

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.10.2024

Pronounced on : 07.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.S.No.185 of 2023

Edapadi K.Palanisamy
S/o.Karuppa Gounder,
NB-9, Sevanthi,
TSKR Road, Chennai – 600 028.

.. Plaintiff

/versus/

Dhanapal

.. Defendant

This Civil Suit is filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C, 1908, prayed for a judgment and decree against the Defendant:-

i)Directing the defendant to make payment of a sum of Rs. 1,10,00,000/- towards damages caused to the plaintiff by the interview of the defendant on 24.08.2023, 05.09.2023 and 07.09.2023, which is filed as document No.1 to 3 along with plaint.

ii) For Permanent injunction restraining the defendant, his men, agents, servants, person or persons acting through or under him or for and on his behalf from in any manner whatsoever releasing, circulating, publishing or giving interviews and / or post any items, messages on

social media containing allegations as found or resembling to the one in the document No.1 to 3 filed along with the plaint;

iii) For costs of the suit.

For Plaintiff : Mr.S.R.Rajagopal,
Senior Counsel
For Mr.S.R.Raghunathan
For Defendant : Ex-parte

J U D G M E N T

Suit for damages and for compensatory claim:

The suit has been filed by the plaintiff against the defendant for claiming damages for a sum of Rs.1,10,00,000/- caused to the plaintiff by a defamatory interview given by the defendant on 24.08.2023, 05.09.2023 and 07.09.2023, and for relief of permanent injunction restraining the defendant, his men, agents, servants or persons acting through or under him an on his behalf from in any manner whatsoever releasing, circulating, publishing or giving interviews and post any items, messages on social media containing allegations as found or resembling to one in the document No.1 to 3 filed along with the plaint.

2. The sum and substance of the plaint averment is that the plaintiff / applicant was the former Hon'ble Chief Minister of the State of Tamil Nadu who is presently the Leader of the Opposition for the Tamil Nadu State Assembly; the plaintiff / applicant has been in politics for over four decades and built up an unblemished reputation in public service and he had succinctly contested in several elections and got elected to the State Assembly, five times; the plaintiff is also the General Secretary of his political party, “*All Indian Anna Dravida Munnetra Kalagam*” (AIADMK).

3. The plaint further proceeds on the basis that:

(i) owing to the hard work and efficient management, under the leadership of the plaintiff, the plaintiff was successfully administering the affairs of the State of Tamil Nadu from the year 2017-2021.

(ii) On 11.07.2022, the General Council of the Party met and elected the plaintiff as their General Secretary and from that date the plaintiff being elected as the A.I.A.D.M.K General Secretary, has been looking after the affairs of the party very successfully.

(iii) The subject matter of the present suit is that according to the plaintiff, a false acquisition has been made by the sole defendant connecting the plaintiff with the incident that had taken place on 23.04.2017 at Kodanadu Estate, Nilgiris District and it is specifically averred that, the same is an attempt to develop ill feeling against the plaintiff amongst the general public and the party cadre, and thus to destabilize the party. Consequently, the plaintiff has been constrained to initiate the present action.

(iv) When the Lok Sabha Election is due around April - May, 2024 in order to spoil the name and credibility of the party as well as that of the plaintiff, some of the persons are indulging in stigmatizing and cause disrepute to the plaintiff and the party. The defendant, at the instigation of rival political parties and clearly with an intention to cause harm to the name and reputation of the plaintiff, has been indulging, in propagating false statements and unverified allegations through the social media and other means, amounting to character assassination of the plaintiff. Despite an order of injunction granted by this Court, which is in force regarding the allegations of involvement of the plaintiff in the incident that had taken place on 23rd April, 2017 at Kodanadu Estate,

Nilgiris District and connected matters conscious of the same the defendant is making wild accusations / allegations knowing that the same are not true. One such video of an interview given by the defendant, running to 05.07 minutes, uploaded on 06.09.2023 in various social medial platforms.

(v) The plaint proceeds on the basis that on 23rd April, 2017 at mid-night, there was an incident of criminal trespass, murder and robbery that occurred in the property known as “ Kodanadu Estate” at Kothagiri, Nilgiris District. The said Kodanadu Estate was occupied by the former Chief Minister of the State, who happens to be the Leader of the party to which the plaintiff belongs.

(vi) According to the plaint, a FIR has been registered in respect of burglary and murder of security guard and grievous injury caused to another security guard at Kondanadu Estate which happened on the 23rd April 2017. Post investigation, a case in Sessions Case No. 2 of 2018, before the District-cum-Chief Judicial Magistrate Court, Nilgiris is pending.

