



Crl.OP.Nos.7914 & 8239 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.08.2022

Pronounced on : 26.08.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.Nos.7914 & 8239 of 2021 and
Crl.MP.Nos.5239, 5240, 5464 & 5466 of 2021

Crl.OP.No.7914 of 2021

1.M/s.Chrome Leather Company Limited,
Represented by its Vice-President,
Vairakumar,
No.7-C, CLC Works Road,
Chrompet,
Chennai 600 044

2.Vairakumar

..Petitioners

Vs.

C.Ramesh

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the case in CC.No.708 of 2021 on the file of VII Metropolitan Magistrate's Court, George Town, Chennai and quash the same.



Crl.OP.Nos.7914 & 8239 of 2021

For Petitioners : Mr.N.R.Elango,
Senior Counsel
for Mr.N.Senthilkumar

For Respondent : Mr.V.R.Karthikeyan
for Mr.M.Vijay Kumar

Crl.OP.No.8239 of 2021

1.Sundeeep Anand
2.Shrinisha Jagathrakshakan

..Petitioners

Vs.

C.Ramesh

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the case in CC.No.708 of 2021 on the file of VII Metropolitan Magistrate's Court, George Town, Chennai and quash the same.

For Petitioners : Mr.N.R.Elango,
Senior Counsel
for Mr.N.Senthilkumar

For Respondent : Mr.V.R.Karthikeyan
for Mr.M.Vijay Kumar

COMMON ORDER

These criminal original petitions have been filed to quash the proceedings in CC.No.708 of 2021 on the file of VII Metropolitan



Crl.OP.Nos.7914 & 8239 of 2021

WEB COPY

Magistrate's Court, George Town, Chennai, thereby taken cognizance for the offences under Sections 499 & 500 r/w 34 of IPC as against the petitioners.

2. There are totally four accused, in which the petitioners are arrayed as A1 to A4. The respondent lodged private complaint for the offence punishable under Sections 499 and 500 of IPC r/w Section 34 of IPC alleging that he filed public interest litigation writ petition in WP.No.11229 of 2019 as a counsel on record for the petitioner before this Court against the authorities and against the first accused for direction directing the Administrator General and Official Trustee to take possession of the assets of the first accused company. However, it was dismissed on 08.07.2019. He has appeared for a petition for direction in Crl.OP.No.20589 of 2018 on behalf of one, Quentin Dawson against One Million Foundation Private Limited who claimed the property of the said One Million Foundation Private Limited as his own property. The petitioner in the said petition is an executor and beneficiary and the last Will and testament of late.George Joseph Chambers s/o K.H.Chambers, grandson of late.George Alexander Chambers, Founder of the Chrome



Crl.OP.Nos.7914 & 8239 of 2021

WEB COPY

Leather Company as proprietor thereof. The said property was purchased by the registered sale deed vide document No.858 of 1907 and 859 of 1907 by the compromise decree dated 19.02.1965 in CS.No.46 of 1963 and CS.No.2 of 1964 between Roys Edwin Medcalf Chambers and his legal heirs have been vested with powers to enjoy the said property situated at No.26, Erabalu Chetty Street, George Town, Chennai admeasuring seven grounds and 132 sq.ft. While being so, One Million Foundation Private Limited represented by one, Anish C. Bhadani and others created forged unregistered power of attorney by impersonation and forged the signature of Roys Edwin Medcalf Chambers and obtained sale deed dated 29.08.1984. Due to the said petition, the second accused obtained authorisation to present the complaint against the respondent before the Bar Council of Tamilnadu and Puducherry. In the said complaint, it was made utter false and fictitious allegations to threat with ulterior motive to defame the respondent and his reputation and to cause mental agony. The respondent had filed petitions as a counsel for the respective parties to recover valuable property and as such he had no personal gain.



Crl.OP.Nos.7914 & 8239 of 2021

WEB COPY

3. Mr.N.R.Elango, Senior Counsel appearing for the petitioners submitted that the first accused through the second accused has initiated proceedings as against the respondent before Bar Council of Tamilnadu and Puducherry. The respondent is an advocate and counsel on record for Mr.Quentin Dawson in several proceedings particularly in Crl.OP.No.20589 of 2018 along with one, Marimuthu. The said Marimuthu had filed writ petition before this Court under the guise of public interest litigation in WP.No.11229 of 2019 in order to achieve the illegal object of Quentin Dawson which he cannot achieve directly. It was dismissed by this Court with remarks. In the said writ petition, one, Marimuthu is the petitioner and respondent is counsel for the petitioner. Therefore, the said writ petition was filed in collusion with the said Mr.Quentin Dawson for unlawful gain, thereby they committed an act of misconduct and utilising their position as an advocate. In fact, Bar Council of Tamilnadu did not take any action and as such the first petitioner was constrained to file writ petition before this Court in WP.No.17932 of 2020 for direction and the same is pending before this Court.



