

HIGH COURT OF SIKKIM
Record of Proceedings

Crl. M.C. No. 05/2018

MALAYALA MANORAMA, REPRESENTED BY ITS
CHIEF EDITOR, SHRI MAMMEN MATHEW
AND OTHERS

PETITIONER (S)

VERSUS

M/S FUTURE GAMING AND HOTEL SERVICES
PRIVATE LIMITED

RESPONDENT (S)

Date: 07/08/2019

CORAM :

HON'BLE MR. JUSTICE VIJAI KUMAR BIST, CJ.

For Petitioner(s) : Mr. Millu Danda Pani, Mr. Ajay Rathi,
Mr. Rahul Rathi, Ms. Phurba Diki
Sherpa and Mr. Raghenth Basant,
Advocates.

For Respondent (s) : Ms. Laxmi Chakraborty and Ms. Manju
Rai, Advocates.

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Chief Justice.

1. The present petition is second petition for quashing the *Private Complaint Case No. 59 of 2015 : P. Ravichandran vs. Malayala Manorama* filed by the respondent before the Court of learned Chief Judicial Magistrate, East and North Sikkim at Gangtok.

2. The case of the petitioner is that they are the publishers of "MALAYALA MANORAMA" a Malayalam vernacular daily newspaper. The respondent had filed a complaint in terms of Section 200 of the Code of Criminal Procedure, 1973, against the petitioners before the

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Court of learned Chief Judicial Magistrate, East and North Sikkim at Gangtok (*Private Complaint Case No. 59 of 2015*) *inter alia* alleging that the "Malayala Manorama" a Malayalam vernacular daily newspaper, widely circulated in the State of Kerala but not circulated in Sikkim or its seven hill sisters, published two defamatory articles against the respondents, which has brought down the image and reputation of the respondent. After examining the Complainant, the learned trial court took cognizance of the offences under Sections 500, 501 and 120 B of the Indian Penal Code, 1860.

3. On 05.03.2019, the learned counsel for the parties informed this Court that the parties were interested in mediation. The matter was deferred for next day. On 06.03.2019, the learned counsel for the parties, after seeking necessary instructions from their clients informed the Court that the matter be referred for mediation. They also stated that their clients were agreeable for Hon'ble Mr. Justice Kurian Joseph, former Judge, Supreme Court of India, to be appointed as Mediator. Considering their submissions, this Court appointed Hon'ble Former Judge as the Mediator.

4. The Mediator has submitted his report dated 19.05.2019. As per the Mediator's report the matter has been settled between the parties. The terms of settlement dated 16.05.2019 is as follows:

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"Terms of Settlement"

1. Malayala Manorama will publish a news item, explaining the circumstances leading to the mediation proceedings, acknowledging with an open mind that the publications did not in any way intend to harm the reputation of Shri Santiago Martin and his business concerns and also regarding the withdrawal of certain expressions used about Shri Martin and further expressing regret on the alleged damage caused to the reputation of Shri Martin and his business concerns.
2. The draft of the news item has been approved by both parties. The news item as approved will be published in all editions, both print and online, including the online English edition. The draft duly signed by both parties shall form part of the settlement.
3. The news item will be published prominently in the common page, in all editions, on Sunday the 19th of May 2019.
4. Accordingly, it has been agreed by both sides that the pending case, No.59 of 2015 on the file of Chief Judicial Magistrate, East & North Gangtok, leading to Crl. MC. No. 05 of 2018 on the file of the Hon'ble High Court of Sikkim, can be amicably resolved.
5. The parties have also agreed that they will not indulge in any future litigation either civil or criminal arising out of the above subject matter.
6. In view of the settlement as above, the parties have also agreed to amicably resolve a similar case pending in the State of Nagaland, through the intervention of the Gauhati High Court, Kohima Bench.

Dated this the 16th May 2019, at New Delhi.

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5. A joint application dated 07.08.2019, being IA No. 04 of 2019, has been filed by the parties. The application has been supported by an affidavit of Shri Lal John, appearing for the petitioners and Shri P. Ravichandran appearing for the respondent. The persons who have sworn the affidavit are present in the Court.

6. In view of above facts, the proceedings of Private Complaint Case No. 59 of 2015 pending before the Court of learned

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Chief Judicial Magistrate, East Sikkim at Gangtok deserves to be quashed.

7. In view of the fact that the matter has been settled between the parties and in view of the law laid down by the Hon'ble Supreme Court of India in ***Gyan Singh vs. State of Punjab : (2012) 10 SCC 303***, FIR as well as the criminal proceedings can be quashed by a Court, if the Court finds that the matter has been settled by the parties amicably and the parties are interested to restore peace and harmony.

8. Accordingly, the petition is allowed.

9. The entire proceedings of *Private Complaint Case No. 59 of 2015 : P. Ravichandran vs. Malayala Manorama* pending before the Court of learned Chief Judicial Magistrate, East Sikkim at Gangtok are quashed. Consequently, the order passed by the Chief Judicial Magistrate taking cognizance stands set aside.

10. IA No. 04 of 2019 also stands disposed of.

11. Let a copy of his order be sent to the Court of learned Chief Judicial Magistrate, East Sikkim at Gangtok.

Chief Justice
07.08.2019

Index : ~~Yes~~ / No
Internet : Yes / ~~No~~

jk/bp