(vii) It is a specific averment in the plaint that after the incident

at about the month of 2017, the defendant had given an interview to Media and the English translation has found in the in the plaint are :

“My younger brother Kanagaraj, went from my house to my aunty's house to see a new born baby. He parked his car here and went in his bike. He met with an accident while he was crossing the road. This is the truth. Unnecessarily, grave allegations are told against my brother. My brother quit his job in the garden 3 years back. He lived alone and drove his vehicle alone.

....my brother belonged to Edapadi, samuthram village, Salem District, he worked as a Driver in garden from the year 2009 to 2012 for 3 years. He quit his job in the year 2012, thereafter he had nothing to do with garden. But, right now there are unnecessary rumours around him with grave allegations against him.

...he met with an accident when he travelled to my aunty's house from my house. He crossed the area of thandapanipalayam, aatharu and then when he crossed the road he met with an accident. His accident has nothing to do with any other issues.

Question – Is the accident related to kodanadu case?

Answer – The accident has nothing to do with the kondanadu case. Only if he works and lives in the

garden he can go to kodanadu. He did not live in the garden. It has been 3 or 4 years since he left garden, then how is it possible for him to go to kodanadu? Therefore, there is no relation between his accident and kodanadu. They are wantonly blaming my brother.

...from our house he went to my auntys house.

Question: was the accident natural?

Answer: Yes, the accident was natural. He crossed the road and a car came very fast and hit him.”

(viii) yet another interview given by the defendant on 06.09.2023, the English version of the same is:

“ eddapaddi Palaniswamy, fell on Kanagaraj's feet. This is seen on many social media pages. This is because for my brother, rupees 25 crores was negotiated.

..money was not exchanged, only recorded. The money that was supposed to be paid to my brother was only negotiated. During negotiation talks, 3 of my relatives were there. Those 3, 2 ministers and Elangovan and CM joined together and brainwashed my brother, and told him to do this and later on promised that they will settle him. In fact, they defamed chinnama.S family and convinced my brother. They also said that for having worked in garden for so long, what did they do to you, how much did they pay. If my brother listens to them, he

will have a good life and will be provided all sort of financial support. They brainwashed by saying all this to him. My brother is a honest man, and anyone will vouch for his honest nature in the garden.

Question – did your brother had any bargain talks with them?

Answer – Yes they fixed the cost as Rupees 25 crores. Only after the talks, he gave took and gave it in sankari and then in Salem, and during money exchange they hit my brother.

Question – Who hit him?

Answer – If you ask me who, elangovan's henchmen, Eddapaddi's henchmen, 2 policemen, only SBCID of the police department hit him. One inspector suresh kumar did not hit him, and tried to pacify the situation.

Question – Only after this incident, your brother met with an accident is it?

Answer – Yes, it took place on Tuesday? It happens on Wednesday, no on Monday night. On Tuesday they delivered this bag on Tuesday and then on Friday night he met me with an accident.

Question – do you agree it is an accident?

Answer – I have been travelling that it was not an accident right from that day. In face I have told the same in press so many times sir. No one took any action. The Government was with them, their party was the ruling

party then. Right now dmk is the ruling party, they are doing well. Why they are not taking action I don't know.

Question – Eddapaddi says that whatever you are saying is all a lie and your brother never worked as a driver in the garden?

Answer – okay sir.

Question – are you fully accusing Eddapaddi?

Answer – okay sir, how is it possible to say that Kanagaraj did not exist, he held the post of district secretary, actually how did he become a district secretary in the year 2010, in fact before that 2 ministers did not want him to become a district secretary. You can even ask that former minister, I will openly tell who those 2 former ministers were. So they were hounourable brother Sengattayan, you can go ask him what actually happened, actually Saravanan had a issue in a medical seat. Then, when there was this problem, palanisamy said that this person pottukaaran will get the post of district secretary. After that eddapaddi had advantage. This pottukaaran got cheated. Like this in salem district many get killed and then buried. But some got buried alive. There is no safety and many have got affected. He worked in highways, he earned 10/20 rupees. Whereas I don't make money, I eat rice from ration shops.

Question – right now, eddapaadi palaniswamy, states that when he was district secretary, you surpassed him

and had an opportunity to contest as a district panchayat head. He says Amma only gave you such an opportunity?

Answer – Yes.

Question – after that you stated he begged your brother? Is that true?

Answer – he begged and eddapaddi palaniswamy fell on Kanagaraj's feet. This is widely publicized in social media pages. Did you not see all this?

- I know. On Saturday morning I get papers. Till Tuesday they put, and on Tuesday at 1 in the afternoon, they change the seats. 50 thousand district counselor were removed 5 thousand ondriya counselor were made. This was done and Palaniswamy fell my on brothers feet. This is history.

-that is I know who palaniswamy is, I respect for the post he holds. He has told that the person is someone who goes on the road. I am against that statement. If he again uses such words, I will also talk in a derogatory manner. Let him fight with me in Court, ill also do the same.

