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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.24021 of 2022
and Crl.MP.Nos.15248 and 15250 of 2022

1.Sunil Nair, M-54 Y
S/o.Shri K.Shivaji

2.Selvaraj, M-47 Y
S/o.Shri Arunachallam

.. Petitioners/Accused

.Vs.

K.Armstrong, M/37 Y
S/o.Krishnan

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order dated 12.07.2022 passed in Crl.M.P.No.29514 of 2021 in C.C.No.2794 of 2009, pending on the file of XIII Metropolitan Magistrate, Egmore.

For Petitioners : Mr.K.P.Anantha Krishna

For Respondent : Mr.D.Naresh Babu

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner u/s.91 Cr.PC, to summon the Inspector of Police and to produce the gangsters profile booklet for the year 2009, in order to enable the petitioners to adduce evidence on the defense



2.Heard Mr.K.P.Anantha Krishna, learned counsel for the petitioners and

Mr.D.Naresh Babu, learned counsel for the respondent.

3.The respondent has initiated private complaint against the petitioners for offence u/s.499 IPC punishable u/s.500 IPC. This complaint was given based on an article that was published in the Times of India, Chennai Edition on 27.7.2009. This article referred to a booklet that was prepared by the police which contained the names of 50 gangsters. While making reference to this booklet, the name of the respondent/complainant was also mentioned in the news article. The respondent has therefore taken a stand that this article has seriously affected his reputation and as a result, the private complaint has been filed for the offence of defamation.

4.The respondent had examined nearly four witnesses on his side to establish the commission of the offence. The case was at the stage of defense evidence and the petitioners had filed an application u/s.91 Cr.PC, to summon the concerned police to produce the gangster profile booklet of the year 2009. The petitioners wanted this booklet to be furnished since the same was referred in the news article that was published in the newspaper on 27.7.2009. According to the petitioners, they have to establish their defense of truth and hence were exercising a right that has been given u/s.254 Cr.PC.

5.The Court below had dismissed the application mainly on the ground that

the petitioners are trying to drag on the proceedings. The Court below has also



come to a conclusion that the very publication of the article should have been made only after getting that booklet.

6.The petitioners have taken defense before the Court below under First Exception and Eighth Exception to Section 499 IPC. The same has to be established by the petitioners and the best way to establish the same is to summon the relevant booklet that has been referred in the article that was published in the newspaper. Hence, this Court is of the considered view that the petitioners have to be given such an opportunity to establish their defense.

7.In the light of the above discussion, the order passed by the Court below in Crl.M.P.No.29514 of 2021, dated 12.7.2022, is hereby set aside. The Court below shall issue summons to the concerned police officer and direct him to produce the gangster profile booklet for the year 2009. The Court below shall complete the proceedings in C.C.No.2794 of 2009, within a period of two months from the date of receipt of copy of the order.

8.In the result, this criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

12.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order



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N. ANAND VENKATESH,, J.
kp

To

XIII Metropolitan Magistrate Court
XIII Metropolitan Magistrate
Egmore.

Crl.O.P No.24021 of 2022

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