

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.04.2022

PRONOUNCED ON : 13.06.2022

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.No.1671 of 2019
and
Crl.M.P.No.1053 & 1054 of 2019

1. Teaching and Non Teaching Staff Association
Represented by its Secretary
C. Thamocharakannan
2. V.Sakthivel Pandian
President
3. S.Palaniappan
Vice President
4. C.Thamocharakannan
Secretary
5. M.S.Sivakumar
Joint Secretary
6. B.Venkatesan
Treasurer
7. P.Kriubanandan
Advisor

...Petitioners

Vs.

Tarun Ghai

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.2913 of 2018 on the file of the learned Metropolitan Magistrate - II, Allikulam, Chennai.

For Petitioners: Mr.V.S.Manimekalai

For Respondent : Mr.V.T.Narendiran

O R D E R

This Criminal Original Petition had been filed to quash the case in C.C.No.2913 of 2018 on the file of the learned Metropolitan Magistrate - II, Allikulam, Chennai.

2.The learned Counsel for the Petitioners submitted that the Petitioners are the members of Teaching and Non-Teaching Staff and have preferred a complaint to the Authorities of the Education Department, regarding the mismanagement of funds by M.Ct.Muthiah Chettiar Hr.Sec.School's Trustee and its management and based on the complaint preferred by the Teaching and Non-Teaching Staff Association to various of the Authorities of the Education Department. Therefore, the suit was filed by one of the Trustee, Kamala Muthiah before this Court seeking declaration that the Plaintiff is the Trustee for life and President of 4th & 5th Defendants Trusts and seeking declaration of the periodical appointment of 1st Defendant as President and Trustee of 4th and 5th Defendants Trusts as null and void and seeking permanent injunction. Subsequently, OSA was preferred before the Hon'ble Division Bench of this Court, where, the Hon'ble Division Bench had granted interim relief by way of directions and also by the order dated 25.06.2018, the Hon'ble Division Bench had appointed an Overseer, regarding the compliance of the various statutory provisions under the Tamil Nadu Recognised Private Schools (Regulation) Act and the Overseer to file periodic reports in the suit which will enable the Court to give necessary directions, if required, depending on the report of the Overseer. In the light of those developments, it is submitted by the learned Counsel for the Petitioners that the complaint preferred by the Respondent/Defacto complainant is not maintainable.

3.It is the contention of the learned Counsel for the Respondent that there had been a dispute faced by him regarding the trustees. There had been case filed and pending before this Court.It is between the trustees. There had been dispute between the Respondent and his mother-in-law, where the mother-in-law made allegations against him and that will not give right to the Petitioners herein to defame the Respondent.

3.1.The learned Counsel for the Respondent invited the attention of this Court to the notice regarding the allegations made by the Petitioner by issuing pamphlets where the School is situated among the students of the School and to the public. Therefore, the Respondent had filed a private complaint. For the notice issued by the Respondent, the Petitioners had stated in the reply that they had given a complaint to the Chief Educational Officer. That is not a ground for which the private complaint filed before the learned II Metropolitan Magistrate,

Allikulam. Further, the learned Counsel for the Respondent submits that what are all argued by the learned Counsel for the Petitioner is to be considered only during the trial while adducing evidence and not to be considered while exercising discretion by the High Court under Section 482 of Cr.P.C. The learned Counsel for the Respondent submits that this petition in the light of the averments in the petition is ground in the petition had to be dismissed as it is not maintainable.

4.The learned Counsel for the Petitioners by way of rejoinder submitted that the Petitioners had filed the Petitioner to implead themselves in the Scheme. Therefore, the arguments of the Respondent had no merit.

5.On perusal of the typed set of papers, on consideration of the rival submissions and the Provisions under Section 499 of IPC-exception 8, which is extracted below:

8. Accusation preferred in good faith to authorised person:-

"It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation."

5.1. Regarding the same, there is a civil case in the High Court in which the mother-in-law of the Respondent/Complainant who is the Plaintiff in which an appeal before the Division Bench of this Court in O.S.A.No.157 to 163 of 2017, the Hon'ble Division Bench of this Court had issued directions that "the Hon'ble Division Bench had appointed an Overseer, regarding the compliance of the various statutory provisions under the Tamil Nadu Recognized Private Schools Regulation Act and the Overseer to file periodic reports in the suit which will enable the Court to give necessary directions, if required, depending on the report of the Overseer."

5.2.The arguments of the learned Counsel for the Petitioners to quash the private complaint filed by the Respondent/Complainant, is found justified. The Petitioners herein had preferred a complaint to the Chief Executive Officer, the Authority of the Education Department regarding the conduct of the Respondent/Complainant in the matters of the Administration of Trust in respect of the Mct.Muthiah Chettiar Hr. Sec. School, Purasaivakkam for omission and commission in the case by the Respondent Police. Therefore, as submitted by the learned Counsel for the Petitioners/Accused, the averments in the complaint before the Court of the learned Metropolitan Magistrate - II, Allikulam attract the exception 8 to Section 499 of IPC.

In the result, this Criminal Original Petition is allowed.
The Complaint preferred by the Respondent/Complainant in C.C.No. 2913 of 2018 on the file of the learned Metropolitan Magistrate - II, Allikulam is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dh

To

1. The Metropolitan Magistrate - II,
Allikulam, Chennai.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai - 8.

+1cc to Mr.V.T.Narendiran, Advocate, S.R.No.34546

CRL.O.P.No.1671 of 2019

KV(CO)
RGA(12/07/2022)