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Crl.O.P.No.22474 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2024

CORAM

THE HON'BLE MR. JUSTICE P.DHANABAL

Crl.O.P.No.22474 of 2022

And

Crl.M.P.Nos. 14444 & 14447 of 2022

Surendhirakumar @ Sundaramoorthy

...Petitioner/Single Accused

Vs.

State rep. by its

1. The Sub Inspector of Police
Thiruvannainallur Police Station
Villupuram.
Cr.No. 655/2020

... Respondent/Complainant

2. Elavarasu

...Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to quash the proceedings in C.C.No. 50 of 2021 on the file of Judicial Magistrate No.II, Ulundurpet.



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For Petitioner : Mr. A.Ashvathaman

For Respondent : M/s. G.V.Kasthuri
Additional Public Prosecutor

For 2nd Respondent: Mr. S.R.Chandra Kumar

ORDER

This petition has been filed to quash the proceedings in C.C.No. 50 of 2021 on the file of Judicial Magistrate No.II, Ulundurpet.

2. The case of the prosecution is that the petitioner is a Cartoonist by profession, for various medias and organization as a professional, he used to draw cartoons. While so, on 18.05.2020 in the Face Book, namely, Varma Cartoon drawn a Caroon of VCK Political Leader Thiru. Thirumal Valavan defamed and insulting him. Hence, a complaint has been lodged and the police has registered a case and conducted investigation and filed charge sheet and the trial Court also has taken cognizance for the offences under Sections 153, 504, 505(1) (c) of IPC and 67 of IT Act.



3. The learned counsel appearing for the petitioner would contend that the petitioner is a Cartoonist and he used to draw Cartoons for foreign media's and organisations as a Professional. In this case, on the mere apprehension that the petitioner intended to draw a cartoon and post it in social media against the leader of the political party of the 2nd respondent, petitioner was arrested, five hard drives, laptop and mobile phone were seized from the petitioner. It is the further case that no derogative or offensive cartoons were drawn by the petitioner. The 1st respondent Police on the pressure exerted by the political party, registered FIR and filed charge sheet against the petitioner in C.C.No. 50 of 2021 on the file of the Judicial Magistrate No.2, Ulundurpet, for the alleged offence under Sections 153, 504, 505(1) (c) of IPC and 67 of IT Act. It is his fundamental right under Article 19 of the Constitution of India. He would further contend that the first respondent has not conducted proper investigation and erroneously filed the charge sheet and the trial Court also without perusing the materials, has taken cognizance. Therefore, the proceedings in C.C.No. 50 of 2021 is abuse of process of law and liable to be quashed.



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4. The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent has registered the case and thereafter, they had conducted elaborate investigation and found that there are *prima facie* to proceed with the case against the petitioner. She would further contend that the Trial Court has also after considering the prima facie material available against the petitioner, proceeded to taken cognizance for the alleged offences under Sections 153, 504, 505(1) (c) of IPC and 67 of IT Act and therefore, the petitioner has to face trial. Hence, this Petition is liable to be dismissed.

5. The learned counsel appearing for the second respondent also reiterated the same arguments.

6. Heard the learned counsels appearing on both side and also perused the materials available on records.



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7. On perusal of the records, this Court found that there are prima facie material available to proceed with the case against the petitioner. The contention of the learned counsel for the petitioner that the Cartoons in which the petitioner drawn is not a defamatory and he has no intention to defame anybody has to be tested through trial. As far as the freedom speech and expression guaranteed under Article 19 of the Constitution of India is concerned, the fundamental right is subject to reasonable restrictions and the same cannot be decided at this stage and it requires elaborate trial. There are no grounds to quash the proceedings. However, no charges were framed by the trial Court, hence it is for the trial Court to frame appropriate charges based on the available records and also he procedural aspects in accordance with law. In view of the above, this Court is of the view that this petition has no merits and deserved to be dismissed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions stands closed. No costs.

27.09.2024

vsg



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P.DHANABAL, J.

vsg

To

1. Judicial Magistrate No.II, Ulundurpet.
2. The Sub Inspector of Police
Thiruvannainallur Police Station
Villupuram.
3. The Public Prosecutor,
High Court of Madras.

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