



Crl.O.P No.16385 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.12.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.16385 of 2021

A.Palaniappan

... Petitioner

Vs.

1.N.Soundararajan

2.B.Sundaresan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records and set aside the order in Crl.M.P No.392 of 2021 in C.C No.932 of 2011 dated 16.08.2021 on the file of the Judicial Magistrate No.I, Tambaram.

For Petitioner : Mr.A.Senkanal

For Respondents : Mr.R.Hemalatha for R2
For Mr.C.Prakasam



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ORDER

This Criminal Original Petition has been filed challenging the order of the learned Judicial Magistrate No.I, Tambaram made in Crl.M.P No.392 of 2021 in C.C No.932 of 2011 dated 16.08.2021.

2. Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

3. The petitioner is the complainant, who had filed the complaint in C.C No.932 of 2011 for an offence under Section 500 IPC; the complainant has alleged in the complaint that he is doing service to the devotees of the Lord Iyyappan through Iyyappa Seva Sangam; in the magazine run by the 1st accused, by name "Athiradi Vigilance", certain defamatory matter against the petitioner without any basis has been published and in view of that, he suffered mental agony and disrepute and so, he filed a complaint for taking action against the respondents for the offence under Section 500 IPC.



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4. The 1st accused is said to be the Editor of "Athiradi Vigilance" and the 2nd accused is the Special Reporter of the said magazine; since the 1st accused did not appear before the Court, NBW has been issued and the NBW is said to be pending from 2011; hence the petitioner has filed a petition seeking to split up the case against A1 and proceed the case against A2.

5. The learned counsel for the petitioner submitted that despite a complaint has been given as early as in 2011, no progress can be made because of the NBW pending against the 1st accused; unless the case is split up even the case cannot be progressed against A2 as well; hence, the order of the learned Judicial Magistrate No.I, Tambaram is to be set aside.

6. The petitioner's grievance is about the contemptuous information published against him in the magazine "Athiradi Vigilance" in which the 1st accused is Editor. Without the Editor's approval, the matter cannot be published in the journal. If the case against the 1st accused is split up and the case is continued against A2, that will not serve any purpose. It is not a case where the trial can be split up between the accused. If the petitioner is



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aggrieved due to the pendency of the NBW for a long time, he can seek a direction to the concerned police to execute the NBW by filing appropriate proceedings. Since the learned Magistrate has rightly dismissed the petition by recording the reasons correctly, I do not find any reason for interference and hence the present petition is liable to be dismissed.

7. In the result, this Criminal Original Petition is dismissed and the order of the learned Judicial Magistrate No.I, Tambaram made in Crl.M.P No.392 of 2021 in C.C No.932 of 2011 dated 16.08.2021 is confirmed.

05.12.2022

Index : Yes/No
Speaking Order : Yes / No
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To
1. The Judicial Magistrate No.I, Tambaram



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R.N.MANJULA.,J
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