



WEB COPY



Crl.O.P.(MD)No.2417 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.2417 of 2022 and
Crl.M.P.(MD).No.1771 of 2022

1.Shanmugavelayutham

2.Gandhimathinathan ... Petitioners/Accused Nos.1&2

Vs.

Pitchaiah

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the impugned petition filed under Section 200 Cr.P.C. in STC No.1321/2021 before the Judicial Magistrate Court, Shencottah, Tenkasi District charging the petitioners herein for the alleged offence under Section 500 IPC and quash the same.

For petitioners : M/s.D.Nallathambi

For R-1 : Mr.S.Palanivelayutham

ORDER

This petition has been filed seeking to quash the impugned petition filed under Section 200 Cr.P.C. in STC No.1321/2021 before the Judicial Magistrate Court, Shencottah, Tenkasi District charging the petitioners herein for the alleged offence under Section 500 IPC.



WEB COPY

2. The case of the prosecution is that the petitioners are arrayed as A1 and A2 respectively in STC No.1321/2021 for the offence under Section 500 IPC. It is alleged that the respondent has given a paper publication on 20.07.2021 with respect to a decree obtained in the original proceedings. However, the petitioners said to have made a reply publication thereby defaming the respondent and hence, a complaint is preferred under Section 200 Cr.P.C, which was taken on file in STC No. 1321/2021.

3. The learned counsel for the petitioners would submit that though a complaint has been preferred as if the petitioners are also responsible for defaming the respondent, it is the specific case of the petitioners that the reply publication was made based on the court record, ie., evidence of P.W.1 in O.S.No.117/2019 on the file of the Principal Sub Court, Tenkasi and therefore, the petitioners have nothing to do with the offence as alleged by the respondent and hence, prays for quashing the private complaint.

4. The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed



and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to them to put forth their defence. The petitioners cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).

6. For the reasons aforesaid, this Court finds no ground or scope to quash STC No.1321 of 2021, pending on the file of the learned Judicial Magistrate, Shencottah. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is dismissed.

7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the



CrI.O.P.(MD)No.2417 of 2022

petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

08.02.2024

Index : Yes/No

Internet : Yes/No

RR

To

1. The Judicial Magistrate, Shencottah.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P.(MD)No.2417 of 2022

M.DHANDAPANI. J.

RR

Crl.O.P.(MD)No.2417 of 2022

08.02.2024