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Crl.O.P.Nos.1869 & 5646 of 2



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated : 08.11.2023

CORAM :

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN**

**Crl. O.P. Nos.1869 & 5646 of 2021**

**and**

**Crl.M.P. Nos.1065, 1066, 3635 & 3636 of 2021**

Prof. Dr.E.Balagurusamy

... Petitioner in Crl.O.P. No.1869 of 2021

1.S.Arivazhagan

2.T.Kalaiselvan

3.R.Senthil Karikalan

... Petitioner in Crl.O.P. No.5646 of 2021

-VS-

Mr.K.P.Anbalagan

...Respondent in both Crl.O.P.s

**COMMON PRAYER:** Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C. No.266 of 2020 on the file of the Judicial Magistrate No.1, Dharmapuri and quash the same as against the petitioners.



For Petitioner : Mr.V.Nandakumar  
in Crl.O.P.No.1869 of 2021  
Mr.N.Ramesh  
in Crl.O.P. No.5646 of 2021

For Respondent : Mr.R.John Sathyan,  
Senior Counsel for  
Mr.A.P.Balaji in Crl.O.P.No.1869 of 2021  
Mr.K.Gowthamkumar  
in Crl.O.P.No.5646 of 2021

### **COMMON ORDER**

These petitions are filed to quash the private complaint initiated for defamation. The complainant was Higher Education Minister at that point of time when he alleged defamatory interview of the third accused published by the first accused in its magazine. The defamatory Article is in a form of interview with the third accused by the 4<sup>th</sup> accused. Contending that, it is a freedom of thought and expression and cannot be scuttled or abridged with the threat of criminal prosecution. The quash petition in Crl.O.P. No.1869 of 2021 is filed by A3, the person who has given the interview.

2. As far as the other accused A1, A2 and A4 are concerned, it is submitted that they have only published the interview of A3 in good faith and they cannot be criminally liable to the said prosecution and further more, the learned counsel appearing for the petitioners in Crl.O.P. No.5646 of 2021 also submitted that the petitioners, in fact, facing prosecution for offence under



Section 13(1)(e) of Prevention of Corruption Act, 1988, which directly relates to the alleged defamatory interview and therefore, taking umbrage under the fair comment seeks quash of the criminal prosecution.

3. Yet another defence taken by the second accused who is the Principal Administrative Author is that he has no way connected with the said offensive interview and neither the editor nor publisher of the magazine. Therefore, no criminal prosecution under Sections 499(A) r/w 500 of IPC, can be sustainable against him.

4. The learned counsel appearing for the respondent/complainant fairly conceded that as far as the second petitioner in Crl.O.P. No.5646 of 2021 viz., T.Kalaiselvan who is arrayed as A2 is concerned, he may not be vicariously liable for offensive publication and he gives up the complaint against him. As far as A1, the editor and publisher of the magazine and A4, the interviewer of the magazine, it is submitted that they are liable for irresponsible publication of defamatory interview given by A3.

5. This Court went through the portion of the interview, which is claimed to be defamatory, they are specifically against the complainant alleging that he has received money in appointing Vice Chancellor and Teaching Staff to the Universities in Tamil Nadu as Higher Education Minister. This is on the face,



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**Dr.G.JAYACHANDRAN, J.**

cannot be construed as freedom of expression or fair comment. It is for the accused persons to adduce evidence and establish that it was fair comment made in the interest of public. Under Section 482 Cr.P.C, based on the statements exfacie, the Court cannot arrive at factual conclusion regarding the interview whether it is fair comment or truth. Hence, the petition to quash is allowed in respect of the second petitioner in Crl.O.P. No.5646 of 2021, Mr.T.Kalaiselvan, Principal Administrative Author, Ananda Vikatan Publication Private Limited. Regarding other accused/petitioners, petition to quash is dismissed. Connected Miscellaneous Petitions are also dismissed.

**08.11.2023**

Internet : Yes/No

Index : Yes/No

rkp

To

1.The Judicial Magistrate No.I,  
Dharmapuri.

2. The Public Prosecutor,  
Madras High Court, Madras.

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