IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE RAJESH RAI K

CRIMINAL REVISION PETITION NO. 1044 OF 2017

BETWEEN:

ADDANADA KARIAPPA
SON OF LATE CHENGAPPA
AGED 54 YEARS,
KUNDA ROAD
PONNAMPET -571 216
VIRAJPET TALUK
KODAGU DISTRICT

...PETITIONER

(BY SRI. ANGAD KAMATH, AMICUS CURIAE)

AND:

PHILIPHOSE MATHEW
SON OF MATHEW
AGED 54 YEARS
GONIKOPPAL-571 213
VIRAJPET TALUK
KODAGU

...RESPONDENT

(BY SRI. SACHIN B.S, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT DATED 28.09.2017 ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU, MADIKERI, SITTING AT VIRAJPET IN CRL.A.NO.2/2016 AND THE JUDGMENT DATED 20.09.2016 PASSED BY THE CIVIL JUDGE AND J.M.F.C., PONNAMPET IN C.C.NO.1258/2010 AND THE PETITIONER MAY BE ORDERED TO BE ACQUITTED IN THE SAID CASE FILED AGAINST HIM.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE RAJESH RAI K

ORAL ORDER

In this revision petition the petitioner has assailed the judgment and order passed in Crl.A.No.2/2016 dated 28.09.2017 by the II Additional District and Sessions Judge, Kodagu-Madikeri sitting at Virajpet (hereinafter referred to as the 'learned Sessions Judge') whereby the learned Sessions Judge dismissed the appeal filed by the revision petitioner and confirmed the judgment of conviction and order of sentence passed by the Principal Civil Judge & JMFC, Ponnampet (hereinafter referred to as 'the Trial Court') in C.C.No.1258/2010 (Old C.C.No.31/2010) dated 20.09.2016.

2. Parties are referred to as per their rankings before the Trial Court.

3. Abridged facts of the prosecution case are as under:

The respondent-complainant filed a private complaint under Section 200 of Cr.P.C. before for the Trial Court against the accused for the offence punishable under Section 500 of IPC alleging that, he is a Christian by religion who dedicated his

life for social cause. The accused is an editor of Kannada Weekly Newspaper Veeranadu; on 01.09.2008 in his newspaper he published an editorial article titled "ಹಿಂದೂಸ್ಥಾನ್ ಅಲ್ಲ ಕ್ರೈಸ್ತಸ್ಥಾನ್". It is alleged that the accused published the said editorial article dated 01.09.2008, to perpetuate animosity among members of different religions. Hence a complaint was filed against the accused in P.C.No.109/2008. Infuriated by this, the accused on 15.09.2008 published another editorial titled "ಸಂಪಾದಕೀಯದಲ್ಲಿ ಎನಿದೆ ಕೋಮು ಪ್ರಚೋದನೆ?" In his second editorial the accused made multiple imputations against the complainant such as "ಫಿಲಿಪೋಸ್ ಮ್ಯಾಥ್ಯೂರಂತಹ ವ್ಯಕ್ತಿಗಳು ಕೊಡಗಿನಲ್ಲಿ ಮತಾಂತರ ಏಜೆಂಟರಾಗಿದ್ದಾರೆ". The complainant in his complaint mentioned verbatim from the editorial such as "ಯರವ–ಕುರುಬರ ಮತಾಂತರ!" "ಯರವರ ಮಗುವಿನ ಅಂತ್ಯ ಕ್ರಿಯೆಗೆ ಫಾದರ್", "ನಕ್ಸಲ್ ರೀತಿಯ ಇಂಬು", "ಮತಾಂತರ ಏಜೆಂಟರು", ಯರವರು–ಕುರುಬರು ಮತಾಂತರವಾಗುತ್ತಿರುವುದಕ್ಕೆ ಇವರೂ ನೇರವಾಗಿ ಕುಮ್ಮಕ್ಕು ಕೊಡುತ್ತಿದ್ದಾರೆ, ಇವರೇ ಮುಂದಿನ ಎಲ್ಲಾ ಅನಾಹುತಗಳಿಗೆ ಕಾರಣರಾಗಿದ್ದಾರೆ", "ಕೊಡವರಲ್ಲೂ ಮತಾಂತರ", "ಕೊಡಗಿನ ಗಿರಿಜನರಿಗೆ ಸಾಂತ್ವನ ಅಗತ್ಯ" "ಕುಡಿತ ಕೈಬಿಡಲು ಕ್ರೈಸ್ತದ ಧರ್ಮವೇ ಆಗಬೇಕೆಂದೇನಿಲ್ಲ", "ಫಿಲಿಪೋಸ್ ಮ್ಯಾಥ್ಯೂ ಎಂಬ ಆತಂಕಕಾರಿ", "ಮತಾಂತರ ನಿಲ್ಲದಿದ್ದರೆ ಗಂಡಾಂತರ", "ಕೊಡಗಿನ ಬುಡಕಟ್ಟು ಜನರೆಲ್ಲ ಕ್ರೈಸ್ತರಂತೆ". The complainant further alleged that by such publication in the newspaper the accused tarnished his reputation and sullied his dignity in public, putting him under tremendous mental agony and torture. As such, the

