



2024:KER:93046

Crl.M.C.No.1280/2020

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA, 1946

CRL.MC NO. 1280 OF 2020

AGAINST THE ORDER IN CC NO.728 OF 2018 OF JUDICIAL MAGISTRATE
OF FIRST CLASS ,TALIPARAMBA

PETITIONER/ACCUSED:

SEBASTIAN PAUL,
AGED 72 YEARS,
ADVOCATE, PROVIDENCE ROAD,
KOCHI-682018

BY ADVS.VARADA SURENDRAN
DEEPAK MOHAN

RESPONDENTS/COMPLAINANT:

- 1 SHRI P.R. ASHOKAN
AGED 48 YEARS
PULICKAL HOUSE, KANJIRANGADU.P.O.,
TALIPARAMBA TALUK, KANNUR-670142
- 2 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI-682031

BY ADVS.V.T.MADHAVANUNNI
V.A.SATHEESH

OTHER PRESENT:

SRI.SANGEETHARAJ, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
07.12.2024,ALONG WITH CRL.M.C.NO.2297/2019, THE COURT ON 11.12.2024
PASSED THE FOLLOWING:



ORDER

The accused in C.C.No.728 of 2018 on the files of the Judicial First Class Magistrate Court, Taliparamba, a lawyer cum journalist, has filed this petition under section 482 Cr.P.C to quash the proceedings in the said case.

2. The allegation against the petitioner is that he made a speech at a gathering of journalists at Kozhikode on 20.10.2016 denigrating the lawyer community and thereby committed the offence under Section 500 I.P.C. The above speech was made at a time when there existed strife between the lawyers and journalists in Kerala in connection with some incidents of tussle between them. According to the complainant, a practising lawyer at Taliparamba, who preferred this private complaint against the petitioner, the petitioner compared the lawyer community with street dogs in the above speech which was published and telecasted by the print and visual media. The above complaint was taken into files by the learned Judicial First Class Magistrate, Taliparamba and summons ordered to the accused.

3. In the present petition, the petitioner would contend that the comments made by him in the controversial speech at Kozhikode on



20.10.2016, even if proved, will not be sufficient for proceeding against the petitioner under Sections 500, 501 and 502 I.P.C, and hence it is highly necessary to quash the proceedings in CC No.728/2018 of the Judicial First Class Magistrate Court, Taliparamba, against him. It is further contended that this Court had already quashed the identical proceedings against the petitioner in four other Courts, as per orders in Crl.M.C.No.220/2017, Crl.M.C.No.139/2013, Crl.M.C.No.4128/2017 & Crl.M.C.No.2102/2018.

4. This case was being considered along with Crl.M.C.No.2297/2019 instituted by the petitioner for quashing the proceedings against him in S.T.No.3/2017 of the Chief Judicial Magistrate Court, Thiruvananthapuram. Though the case was posted for hearing on several occasions along with Crl.M.C.No.2297/2019, the first respondent did not choose to appear before this Court and to advance any arguments.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State of Kerala.

6. The substantial offence alleged against the petitioner in the private complaint which gave rise to CC No.728/2018 of the Judicial



First Class Magistrate Court, Taliparamba, is defamation punishable under Section 500 I.P.C. The offence of defamation is defined in Section 499 I.P.C which is extracted hereunder:

"499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a



loathsome state, or in a state generally considered as disgraceful.”

7. As per Explanation 2 under Section 499 I.P.C, an imputation concerning a company or an association or collection of persons as such may amount to defamation. The question to be looked into in this case is whether the lawyer community which the petitioner referred in his controversial speech, could be termed as an association or collection of persons as envisaged under the aforesaid Explanation.

8. To decide the above aspect, an analysis of Section 199(1) Cr.P.C which deals with prosecution for defamation is highly necessary. As per the aforesaid Section, a complaint made by some persons aggrieved by the offence has to be there for a court to take cognizance of an offence punishable under Chapter XXI of I.P.C. Thus, the matter to be looked into is whether the complainant could be considered as a person aggrieved by the offence which is said to have been committed by the petitioner by making a speech derogatory to the lawyer community.

9. A reading of the averments in the original complaint filed by the first respondent before the Judicial First Class Magistrate Court,



Taliparamba would go to show that the petitioner did not refer to the entire lawyer community while making the alleged disparaging remarks in the controversial speech. On the other hand, what had been mentioned by him was the so-called violent behaviour displayed by a group of lawyers who were involved in the fight with journalists. In this context, it is pertinent to note that the petitioner himself is a lawyer having practice in various courts including this Court. Thus the controversial remarks made by the petitioner in his speech on 20.10.2016 cannot be said to be one intended to denigrate the entire lawyer community. As such, it cannot be said that the above remarks of the petitioner had caused harm to the reputation of the first respondent as a member of the lawyer community. When viewed in the above perspective, it is not possible to conclude that the first respondent is a 'person aggrieved by the offence' as contemplated under sub Section (1) of Section 199 Cr.P.C.

10. In ***Malayala Manorama Company Limited and Others v. Deepak J.M and Others [2018 KHC 160]***, a learned Single Judge of this Court had dealt with this aspect in detail. Following the law laid down by the Apex Court in ***G.Narasimhan v. T.V.Chokkappa***



[(1972) 2 SCC 680] and ***S.Khushboo v. Kanniammal and Another [(2010) 5 SCC 600]***, it has been held in the aforesaid decision that the collection of persons against whom the petitioner made the controversial remark cannot be said to be an identifiable body making it possible to say with definiteness that a group of particular persons, as distinguished from the rest of the community, was defamed. Upon the above findings, it was concluded in the aforesaid decision that the complainant, who was a practising Lawyer at Thiruvananthapuram, cannot be treated as a person aggrieved within the meaning of Section 199 (1) Cr.P.C when the group which he is allegedly representing, cannot be brought within the category of 'class of persons' within the meaning of Explanation 2 of Section 499 I.P.C. Accordingly, the proceedings against the petitioners in Crl.M.C.Nos.4139, 5383, 5352 and 6185 of 2017 were quashed as per the order dated 20.02.2018. The findings of the learned Single Judge in the aforesaid cases that the complainant, a practising Lawyer of Thiruvananthapuram, cannot be treated as a person aggrieved within the meaning of Section 199(1) Cr.P.C is perfectly applicable in the present case as well, wherein the complainant is a practising Lawyer of



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Taliparamba. That being so, the prayer in this petition to quash the proceedings against the petitioner has to be allowed.

In the result, the petition stands allowed. The proceedings against the petitioner in CCNo.715/2018 on the files of the Judicial First Class Magistrate Court, Taliparamba, are quashed.

(sd/-)

G. GIRISH, JUDGE

jsr/DST



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APPENDIX

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE COMPLAINT FILED BY THE RESPONDENT
ANNEXURE A2	TRUE COPY OF JUDGMENT IN CRL MC 220/2017