



Crl.O.P.(MD)No.18510 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18510 of 2023

and

Crl.M.P(MD) Nos.14592 and 14593 of 2023

Satharack

... Petitioner / 1st Accused

Vs.

1.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

(In Crime No.674 of 2014) ...1st Respondent / Complainant

2.Manase (Died)

...2nd Respondent / De-facto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records in S.T.C. No.1422 of 2022 on the file of the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District, and to quash the same as against the petitioners.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)



Crl.O.P.(MD)No.18510 of 2023

ORDER

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This Criminal Original Petition has been filed to call for records in S.T.C. No.1422 of 2022 on the file of the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District, and to quash the same as against the petitioners.

2. The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that he was the President of Marthandam Honey Bee Keepers Co-operative Society Limited and enjoying good reputation among the public. On 04.05.2014, due to the heavy rain, the wall of the Y.M.C.A., fell down on the ware house of the Society, that was intimated to the competent authorities. The people also visited the place and the damages were also given to the affected people. On 01.10.2014, the accused printed a post in the fourth accused's press, making defamatory allegations over the above said damage. The defamatory allegations caused severe mental stress to the defacto complainant and it lowered his reputation among the public. On that basis, a complaint was registered for the offences punishable under Section 500 IPC. After completing the investigation,



CrI.O.P.(MD)No.18510 of 2023

Final Report was filed in STC No.1422 of 2022 before the learned Judicial Magistrate Court No.1, Kuzhithurai, Kanyakumari District.

Seeking quashment of the above said Final Report, this petition has been filed.

3. The offence punishable under Section 500 IPC is not a cognizable offence, for which, the Police has registered the First Information Report, investigated the same and filed the Final Report.

4. The learned counsel for the petitioner draw the attention of this Court to Section 199 of Cr.P.C., which reads as under;

(1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence: Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is



alleged to have been committed against a person who at the time of such commission, is the President of India, the Vice- President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub- section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the caused of the offence alleged to have been committed by him.

(4) No complaint Under sub- section (2) shall be made by the Public Prosecutor except with the previous sanction-

(a) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(b) of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(c) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub- section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.



Crl.O.P.(MD)No.18510 of 2023

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.”

5. In view of the Section 199 of Cr.P.C., it appears that the respondent mistakenly registered the First Information Report and filed the Final Report. On the sole ground, this petition is liable to be allowed.

6. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

16.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.ILANGOVA.N.J.
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Crl.O.P.(MD)No.18510 of 2023

TO

- 1.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.18510 of 2023

Dated: 16.10.2023