complainant registered a private complaint against the accused in PC No.13/2008.

4. On the strength of the private complaint the learned Magistrate took cognizance of the offence and recorded the sworn statement of the complainant, secured the presence of the accused and framed charges against the accused for the offence punishable under Section 500 of IPC.

5. To prove the charges levelled against the accused before the Trial Court, the complainant examined himself as PW.1 along with another witness as PW.2 and marked 1 document as Ex.P1(a) to (d). However, the accused neither examined any witnesses nor marked any documents on his behalf.

6. On assessment of oral and documentary evidence, the learned Magistrate convicted the accused for the offence punishable under Section 500 of IPC and sentenced him to undergo simple imprisonment for 7 days and to pay fine of Rs.10,000/- in default of payment of fine to undergo further simple imprisonment for a period of one day. Out of the fine amount a sum of Rs.5,000/- is directed to be paid as

compensation to the complainant. Being aggrieved by the said judgment of conviction and the order of sentence, the accused filed a criminal appeal before the learned Sessions Judge in Crl.A.No.2/2016. However, the complainant also challenged the said judgment of conviction and the order of sentence before the learned Sessions Judge in Crl.A.No.3/2016 for enhancement of the sentence imposed by the Trial Court.

7. On reassessing the comprehensive evidence and documents on record, the learned Sessions Judge, dismissed both the appeals and thereby confirmed the judgment of conviction and order of sentence passed by the Trial Court. The accused has challenged the same in this revision petition.

8. Heard the learned Amicus Curiae Sri. Angad Kamat for the revision petitioner and the learned counsel Sri. Sachin B.S., for the respondent.

9. Besides urging several contentions, the learned Amicus Curiae primarily contended that, on the face of allegations stipulated in the private complaint and the deposition of the witnesses, the complainant failed to make out that the alleged imputation caused harm to the complainant's

reputation in the estimation of other, as required under explanation (4) to Section 499 of IPC, since the sole supporting witness PW.2 has categorically admitted in his evidence that the complainant informed him that the alleged imputation cause sullied his reputation. He further contended that, except PW.2 no evidence was led to substantiate that, either any member of public or community, upon reading the impugned editorials thought less of the complainant or altered their opinion of him. PW.2 has specifically stated that upon reading the article he "felt sad", however, he continued to affirm the complainant's benevolent and good standing, effectively vouching for the complainant's character despite the publication. In such circumstances, the ingredients as stipulated under Section 499 Explanation 4 of IPC stands not complied with and both the Trial Court and the First Appellate Court erred while passing the impugned judgments. Accordingly, he prays to allow the revision petition by setting aside the impugned judgments. To buttress his argument, he relied on the following judgments:

1. *Konath Madhavi Amma v. S.M. Sherief and Ors. (20.03.1985 - KERHC): MANU/KE/0156/1985;*

