



Crl.O.P.No.12143 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.Nos.12143 & 15991 of 2022
and
Crl.M.P.Nos.6821 & 9017 of 2022

R.K.Selvamani	... Petitioner in Crl.O.P.No.12143/2022
R.Arul Anbarasu	... Petitioner in Crl.O.P.No.15991/2022

Versus

M.Gagan Bothra	... Respondent in Crl.O.P.No.12143/2022
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S.Mukanchand Bothra (Died on 17.04.2019)

S.Mukanchand Bothra (died)	... Respondent in Crl.O.P.No.15991/2022
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PRAYER in Crl.O.P.No.12143 of 2022 : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.1397 of 2017 on the file of the XV Metropolitan Magistrate, George Town, Chennai and quash the same.

PRAYER in Crl.O.P.No.15991 of 2022 : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.1397 of 2017 on the file of the XV Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioners : Mr.N.Manoharan

For Respondent : No appearance



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COMMON ORDER

These petitions have been filed to quash the proceedings in C.C.No. 1397 of 2017 on the file of the XV Metropolitan Magistrate, George Town, Chennai, in which cognizance was taken for the offences under Sections 499 r/w 500 of IPC.

2. The learned counsel for the petitioners submitted that the respondent filed a complaint on 17.05.2017 against the petitioners and other accused persons for prosecution of defamation. Allegedly, the petitioners gave an interview on 05.09.2016 to Puthiya Thalaimurai Channel, wherein certain accusations were made against the complainant, leading to damage to his reputation, the complainant being a financier by profession had charged exorbitant interest from his customers and many of them had committed suicide. He also submitted that certain allegations were made in the complaint stating that he has given the above interview to A1 news channel wherein he has stated about the complaint who used to indulge in all kinds of misdeeds to recover the loan amount from his customers. According to the complainant, the interview telecasted through A1 channel had resulted in total damage to the reputation of the complainant. He further submitted that



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his father late R.Anbarasu, former M.P. was also prosecuted by the complainant and the said case ended in conviction under Section 138 of the Negotiable Instruments Act, later confirmed by the Hon'ble Supreme Court. While so, the complainant has filed the above complaint alleging that the version spoken to by the petitioner during the course of the interview telecasted on 05.09.2016 against the complainant are totally false. He also submitted that the complainant died on 17.04.2019 and the respondent being the son of the deceased complainant is prosecuting the complaint. After the death of the complainant, no cause or case survives to continue the complaint of defamation. Thus the respondent cannot substitute himself in the place of the complainant to continue the prosecution against the petitioner. Hence, he prays to quash the proceeding in C.C.No.1397 of 2017.

3. Upon bare perusal of the complaint, there is no material ingredient on the side of the defacto complaint that all these petitioners gave the interview with dishonest intention to defame the defacto complainant. Furthermore, as on date the defacto complainant died and is now represented by his son, who is no locus standi to initiate the proceedings for defame since the reputation of the deceased individual is no longer at stake and it is personal right dies with that person. Therefore, the alleged complaint is not



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maintainable, lacking the essential element of bad intention on the part of the petitioners. Consequently, the proceedings initiated against the petitioners are vexatious.

4. Moreover, the learned trial Judge has passed an order to take the case on file without any reason and it is only a Rubber stamp order, lacking adequate justification. Such an order is liable to be set aside. The Magistrate, as the Presiding Officer, should have assigned reason for taking cognizance of the offence, yet no such reasons were assigned. Without proper justification, the Rubber stamp order stands to be quashed.

5. Accordingly, these Criminal Original Petitions are allowed. Consequently, the connected Miscellaneous petitions are closed.

27.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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