- right, I have come to this type of investigation. You can investigate me more. But I did not do any mistake. Why he doesn't come, and if journalists ask him questions why his face changes?"

4. The plaintiff alleges that the subject interview given by the defendant during September 2023, is totally false and aimed to tarnish the image of the plaintiff while he was contesting for the party leadership due to the inter party rivalry and for Lok Sabha election and defendant has made and the subject interview given by the defendant on 06.09.2023 is actionable *per se* and hence the suit.

5. The defendant was served however written statement was not filed and hence he was set ex-parte on 10.10.2023.

6. The points for consideration in the suit are:

(i) Whether the subject interview given by the defendant in the various social media on 06.09.2023 is false?

(ii) Whether the action of the defendant is intended with malafide to bring disrepute to the plaintiff?
and

(iii) Whether the plaintiff is entitled for damages as prayed for?

7. By an order dated 12.12.2023, made in A.No.6487 of 2023, an Advocate Commissioner was appointed for recording evidence of plaintiff and the plaintiff examined himself as P.W.1 and marked as

Exs.P1 to P7. By an order dated 07.06.2024 made in A.No.2705 of 2024, the plaintiff side evidence was re-open for further examination and further examination in-chief was recorded and Exs.P7 to 14 were marked.

8. The Advocate clerk attached to the office of the Advocate on record who had downloaded F.I.R and YouTube has examined as P.W.2 and also gave a necessary certificate under 65-B of the Indian Evidence Act.

9. Mr.S.Karthikei Balan, learned Advocate Commissioner has filed a report as well as the additional report regarding completion of his work.

10. The report and additional report filed by the Advocate Commissioner appointed by this Court for recording the evidence of P.W.1 and P.W.2 was taken on record. Proof affidavit of P.W.2 Mr.G.R.Mahesh Kumar and evidence recorded thereon on 21.08.2024 has filed by the Advocate Commissioner was also taken on record.

11. Mr.S.R.Rajagopal, learned Senior Counsel has made submissions and drew my attention to the evidence of P.W.1 and documentary evidence filed on behalf of the plaintiff and drew my attention to the F.I.R No. 158/2017 on the file of Sholurmattam police station, Nilgiris (Ex.P7) and bail order passed by the Court of Sessions Judge of the Nilgiris at Udthagamandalam in CrI.M.P.No.633 of 2021 dated 10.11.2021 (Ex.P9) and F.I.R No. 341 of 2021, on the file of Mecheri Police Station, Salem District (Ex.P11) and bail order passed by the Court of the Judicial Magistrate No.II, in C.M.P.No.1806 of 2023 in CR.No.341 of 2023 in CrI.M.P.No.294 of 2023, dated 18.08.2023 under Ex.P13 and also drew my attention to the judgment of the *Bombay High Court AIR 1970 Bom 424 [Rustom K.Karanjia and another vs.Krishnaraj M.D Thackersey and others]* and judgment of this Court in *C.S.No.158 of 2022 dated 10.11.2023 [Dr.V.Vijayabaskar vs.R.Sharmila]*.

On Factual Matrix:

12. After hearing the learned Senior counsel appearing for the plaintiff and go through the plaint averments and also the evidence of

P.W.1 and documentary evidence referred above, I find that the interview given by the defendant on 06.09.2023 marked as Ex.P1 appears to be in total contrast to the interview given by the very same person to the media on May 2017 which is marked as Ex.P3. In between the period, he was got into a criminal offence for cheating and other related offences and he came on bail on the health grounds as could be seen from the above referred documents by the learned Senior Counsel.

13. After going through the contents Compact Disc (Ex.P1) and Ex.P3, I find that what was stated by the defendant in the impugned video alleging the plaintiff to be the kingpin and the defendant has made scandalous allegations and the copy of the contents of the interview print out is filed along with the Compact Disc is marked as Ex.P1 & Ex.P3.

14. On consideration evidence of PW.1 and the pleadings as extracted supra and taking note of the documentary evidence Ex.P1 and Ex.P3, this Court is not reproducing the same except to say that the defendant had spoken the interview in the month of May 2017. Subsequently, after the change of Government, he was arrested and

remanded to judicial custody for financial irregularities to a huge amount and able to come on bail only on medical condition. On such circumstances, the contention of the learned Senior Counsel for the plaintiff that the defendant was in dire need of huge amount of money and thereby he had given the interview in the month of September 2023 knowing the contents of the same is false, is found to have force. Hence, the plaintiff has successfully both in his pleadings and his evidence, has demonstrated that the defendant had malice against the plaintiff to make such allegation which is *ex facie* false by his own earlier video that was went on viral as per Ex.P1 May 2017. I find that the defendant has indulged in blackmailing the plaintiff to extract money as he was booked under the financial fraud to a huge amount. By changing stand between Ex.P1 and Ex.P3, he stands exposed and the choice of words also indicates that the defendant had malice against the plaintiff to make such allegation.