Crl.OP.Nos.7914 & 8239 of 2021

WEB COPY

3.1 He further submitted that there are several litigations pending between the first petitioner company and Mr.Quentin Dawson and George Joseph. In such circumstances, the respondent and another counsel i.e. Marimuthu who are the counsels for Mr.Quentin Dawson had filed public interest litigation Writ Petition before this Court in WP.No.11229 of 2019 on the very same subject and issue raised by Mr.Quentin Dawson in the earlier litigations that the first petitioner is not the owner of the subject property under the guise of public interest litigations. In the said writ petition, they prayed for direction directing the Administrator General and Official Trustee(hereinafter called as AG & OT) to take possession of the first accused property on the ground that the said property owned by Mrs.Ida L Chambers whose estates had been administered by AG&OT. Therefore, the present complaint is nothing but arm twisting method to withdraw the complaint lodged before the Bar Council of Tamilnadu and Puducherry against the respondent and another counsel on record and the petitioner in WP.No.11229 of 2019. There is absolutely no iota of evidence to attract offence under Section 499 of IPC. To attract the said offence, requirements to be shown by an aggrieved person that the imputation which has harmed his reputation,



Crl.OP.Nos.7914 & 8239 of 2021

directly or indirectly lowered his moral and intellectual character in the estimation of others. Neither in the impugned complaint nor statement recorded from the respondent, there is no iota of evidence to attract the offence under Section 499 of IPC. He further submitted that the petitioners are entitled to lodge complaint and the validity of the contents of the complaint can be decided only by the lawful authority who received the complaint. As per the eighth Exception to Section 499 of IPC says that it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over the person with respect to the subject matter of accusation. Without considering those facts, the learned Magistrate had taken cognizance for the offence under Section 499, 500 of IPC.

4. Per contra, Mr.V.R.Karthikeyan, the learned counsel appearing for the respondent would submit that the petitioners never appeared before the trial court and without even appearing, they are challenging the complaint on its threshold. The grounds raised by the petitioners can be considered before the trial court, that too only during



Crl.OP.Nos.7914 & 8239 of 2021

trial. Since it is a mixed question of facts and it cannot be considered under Section 482 of Cr.P.C. in the quash petition. The petitioners made several defamation statement in their complaint and it harmed his reputation directly or indirectly lowered his moral and intellectual character in the estimation of others. On receipt of the summons, the petitioners never appeared before the trial court and as such they are not entitled for any relief before this Court.

5. Heard, Mr.N.R.Elango, Senior Counsel appearing for the petitioners and Mr.V.R.Karthikeyan, the learned counsel appearing for the respondent.

6. The respondent filed complaint and the same has been taken cognizance in CC.No.708 of 2021 as against the petitioners for the offence punishable under Sections 499 and 500 of IPC r/w 34 of IPC. In Crl.OP.No.7914 of 2021, the first petitioner is the company represented by its Vice President i.e. the second petitioner and the petitioners in Crl.OP.No.8239 of 2021 are Directors of the above said company. The



Crl.OP.Nos.7914 & 8239 of 2021

crux of the complaint lodged by the respondent is that the petitioners lodged complaint before the Bar Council of Tamilnadu and Puducherry, in which they stated that the reason for filing public interest litigation in WP.No.11229 of 2019 by the respondent and another only for the purpose of reaping unlawful gain from the first petitioner company as the client of the respondent Quentin Dawson is not in a position to succeed in his illegal attempt in his own name. Further made statement that the intention behind the filing of public interest litigation in WP.No.11229 of 2019 is that to grab money from the petitioner company by creating litigation of all activities have a strong foundation on the ground that the respondent and another are practising advocates. Further made statement that while discharge duty to the Court, a lawyer should never knowingly be a party to any deception, design or fraud. But in the case on hand, the respondent is knowingly be a party to a travel which has been committed by the respondent in an active collusion with Quentin Dawson. Therefore, the complaint lodged by the respondent as against the statement in the complaint lodged by the petitioners before the Bar Counsel of Tamilnadu and Puducherry.



