



Crl OP No.21181 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.21181 of 2021 and
Crl.M.P.Nos.11489 and 11490 of 2021

R. Antony Fathima @ Leona,

...Petitioner/Accused

Versus

K. N. Shanmugavel

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the entire records pertaining to proceedings in C.C.No.888 of 2020 pending on the file of the IX Metropolitan Magistrate, Saidapet and to quash the same.

For Petitioner : M/s. Om Sai Ram

For Respondent : Mr. K.P.Chandrasekaran



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ORDER

The petition is to quash the private complaint for the alleged offences under Sections 211, 499, 500 of the Indian Penal Code.

2. It is alleged in the complaint that the petitioner herein had lodged a false complaint against the respondent who is the brother of petitioner's husband before the J-5 Shastri Nagar Police Station, Besant Nagar, Chennai – 600 090. The said complaint was closed stating that it was an exaggerated version and the Police had further directed the parties to approach the Civil Court for seeking redressal of their grievances; and hence, the petitioner is guilty of the offence of defamation.

3. The learned counsel for the petitioner would submit that in order to sustain a complaint under Section 500 of IPC, there must be an allegation that the imputation was made or published with the requisite *mens rea* to harm the reputation of the person; that in the instant complaint, there is no such allegation; and that merely, because an exaggerated complaint was filed before the Police Station, it would not be a ground for maintaining a complaint for the offence under Section



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500 of IPC. Hence, he prayed for the quashing of the proceedings.

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4. (a) The learned counsel for the respondent, *per contra*, submitted that the petitioner had deliberately given a false complaint before the Police and the Police found that to be false and closed it.

4. (b) The learned counsel therefore submitted that since the false complaint was instituted only harm to the reputation of the respondent; the impugned complaint cannot be quashed and the matter has to be adjudicated only before the trial Court. Hence, he prayed for the dismissal of the quash petition.

5. This Court, on perusal of the impugned complaint finds that the necessary ingredients to attract the offence under Section 500 IPC are not made out in the complaint. Explanation 4 of Section 499 IPC states as to when an imputation is likely to cause harm to a person's reputation. Among other things mentioned in the said explanation, what is relevant for the purpose of the instant case is that the imputation must directly or indirectly, in the estimation of others, lower the moral or intellectual character of others. Section 499 of IPC is extracted hereunder for better



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understanding:

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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 excepted, to defame that person.*

Explanation 1.-It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.-It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.



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Explanation 3.-An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 - No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the credit of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.''

6. In the instant case, allegation in the complaint is that the petitioner had given a false complaint. However, there is no averment in the complaint that the imputation made in the complaint had lowered his moral or intellectual character. The offence of defamation would not be made out unless, the imputation had lowered the moral or the intellectual character of the complainant. In the absence of those allegations, the impugned complaint for the offence under Section 500



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IPC cannot be maintained.

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7. As regards the offence under Section 211 of IPC, the complaint does not contain necessary ingredients to attract the said offence. There is no allegation in the impugned complaint to show that the complaint was filed falsely knowing that there is no just or lawful ground for such proceeding. The ingredients of the offence under Section 211 of IPC is that the accused must have had knowledge that there was no just or lawful ground for making the complaint which is not alleged in the instant case. Further, it is seen that the petitioner's complaint was not closed because it was found to be false. Hence, this Court is of the view that the offence under Section 211 of IPC is also not made out. Therefore, the impugned complaint is liable to be quashed. Hence, the Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

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dk

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To



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The IX Metropolitan Magistrate,
Saidapet
Chennai.

SUNDER MOHAN, J



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