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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.04.2022
DELIVERED ON : 27.05.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.16725 of 2018
and
Crl.M.P.No.8624 of 2018

R.Sathiyamurthi
S/o. Late T.V.Ramasubbaiyer ... Petitioner/Accused

Versus

V.Devrajan ... Respondent

PRAYER : Criminal Original petition filed under Section 482 Cr.P.C. praying to call for the proceedings under C.C.No.13 of 2018 on the file of Judicial Magistrate Court No.VI, Coimbatore and quash the same.

For Petitioner : Mr.N.Senthilkumar

For Respondent : Mr.C.S.Dhanasekaran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.13 of 2018 on the file of Judicial Magistrate Court No.VI , Coimbatore.

2. The petitioner, who is facing trial on a private complaint filed by the respondent for the offence under Section 74(3) of the Juvenile Justice (Care and Protection of Childrens) Act, 2015 (J.J. Act), has filed this quash petition. The petitioner had now filed a memo informing the Court that C.C.No.13 of 2018 was transferred to the Court of the Judicial Magistrate-II, Coimbatore and renumbered as C.C.No.1350 of 2019 and the same is pending.

3. The gist of the case is that on 30.12.2016 at about 5.00 p.m., when the respondent/complainant was in his house along with his friends, he came across a report in "Dinamalar" daily paper, Erode edition dated 20.08.2016. At page No.6 of the daily, the petitioner published a news about the juveniles under the caption of "அம்மாபேட்டை அருகே கூரையை பிரித்து வீட்டில் திருடிய 3 சிறுவர்கள்"



கைது". The respondent was shocked and surprised to see such news published in the daily newspaper, which has wide circulation in the state of Tamil Nadu. The petitioner has published the names of three juveniles with age and their father names disclosing their identity, which is prohibited as per Section 74(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015. The respondent sent a lawyer notice on 09.01.2017 to the petitioner calling for explanation as to why he should not be prosecuted. The legal notice dated 09.01.2017 was received by the petitioner on 11.01.2017. Thereafter, no reply was forthcoming. Hence, a complaint was lodged on 23.02.2017. Initially respondent/complainant's, sworn statement recorded. Thereafter, the respondent side witnesses, namely, C.W.1-P.Ravindran and C.W.2-P.Suresh were recorded. The trial Court satisfying, prima facie case is made out, took the complaint on file, issued summons to the petitioner, against which, the petitioner has filed this quash petition.

4. The contention of the petitioner is that the petitioner along with his brothers, is running the Tamil daily newspaper "Dinamalar". The petitioner is in-charge of the Erode and Salem editions as its Editor, Printer and Publisher. There are 10 editions of "Dinamalar". The petitioner had commenced his journey with the newspaper nearly 50 years ago. He worked as Assistant to his father, late T.V.Ramasubbiyer and thereafter rose to the level of Editor. The newspaper got wide circulation and following, on an average, nearly 300 news items are published daily. The daily circulation of the newspaper in Tamil Nadu is about 9 lakh copies per day. In the Erode edition of the newspaper dated 20.08.2016, a news item was published with regard to an incident of theft, wherein 3 minor boys removed the roofing and stolen the jewels from a house. The petitioner submits that the press report about the theft was released by the concerned police. Since it was a house breaking and the victim was of 90 years old lady, it has become a sensational in the locality. Further, there was an apprehension that no person's life and property is secured. To bring confidence and faith over the police, the police released the press report informing the public about the steps taken in securing the accused and recovering articles. The petitioner had published the press report issued by the concerned police. It is apparent from the report that the particulars found therein are provided by the police, which was published. Further, the respondent had not called upon the concerned police why such press release was given. On the other hand, proceeded against the petitioner for obvious reasons. The petitioner on receipt of notice, sent a reply, wherein, the petitioner had shown his remorse and tendered apology. Further requested the respondent not to precipitate the matters any further and give a quietus to the issue. Further gave undertaking that suitable reformative and



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6. The learned counsel for the respondent submitted that the respondent is a Social Activist and a public spirited citizen. The respondent commands respect in the society. He is lending helping hand to the poor, needy and downtrodden people. On 30.12.2016, when he was reading the Dinamalar Erode Edition dated 20.08.2016, he was shocked to see that the petitioner, published a news article concerning 3 juveniles by publishing their names, address, age and their identity. As per Section 74 of the Juvenile Justice (Care and Protection of Children) Act,



it is prohibited, further duty is cast upon the Media, Printing, Publishing, etc. to follow the procedure that no report in any Newspaper, Magazines, audio-video, media or any other form of communication regarding the investigation or enquiry shall disclose the name, address or school or any other particulars, which may lead to the identification of the child in conflict with the Law or a child in need of care and protection. In this case, by publishing the name of the three juveniles, the petitioner, committed an offence under Section 74(3) of the Juvenile Justice Act. As per Section 86(3) of the Juvenile Justice Act, a complaint can be filed for such offence before the Judicial Magistrate and hence, the respondent has filed a complaint before the learned Judicial Magistrate No.VI, Coimbatore. The learned Judicial Magistrate, Coimbatore examined the respondent. In his sworn statement he had stated about the entire facts of the case. C.W.1-P.Ravindran and C.W.2-P.Suresh, the friends of the respondent were examined. Their evidence is also in conformity and corroborating the respondent's sworn statement. The trial Court, on a perusal of the evidence and materials produced, taken the complaint on file. The contentions of the petitioner are factual, which ought to be decided during the trial and not in a quash petition.

7. Heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

8. Considering the submissions of the learned counsel on either side and on perusal of the material, it is seen that, it is not in dispute that the petitioner is the editor and publisher of "Dinamalar" Erode edition. The respondent, who is a resident of Coimbatore, 10 days after the publication of the newspaper, claims that he was reading Erode edition of the "Dinamalar", in which, the objectionable publication has been made. Further, from plain reading of the news item, it is clear and confirms that it is a press release issued by the Salem Police about the theft committed in the house of 90 years old lady. Her house roofs were broken and removed. The offenders had gone into the house broken up the bureau, cupboard and taken away the jewels and valuables from there. The investigation thereafter revealed the involvement of three offenders. They have been arrested and properties were recovered and produced before the concerned Court. The report clearly narrates the entire sequence of the offence and about the offenders. In that news item, the name of the offenders, disclosed with other particulars including age. This is obviously could be provided only by the Police and it is not the news item collected by petitioner, reporter and published by the publisher on his own. Though Section 74 of the Juvenile Justice Act prohibits such publication, without arraying the concerned police as a party to



the proceedings, it would not be appropriate to continue the proceedings against the petitioner alone. Further, the petitioner, who is aged more than 75 years, is in the newspaper industry for more than 50 years, shown his remorse, tendered apology and gave an undertaking that in future such aberrations would not take place. Further, the sworn statement, the respondent had stated about the presence of his friends and had not given their names, the presence of C.W.1 and C.W.2 is highly doubtful. The publication is only a reproduction of Police Press release about a theft incident. Neither the statutory authorities, namely, the Board or the Committee under Juvenile Justice Act nor the victims have made any complaint. The respondent has no locus.

9. In view of the above, this Court finds that continuation of the proceedings against the petitioner would amount to abuse of process of law. Hence, the proceedings against the petitioner in C.C.No.13 of 2018, which has been renumbered as C.C.No.1350 of 2019, presently pending before the learned Judicial Magistrate-II, Coimbatore, is hereby quashed.

10. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate-II,
Coimbatore.

2.The Honourable POCSO Committee,
High Court, Madras.

Cr1.O.P.No.16725 of 2018

JP(CO)
SB(13/06/2022)