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Crl.O.P(MD).No.17553 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P. DHANABAL**

Crl.O.P(MD).No.17553 of 2019

and

Crl.M.P.(MD)No.10376 of 2019

1.Anoop Pillai  
2.The Managing Director,  
MIRC Electronics Ltd.,  
The Onida House,  
G 1 MIDC,  
Mahakallikas Road,  
Andheri East,  
Mumbai 400 093.

...Petitioners

Vs

M.Preston

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the C.C.No.495 of 2010 on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same.

|                 |                     |
|-----------------|---------------------|
| For Petitioners | : Mr.O.R.Maheswaran |
|                 | For Mr.S.Vinayak    |
| For Respondent  | : Mr.T.R.Jeyapalan  |

### **ORDER**

This petition is filed to quash the charge sheet in C.C.No.495 of 2010, pending on the learned Judicial Magistrate No.I, Tirunelveli.



2. According to the petitioner, in the consumer proceedings, counter was filed and in the counter, there was some defamatory words were made as against the respondent herein. Based on that, the complaint was registered and taken on file as C.C.No.495 of 2010. Now the petitioner seeks a direction to quash the charge sheet in C.C.No.495 of 2010.

3. No counter was filed by the respondent.

4. The learned counsel appearing for the petitioners would contend that the authorized signatory has already filed a petition in Crl.O.P.(MD)No.8333 of 2018 to quash the proceedings in S.T.C.No.495 of 2010 and this Court has quashed the proceedings in S.T.C.No.495 of 2010 on the file of the learned Judicial Magistrate, Tirunelveli. Now the petitioners prayed to quash to the above said C.C.No.495 of 2010 in respect of the petitions.

5. The learned counsel appearing for the respondent also submitted that already S.T.C.No.495 of 2010 is pending before the trial Court and there are prima facie materials to proceed with the case and the petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.



7. On perusal of the records, it is observed that in the present petition, the petitioner has mentioned as C.C.No.495 of 2010 but originally it was S.T.C.No.495 of 2010 and it has been mentioned in the present petition as C.C.No.495 of 2010 instead of S.T.C.No.495 of 2010.

8. The learned counsel appearing for the petitioner represented that due to typographical error, C.C. Number was mentioned instead of S.T.C. Number. On perusal of other records of this Court, it is observed that the case has been taken on file as S.T.C.No.495 of 2010 and thereby, the contention of the learned counsel appearing for the petitioner that it is typographical error and and the same is acceptable one. Further this Court has perused the order passed in Crl.O.P.(MD)No.8333 of 2018 and this Court earlier has observed as follows:-

*“That apart, any statement allegedly made by the petitioner in the counter is not amount to defamation since it would not fulfill the requirements for the offences under Section 499 I.P.C. In this regard, the learned counsel for the petitioner relied upon the order of this Court passed in Crl.O.P.(MD)No.6290 of 2006, dated 16.11.2007, which held as follows:*

*“10. One of the basic legal requirements of Section 499 IPC is that the imputation should be either made directly to the knowledge of third parties or the same should be published to the knowledge of third parties. In this case, even as per the*



*allegations made in the complaint, it is not as if the imputation said to have been made by the petitioner was published either directly or indirectly. Thus, in my considered opinion, the act of the petitioner does not satisfy the requirement of Section 499 IPC so as to attract the offence punishable under Section 500 IPC.*

*11. The contention of the learned counsel for the respondent that the counter filed in the lower Court is accessible to third parties and in such a way there is publication of defamatory statement, is only to be rejected. Pleadings filed before the Courts of law are not public documents to which any body can have free access. Further, as per Section 499 IPC, the publication should be made by the accused to third parties. It is true that it is handled by the court staff and copy is furnished to the respondent herein, which can be made public even by the respondent. But these things would not amount to publication by the accused.*

*12. Thus, in my considered opinion, in the absence of the satisfaction of the basic requirement of publication of imputation by the accused, the complaint is liable to be quashed.*

*13. Learned counsel for the petitioner relied on the judgment in C.H.Kader and another v. Munnalakath Valappil Fousia (1990 Cri L.J.2356), wherein a the learned single Judge of the Kerala High Court, has taken a similar view.*

*14. The next contention of the learned counsel for the petitioner is that the statement contained in the counter reflects only the truth and making such a statement would not amount to defamation. But I do not want to go into this question at this*

*stage for the reason that whether the statement is true or not is a*



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*matter to be either proved or disproved on evidence before the lower Court by the respective parties.*

*15. The question of good faith pleaded by the petitioner has also got no relevance at this stage. Since good faith is a question of fact to be proved before the lower Court, I do not deem it proper to go into the question whether the statement contained in the counter affidavit is true or not and whether the allegation was made in good faith or not. However, I am inclined to quash the case on the sole ground that making certain allegations in the counter filed before the Court would not satisfy the requirements of Section 499 IPC at all.”*

10. On perusal of the order passed in Crl.O.P.(MD)No.8333 of 2018, by this Court, the proceedings in S.T.C.No.495 of 2010 was already quashed and thereby, once again this Court need not pass any order.

11. The learned counsel appearing for the second respondent represented that the above said order is only with regard to particular person, it not for others.

12. However on careful reading of the aforesaid order of this Court, it is observed that any statement alleged made by the petitioner in the counter is not amount to defamation since it would not fulfil the requirements under



Section 499 of IPC. The result portion of the order passed by this Court reads as follows:-

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*“In view of the above discussion, the proceedings in S.T.C.No.495 of 2010 on the file of the learned Judicial Magistrate No.I, Tirunelveli, is hereby quashed and accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.”*

13. Therefore this Court in Crl.O.P.(MD)No.8333 of 2018 already quashed the S.T.C.No.495 of 2010, on the file of the learned Judicial Magistrate No.I, Tirunelveli and no mention in the order about only as against the petitioner herein. In the absence of specific order that the S.T.C. is quashed with respect of petitioner alone, it shall be read as entire proceedings in C.C.No.495 of 2010 is quashed. Since the S.T.C.No.495 of 2010 was already quashed by this Court and once again this Court need not pass any order to quash the same.

14. Hence, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is closed.

**13.07.2023**

NCC : Yes/No  
Internet : Yes/No  
Index : Yes/No

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To

1.The Judicial Magistrate, Tirunelveli.



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**P. DHANABAL,J.**

Mrn

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