
(2012) 01 KL CK 0041
In the High Court Of Kerala
Case No : Criminal M.C. No. 3670 of 2007

Vijayakumar

APPELLANT

Vs

State of Kerala and Ramakrishnan

RESPONDENT

Date of Decision : 24-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 499, 500

Citation : (2012) 01 KL CK 0041

Hon'ble Judges : N.K. Balakrishnan, J

Bench : Single Bench

Advocate : Santheep Ankarath, for the Appellant; T. Sethumadhavan for R2, Sri. Pushparajan Kodoth, Sri. K. Jayesh Mohankumar for R1 and Smt. Jasmine V.H., Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Balakrishnan, J.—Dated this the 24th day of January, 2012 Order The petitioner seeks to quash Annexure A5 complaint and the action initiated by the learned Magistrate pursuant thereto. That complaint was filed against the petitioner alleging offence u/s 500 IPC. The learned counsel for the petitioner submits that the 2nd respondent was ousted from the Sangham of which the petitioner was the Secretary. The complainant was also the Secretary of that Sangham. It is stated that the accounts of that Sangham were audited and irregularities were noticed by the audit party. Hence show cause notice was issued by the Sangham represented by the Secretary (the petitioner herein) to the second respondent. Again an additional charge memo was also issued to the 2nd respondent. The allegation is that those show cause notice and charge memos were circulated among the friends of the complainant and so the act of the petitioner herein defamed the complainant-R2 in the eye of the public and thus the petitioner has committed offence punishable u/s 500 IPC.

2. The learned counsel for the petitioner submits that issuance of a charge memo

or additional charge memo or show cause notice based on the irregularities found out in the audit cannot give rise to a cause of action for filing a complaint alleging defamation since the act of the petitioner herein as the Secretary of the Sangham was well within the power of the Sangham and that it would fall under one or more of the exceptions mentioned in Section 499 IPC. But the learned counsel for the second respondent would submit that whether the act of the petitioner would come under any of the exceptions as contended by him is not a matter to be probed into in a petition u/s 482 Cr.P.C. Whether the charge memo which was stated to have been circulated would attract the offence of defamation or whether the act complained of would come under one or more of the exceptions u/s 499 IPC is a matter to be considered at the time of trial. Therefore, giving liberty to the petitioner to raise all those contentions, this Crl. M.C. may have to be rejected.

3. In the result, this Crl. M.C. is dismissed, but the petitioner is given liberty to raise all his contentions before the learned Magistrate at the time of trial. Both parties will appear before the learned Magistrate on 21.02.2012. The learned Magistrate will dispose of the matter as early as possible.