



Crl.O.P.No.11320 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.11320 of 2019

and

Crl.M.P.No.5755 of 2019

1.Periyakannu @ Theethan
2.Chinnaraju
3.Durai
4.Sundarammal
5.Shanthi

... Petitioners / Accused

-Vs-

T. Chandrasekaran

... Respondent / Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the private complaint in C.C.No.196 of 2018 on the file of the Judicial Magistrate Court, Harur and to quash the same.

For Petitioners : Mr. S. Doraisamy

For Respondent : Mr. A. Arun Anbumani



Crl.O.P.No.11320 of 2019

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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.196 of 2018 on the file of the Judicial Magistrate Court, Harur, filed for the alleged offences under Sections 177, 193, 499 read with 120-B of IPC.

2.The allegation in the complaint is that there is a dispute between the respondent and the petitioners with regard to land comprised in S.Nos.84/1B, 41/11A, 41/11B in Chinnagoundampatti village; that a civil suit was filed by the complainant in O.S.No.206 of 2013 on the file of the District Munsif Court, Harur, praying for police protection; that the petitioners had sent a letter objecting to the survey proposed to be conducted pursuant to the Civil Court's order; and that in the said objection, certain false statements were made and hence, the alleged offences are made out.

3.The learned counsel for the petitioners submitted that though several offences are shown in the private complaint, the learned Judicial Magistrate, Harur, had taken cognizance for the offences under Sections



Crl.O.P.No.11320 of 2019

177, 193, 499 r/w 120(b) of IPC. The learned counsel further submitted that as per Section 195 (1)(a)(i) Cr.P.C, no Court shall take cognizance for the offence under Section 177 IPC, except on the complaint in writing of the public servant concerned. He would further submit that as per Section 195(1)(b)(i) Cr.P.C, no Court shall take cognizance for the offence under Section 193 IPC in the absence of any complaint by the Court concerned. The learned counsel also submitted that the offence under Section 499 IPC is also not made out, as there is no allegation that harm was caused to the reputation of the complainant. Hence, he prayed for quashing of the impugned final report.

4.Mr. Arun Anbumani, learned counsel for the respondent submitted that though the learned Judicial Magistrate has taken cognizance of only these offences, other offences are also made out. Further, the offence of defamation is also made out in the facts and circumstances of the case and hence, he prayed for dismissal of the quash petition.

5.This Court finds that the offences for which the learned Judicial



Crl.O.P.No.11320 of 2019

Magistrate has taken cognizance of, are Sections 177, 193, 499 read with

120-B IPC.

6.In this regard, it is useful to extract Section 195(1) Cr.P.C, which reads as follows:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence –

(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit, such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the



Crl.O.P.No.11320 of 2019

WEB COPY

following section of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

7.The above provision (i.e.,) Section 195(1)(a) of Cr.P.C., makes it clear that no Court shall take cognizance of the offence under Section 177 IPC, except on a complaint in writing of the public servant is concerned.



Crl.O.P.No.11320 of 2019

Admittedly, in this case, no such complaint is made by any public servant. Hence, the learned Judicial Magistrate, ought not to have taken cognizance of the offence Section 177 IPC.

8. Similarly, Section 195(1)(b) of Cr.P.C., provides that no Court shall take cognizance of an offence under Section 193 IPC, except on a complaint given by the Court. Admittedly, no complaint has been given by the Court. Hence, the learned Magistrate ought not to have taken cognizance of the said offence as well.

9. In this case, the complaint does not reveal, as to how the objections made by the petitioners for conducting a survey, would amount to harming the reputation of the respondent. There is no allegation to attract the offence under Section 499 IPC.

10. Therefore, this Court is of the view that the impugned complaint is liable to be quashed for the above reasons. Accordingly, the impugned proceedings in C.C.No.196 of 2018 on the file of the Judicial Magistrate Court, Harur, are quashed. This Criminal Original Petition accordingly allowed. Consequently, connected Criminal Miscellaneous Petition is



Crl.O.P.No.11320 of 2019

closed.

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01.06.2023

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Index : Yes/No

Speaking : Yes / No

Neutral Citation : Yes / No

To,

1.The Judicial Magistrate, Harur.

2.The Public Prosecutor, High Court Madras.

SUNDER MOHAN,J.

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Crl.O.P.No.11320 of 2019

Crl.O.P.No.11320 of 2019

01.06.2023