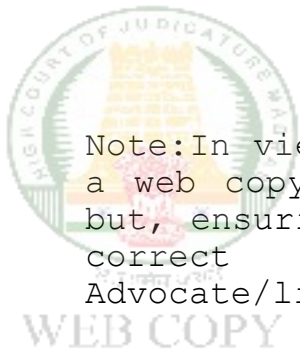
Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL



Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Judicial Magistrate,
Aruppukottai.

+2 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-38714[F] dated
14/12/2021)

CrI.O.P.(MD)No.14027 of 2017
10.12.2021

SS (CO)
KB(04.01.2022) 3P 4C