

(2003) 01 MAD CK 0081

In the Madras High Court

Case No : Criminal O.P. No. 17693 of 2001 and Criminal M.P. No's. 6100 and 6101 of 2001

V. Palani

APPELLANT

Vs

S.P. Chandrabose

RESPONDENT

Date of Decision : 31-01-2003

Acts Referred:

Penal Code, 1860 (IPC) — Section 500

Citation : (2003) CriLJ 2594

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : K. Sukumaran, for the Appellant; A. Ramesh, for Ram and Ram, for the Respondent

Final Decision : Allowed

Judgement

M. Karpagavinayagam, J.—Mr. V. Palani, presently working as Deputy Superintendent of Police, Chidambaram has filed this petition u/s

482 Cr.P.C., seeking to quash the proceedings arising out of the private complaint filed by one S.P. Chandrabose, Advocate, practicing at

Tiruppattur, taken on file in C.C. No. 212 of 2000 on the file of the Court of the Judicial Magistrate-II, Tiruppattur for the offence u/s 500 I.P.C.

2. A reading of the records would reveal the following facts:-

(a) J.P. Chandrabose, the complainant (practicing advocate) issued notice to Palani, the then Inspector of Police on behalf of his client

Varadharajan on 8-3-1993. The said Palani issued reply notice to the complainant on 17-3-1993, stating that the notice issued by him contained

defamatory allegations. On receipt of the same, the complainant sent a reply notice on 12-5-1993 that the notice has been issued by him not in his

individual capacity, but on behalf of his client.

(b) Not being satisfied with the reply, Mr. Palani, the then Inspector of Police, filed a private complaint for defamation in S.T.C. No. 681 of 1993

before the Judicial Magistrate, Ambur, N.A.A. District. After taking the case on file, the learned Judicial Magistrate issued summons to

Chandrabose, the Advocate. The same was served on him through Police on 10-6-1993 when he was sitting in the corridors of the Court.

(c) Then the petitioner filed an application for quashing the said complaint in Crl.O.P. No. 6919 of 1993 before this Court. After hearing learned

counsel for parties, this Court quashed the proceedings in S.T.C. No. 681 of 1993, by order dated 15-2-1994.

(d) Thereafter, the complainant filed the present private complaint (C.C. No. 212 of 2000) against the petitioner for the offence u/s 500 I.P.C.

which was taken on file on 13-4-1998.

3. According to the complainant, service of summons on him in S.T.C. No. 681 of 1993 in the Court premises at Tiruppur, has caused mental

agony to him and that his image and reputation have been lowered in the estimation of the clients and advocates who were present there.

Consequently, he was constrained to file the private complaint for defamation against Mr. Palani, who was the then Inspector of Police.

4. The private complaint is now sought to be quashed by Mr. Palani, the petitioner herein who is now working as Deputy Superintendent of Police,

on the ground that the allegations in the complaint would not constitute offence u/s 500 I.P.C., and though the alleged offence had taken place on

10-6-1993, the case was taken cognizance only on 13-4-1998, after a lapse of nearly five years and so, the impugned complaint is barred by

limitation.

5. Heard learned counsel for the petitioner and respondent.

6. On going through the private complaint and sworn statement, it is noticed that the main grievance of the respondent/complainant is that service of

summons on him in the presence of others in S.T.C. No. 681 of 1993, which was the private complaint filed by the petitioner against the

respondent u/s 500 I.P.C., resulted in lowering the reputation of the respondent. The said averment, in my view, would not constitute the offence

u/s 500 I.P.C.

7. Aggrieved by the notice issued by the respondent/complainant containing defamatory allegations, the petitioner approached the criminal Court,

seeking remedy since he became a victim for the offence of defamation. The Judicial Magistrate also, considering the complaint and sworn

statement, took the case on file u/s 500 I.P.C. and issued summons to the respondent herein. In pursuance of the order of the learned Magistrate,

respondent has been served with the summons.

8. Admittedly, entire proceedings in S.T.C. No. 681 of 1993 were quashed by this Court in Crl.O.P. No. 6919 of 1993, by order dated 15-2-

1994. Thereafter, the private complaint in question has been filed by the respondent.

9. It is stated by the respondent that he earlier issued notice on behalf of his client Varadharajan, only in his capacity as "counsel" and not in his

"individual capacity" and as such, the act committed by him as Advocate, would not amount to defamation. This argument was accepted by this

Court and ultimately, the earlier private complaint filed against the respondent was quashed. Even though the private complaint against him was

quashed, being not satisfied with that, the respondent has filed the present private complaint. It is to be stated that the very same argument which

he made before this Court, seeking for quashing of the earlier private complaint filed against him, would be applicable in the present case also in

favour of the petitioner/accused.

10. It cannot be contended that filing of private complaint u/s 500 I.P.C., which ultimately was quashed, would amount to defamation. Equally, it

cannot be stated that the service of summons on the said complaint which was taken on file by the Judicial Magistrate also, would amount to

defamation, as the service of summons was only in pursuance of the order of the Court.

11. Therefore, the present complaint which has been filed by the respondent, who is a practicing advocate, does not satisfy the ingredients of

offence u/s 500 I.P.C., and as such, the same is liable to be quashed.

12. It is now brought to my notice that both the parties have entered into compromise and filed a memo before the trial Court.

13. However, this Court would not approve the conduct of the respondent who is an Advocate, who rushed to the Court to file another complaint

against the petitioner to wreak vengeance and due to the said act, a situation has arisen where the petitioner who is working as Deputy

Superintendent of Police, was constrained to tap the doors of this Court, accusing the respondent (a practicing advocate) that he is guilty of misuse

of easy access to justice by filing misconceived complaint.

14. The respondent, being a legal practitioner for number of years all over the Districts, should have satisfied with quashing of the private complaint

against him through the order of this Court and kept quiet without precipitating the matter further. However, this Court has to appreciate the

conduct of both the respondent and the petitioner in arriving at a settlement at least now.

15. With the above observations, the impugned proceedings are quashed. The petition is allowed. Crl.M.P.Nos.6100 and 6101 of 2001 are

closed.