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Crl.O.P.No.23553 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23553 of 2019

and

Crl.M.P.Nos.16830, 12394 & 122395 of 2019

1. Paul Robin

2. Elsiyus Fernando

... Petitioners

Vs.

Inigo Irudayaraj

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in C.C.No.383 of 2019 on the file of the learned Judicial Magistrate, Alandur, Chennai and quash the same.

For Petitioners : Mr.P.T.Perumal

For Respondent : Mr.S.Shankar

ORDER

Petition is filed to quash the charge sheet taken on file by the learned Judicial Magistrate, Alandur in C.C.No.383 of 2019.



2. The short point canvassed by the learned counsel for the petitioner /accused is that, the entire complaint does not carry the ingredient required for taking a complaint cognizance under Section 190 of Cr.P.C or the ingredient which requires to attract the offence under Section 499 IPC.

3. The further contention raised by the learned counsel for the petitioner is that, before causing process, the Court should have applied its mind and assessed the material placed before it as to whether there is any substantial material to proceed further. Whereas, pursuant to the direction of this Court, the complaint has been taken on file immediately on the date when the order copy reached the Court and assigned C.C.No.383 of 2019.

4. This Court perused the records and heard the submissions of the learned counsel for the petitioner.

5. The prime contention of the learned counsel for the petitioner is that, Section 190 of Cr.P.C., predominantly emphasize on the presence of material facts constituting the offence in the complaint since, the offence is under Section 499 of IPC, material facts which requires to attract the



Section 499 is imputation directly or indirectly harm the reputation of a person in the estimation of others or lower the moral or intellectual character of the person in the estimation of others. After reading through the sworn statement of the complainant and other two witnesses, learned counsel for the petitioner submitted that, there is no averment that the alleged imputation had lowered the estimation of the person / complainant.

6. This Court after going through the statements of PW1, PW2 and PW3, as well as the 53 pages of private complaint find that, for taking cognizance, there is enough material. Particularly PW3 one Sathish Kumar had deposed about how the imputations had affected or caused impact in his estimation about the complaint. Whether such statement is sustainable or not has to be tested during the course of the trial. Having made certain statements, which according to the complainant is defamatory, the maker of the statement, either should own the statement and take umbrage under the exception listed out under Section 499 IPC or disown the statement. The fact whether the word stated or written caused any damage to the reputation of the person against whom it is made, is to be tested through trial. High Court under Section 482 of Cr.P.C cannot search for grounds to quash the



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complaint when there is prima facie materials available on the face of the records. The points which is now been canvassed by the learned counsel for the petitioner is always available to the petitioner to canvass by way of cross examination of the complainant/ defendant side witnesses or letting evidence during trial.

7. With the above observations and directions, this Criminal Original Petition is disposed of. Since, the matter is pending for more than three years, due to the stay granted by this Court, trial Court is directed to take up matter out of turn and dispose it as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

13.12.2023

Index : Yes/No
Neutral Citation : Yes/No
Sma

To:
Judicial Magistrate, Alandur, Chnnai



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Dr.G.JAYACHANDRAN,J.

Sma

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