2. *Sopan v. State of Maharashtra (MANU/MH/0184/2008);*

3. *Swapan Kr. Paul v. Anal Roy Chowdhury (MANU/TR/0323/2021);*

4. *Parmodh Sharma v. Onkar Singh Thakur (MANU/HP/0521/2019);*

5. *Dipankar Bagchi v. The State of West Bengal and Ors. (MANU/WB/0228/2009);*

6. *Chellappan Pillai v. Karanjia (MANU/KE/0157/1961);*

10. *Per contra*, the learned counsel for the respondent/complainant contended that, the Trial Court and the First Appellate Court on meticulously examining the evidence and documents on record passed well-reasoned judgments which do not call for any interference at the hands of this Court. He further contended that, the accused by publishing the news article as per Ex.P1 blotted the complainant's character and reputation. To establish the same the complainant examined himself as PW.1 and also examined one more witness PW.2 and placed the defamatory publications as per Exs.P1(a) to P1(d) which depicts the imputation made by the accused stooping the complainant's image and self-esteem. He further contended that the complainant took

recourse to Explanation 4 under Section 499 of IPC for the first time before this Court while his contentions before the Trial Court and the Sessions Court was with regard to First Exception under Section 499 of IPC. In such circumstances, he prays to dismiss the revision petition.

11. I have given my anxious consideration to the arguments advanced by the learned counsel for the respective parties; carefully perused the entire materials on record placed before me and the judgements produced by the respective learned counsel for the parties. The sole point that arises for my consideration is:

i. *"Whether the learned Sessions Judge is justified in dismissing the appeal filed by the revision petitioner and thereby confirming the order passed by the Trial Court?"*

12. Before delving into the merits of the case, it is appropriate to state verbatim the provision as stipulated under Section 499 of IPC and exception (4) as under:

*"**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 expected, to defame that person.

Fourth Exception.— Publication of reports of proceedings of Courts.— It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings."

13. As could be gathered from the above provision to attract the offence of defamation there must be publication of imputation intending to harm reputation of the person who felt defamed. The person, involving whom such publication is made, must prove that in estimation of others his moral or intellectual character is lowered down as a result of such false imputation. Further, to prove the said aspect it is the duty cast on the complainant to lead all necessary evidence before whom his image is ill-effected and lowered. In the case on hand, albeit the complainant-PW.1 in his private complaint and the evidence stated that, the imputations as per Exs.P1(a) to P1(d) sullied his reputation, however, that in itself would not suffice to attract the offence under Section 499 of IPC. The damage of the reputation can be ascertained and determined by other persons' estimation. In the instant case, the complainant examined PW.2 to prove the said aspect; however, PW.2

nowhere in his evidence stated that on reading the imputation, the moral and intellectual character of the complainant has been lowered in his estimation. On the contrary he deposed that, the complainant himself informed him that "the imputation caused harm to his reputation." Further, he explicitly re-affirmed his belief on the complainant's good character. As stated supra no other witnesses have been examined in whose estimation the reputation of the complainant has been lowered owing to such imputation made by the accused. This aspect was not appreciated by both the Trial Court and the First Appellate Court. Against this backdrop, interference is required in the impugned judgments by this Court. Accordingly, I proceed to pass the following:

ORDER

i. The Criminal Revision Petition is ***allowed***.

ii. Consequently, the judgment of conviction and the order of sentence passed by the trial Court in C.C.No.1258/2010 dated 20.09.2016 which was confirmed by the First Appellate Court in Crl.A.No.2/2016 c/w Crl.A.No.3/2016 dated 28.09.2017 is hereby set-aside.

iii. The revision petitioner/accused is acquitted for the offence punishable under Section 500 of IPC.

iv. The bail bond executed by the revision petitioner stands cancelled.

v. The fine amount, if any, paid by the revision petitioner shall be refunded to him on due identification.

vi. The Karnataka State Legal Services Authority is directed to pay a sum of Rs.15,000/- to Sri. Angad Kamat, Amicus Curiae as honorary for assisting the Court in this revision petition.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 30