



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.01.2022

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.Nos.17813 & 17814 of 2017 &
Crl.M.P.Nos.10885 to 10888, 14992 & 14993 of 2017

Jaguar Thangam

... Petitioner/Accused
in both Crl.O.P.'s

Vs

1. Mr.Devaraj Gunasekaran

... Respondent/Complainant in
Crl.O.P.No.17813 of 2017

1. Giridharlal L.Nagpal

... Respondent/Complainant in
Crl.O.P.No.17814 of 2017

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings in C.C.Nos.5820 of 2016 and 65 of 2017, pending on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

(In both the Crl.O.P.'s)

For petitioner : Mr.G.Karthikeyan

For Respondents : Mr.M.Vijaya Kumar

ORDER

These petitions have been filed to quash the proceedings in C.C.Nos.5820 of 2016 and 65 of 2017, pending on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai filed against the petitioner for the offences under Sections 500, 501 & 502 of I.P.C.

2. The complaint was sought to be quashed mainly on the ground that the editor of the Magazine which contains alleged defamation statement has not been made as a party and the petitioner is not given a part in the Editorial Board and the publication does not contain any offence. Therefore, the



complaint has been sought to be quashed.

3. The complaint has been laid by the defacto complainant stating that the accused have published certain articles malafidely and stating that irregularities alleged to have been committed by the complainant in the association. In February and June, 2015 issue that the petitioner published articles to the effect that the complainant misappropriated lakhs of money of the association by giving false accounts. He has also published that the Censor Board has recommended to take action against the complainant for exhibiting uncensored movies in the preview theater. It is also published as if the complaint voluntarily obtained resignation letter from some of the members of the association and made them to vacate the office of the association. It is his further contention that article published by the petitioner is per se defamatory without any verification. Hence, the present private complaints have been filed for defamatory articles published in two issues of the magazine.

4. The learned Counsel for the petitioner submitted that the editor of the magazine has not been made an accused. Without making the editor as an accused, the petitioner who is not in the Editorial Board cannot be proceeded for the alleged defamatory statements. Further, it is his contention that the alleged offence has not been made out even when the entire article is taken as a proof. Therefore, sought to quash the entire proceedings.

5. Whereas, the learned counsel for the respondent submits that the petitioner has published the article in the magazine in the bulletin of the Film and Television Producers of South India. Though the editors are Siraj Mohammed, S.Hemanth Kumar, J.S.Manimaran and T.Nagalingam, without their knowledge, the petitioner has published the article. Therefore, the editor cannot be made an accused in this case. It is his further contention that the editor had also complained about publication and issued a notice in this regard to the petitioner. Hence, submitted that the articles published in the book are per se defamatory. Therefore, the same cannot be quashed.

6. I have perused the entire materials available on record.

7. Though the Editorial Board consists of one Siraj Mohammed, S.hemanth Kumar, S.Manimaran and T.Nagalingam, a perusal of books itself clearly show that two books have been published by the petitioner Jaguar Thangam, which can be seen from the very book itself. Therefore, at this stage, whether the non prosecution of the editor could vitiate the entire complaint or not, cannot be gone into at this stage. Further,



the very details appeared in page No.3 of the book for the month of February, 2015 and page 53 of the book for the month of June 2015 would clearly show that the entire book was published by the petitioner herein. Further, such publication has also been objected by one of the editor as rightly pointed out by the learned counsel for the respondent. The contention of the learned counsel for the petitioner that the entire complaint has to be quashed mainly on the ground that the editor has not been arrayed as an accused cannot be gone into at this stage. The allegation in the article prima facie indicates that he has made derogatory statement about the conduct of the complainant and also some irregularities committed by the complainant. Whether those statements per se defamatory or not which lower reputation of the respondent in the eye of public is a matter of evidence and the same has to be decided by the trial Court. As such, this Court is not inclined to quash the proceedings.

8. Accordingly, these Criminal Original Petitions are dismissed. Consequently connected miscellaneous petitions are closed. The trial Court is directed to expedite the trial and dispose of the case as per law.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai.
2. -Do thro' The Chief Metropolitan Magistrate,
Egmore, Chennai.

+2cc to Mr.G.Karthikeyan, Advocate, S.R.No.4831,4832
+2cc to Mr.M.Vijaya Kumar, Advocate, S.R.No.4608,4609

Cr1.O.P.Nos.17813 & 17814 of 2017
& Cr1.M.P.Nos.10885 to 10888,
14992 & 14993 of 2017

PCH(CO)
CT 09/02/2022