WEB COPY

7. Whether the statements made in the complaint lodged by the petitioners before the Bar Council of Tamilnadu and Puducherry attracts any defamatory allegation as against the respondent to attract the offence under Sections 499 and 500 of IPC. One of the basic legal requirements of Section 499 of IPC is that imputation should be either made directly to the knowledge of third parties or the same should be published to the knowledge of the third parties. It is relevant to extract provisions under Section 499 of IPC hereunder:

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

8. In this case, even as per the allegations made in the complaint, it is not as if the imputation said to have been made by the petitioners was published either directly or indirectly. The complaint filed by the respondent only on the allegations that the statements in the



CrI.OP.Nos.7914 & 8239 of 2021

complaint lodged by the petitioners before the Bar Council of Tamilnadu and Puducherry contains defamatory statements against the respondent.

In fact, the said complaint is pending before the Bar Council of Tamilnadu and Puducherry and the said complaint was not taken cognizance by the Bar Council of Tamilnadu and Puducherry and as such the first petitioner was constrained to file a writ petition before this Court in WP.No.17932 of 2020 and it is pending before this Court for direction against the Bar Council of Tamilnadu and Puducherry. Therefore, the allegations levelled against the respondent in the complaint before the Bar Council of Tamilnadu and Puducherry did not satisfy the requirement of Section 499 of IPC so as to attract the offence punishable under Section 500 of IPC. In the absence of the satisfaction of the requirements of publication of imputation by the petitioners, the impugned complaint cannot be sustained against the petitioners and it is liable to be quashed.

9. The learned Senior Counsel appearing for the petitioners vehemently contended that the petitioners fall under the eighth Exception to the provisions under Section 499 of IPC. It is relevant to extract the



CrI.OP.Nos.7914 & 8239 of 2021

eighth Exception to Section 499 hereunder:

Eighth Exception—*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.*

10. In the case on hand, admittedly the first petitioner lodged complaint as against the respondent and another before the Bar Council of Tamilnadu and Puducherry. The respondent is being an advocate, Bar Council of Tamilnadu and Puducherry has lawful authority to enquire the accusation made against the respondent. Therefore, the petitioners fall under eighth Exception to Section 499 of IPC. Hence, there is no defamation. The offence of defamation consists of three essential ingredients i.e. (i) making or publishing any imputation concerning any person (ii) such imputation must have been made by words either spoken or by visible representations and (iii) such imputation must be made with the intention, to cause harm or with the knowledge or having reasons to believe that it will harm reputation of the person concerned. Therefore,



CrI.OP.Nos.7914 & 8239 of 2021

the intention or knowledge to cause harm are the essential ingredients to constitute the offence under Section 499 of IPC. The exception circumstances provide that it is not defamation to prefer, in good faith an accusation against any person to any of those who has lawful authority over that person, with respect to the subject matter of accusation. Therefore, the petitioners are protected by those exception.

11. That apart, it is seen from the records that the respondent and another counsel by name Marimuthu are the counsels on record for the said Quentin Dawson. In the name of the said Marimuthu, filed public interest litigation writ petition by the respondent in WP.No.11229 of 2019 in respect of the very same subject property which is claimed by the said Quentin Dawson. The said writ petition was dismissed by this Court, that too by making remarks against the petitioner by order dated 08.04.2019 at the stage of admission itself. Therefore, the writ petition itself filed in active collusion with the said Quentin Dawson for the purpose of reaping unlawful gain from the petitioners. Therefore, the first petitioner lodged complaint before the Bar Council of Tamilnadu and



Crl.OP.Nos.7914 & 8239 of 2021

WEB COPY

Puducherry against the respondent herein. Thus, the impugned complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners.

12. In fine, both the criminal original petitions are allowed and the proceedings in CC.No.708 of 2021 on the file of VII Metropolitan Magistrate's Court, George Town, Chennai, thereby taken cognizance for the offences under Sections 499 & 500 r/w 34 of IPC is quashed as against the petitioners alone. Consequently, connected miscellaneous petitions are closed.

26.08.2022

Speaking /Non speaking order

Index : Yes

Internet : Yes

lok



WEB COPY



Crl.OP.Nos.7914 & 8239 of 2021

To

- 1.The VII Metropolitan Magistrate's Court,
George Town, Chennai
- 2.Vice-President,
M/s.Chrome Leather Company Limited,
Vairakumar,
No.7-C, CLC Works Road,
Chrompet,
Chennai 600 044



WEB COPY



Crl.OP.Nos.7914 & 8239 of 2021

G.K.ILANTHIRAIYAN, J.

lok

Crl.OP.Nos.7914 & 8239 of 2021

26.08.2022