15. On a close perusal and comparison study of Ex.P1 and Ex.P3, I find that they are actionable per se and have been used and uploaded in the video form only with an intent to disparage the good

name, fame and reputation of the plaintiff in the society. From a plain viewing of the video clipping, it is evidently clear that the intention of the defendant is to bring disrepute to the plaintiff and aimed at lowering the image of the plaintiff in the eye of the viewers. The contents in the video are per se false and motivated by malicious intent. The defendant is seems to be giving a interview to one press / media person. The choice of words clearly exposes the intention of the defendant and his singular move is to malign the plaintiff and cast aspersion on his character and conduct.

16. Thus, I find that on an combine reading of the pleadings in the plaint and evidence, the plaintiff is a person in the State of Affairs and who held a post in the rank of a Chief Minister of State and making derogatory allegations, particularly, in the electronic media continuously and throwing such allegations in public wide debate will certainly lower and reputation of the public functionary and the same cannot be brush aside.

17. The words spoken to by the defendant, as they appear in Ex.P3, make it clear that they are aimed to defame the plaintiff, which

admittedly appears to be false, as per his own statement under Ex.P1.

18. As observed earlier, the defendant has not taken any steps either by way of filing the written statement or defending the case before this Court, while the defendant was set ex-parte as early as on 10.10.2023.

19. By an order dated 27.09.2024, this Court has directed the Registry to verify whether any application has been filed to set aside the ex-parte decree and thereafter, posted the case 'for arguments' on 3.10.2024 and hence, I find that sufficient time has already been granted to the defendant to rebut or contravene the allegations and averment made by the plaintiff, however, for the reasons best known, the defendant has not taken any steps.

20. In the absence of any explanation on the side of the defendant to show that there is a valid defence in proving the statements alleged by him against the plaintiff, this Court comes to the conclusion that the statements made in the eye of public by way of various print and electronic media is nothing but targeted to tarnish the image and

reputation of the plaintiff.

21. In such view of the matter, considering the fact that the false allegations has been made by the defendant knowing fully well what he speaks under Ex.P3 is false and hence, I answered the Point Nos. 1 & II in affirmation in favour of the plaintiff.

22. On the provisions of law, for claim of damages, for social media post:

(a) It is sorry state of affairs that in the age of social media desecration of reputation of public figure has become child's play. Anyone can open a social media account and thereafter post the messages on the account. Thousands of likes and dislikes are received, however, in the process, the reputation of the man, who is targeted, become sadly, mud...

(b) The present trend and scenario as an exponential fashion, viz., viral. This is unfortunate human tendency in the present stage. The social platform, instead of aiding people with positive data for human evolution and better living standards, is now provides fertile soil for the

growth and mushrooming of the above stated unfortunate human tendency.

(c) Further more, in modern times, social media platforms, for all its unquestionable and undeniable benefits coupled with its indispensability, comes in combo, with this kind of sordid sequelae.

(d) The damages that the plaintiff have suffered as a result of the tweets/chats of the defendant is apparent; but that is one of the unavoidable pitfalls of access to social media platforms and the way in which they work, by those who abuse their facility, as the defendant has, in the present case to do so.

23. In connection with the claim of damages, this Court keep in mind the following two factors:

(a) When a man walks, his reputation walk ahead of him though, reputation is integral part of man and it enables him to walk with his head held high in pride.

(b) The bell can't be un-rung and hence compensation to be awarded.

24. To arrive at the quantum of damages, the following factual points are kept in mind:

1. The gravity of the allegation.
2. The size and influence of the circulation
3. The effect of the publication
4. The extent and nature of the claimant's reputation
5. The behaviour of the defendant
6. The behaviour of the claimant

25. Hence, while viewing the evidence available on record and the uncontroverted averment made by the plaintiff, which remains undisputed and uncontroversial by the defendant, and taking note of the position held by the defendant as a public functionary and their reputation within the society, this Court considers that no amount of monetary award can truly compensate for damage to reputation, however, a compensation of Rs.1,10,00,000/-(as claimed) is only nominal amount.

26(a). A.No.795 of 2023 for interim injunction against the D1&D2 for making any statement or circulating video to press or any

social network. Initially interim order was granted and subsequently made absolute on 10.10.2023.

(b) It is also hereby made clear that the plaintiff is also entitled to apply to all the print and electronic medias and all the intermediaries to remove all the defamatory articles, publications and statements available against him, the subject matter of this Court. On such applications being made, the authorities concerned shall remove all the defamatory contents against the plaintiff, the subject matter of the suit.

27. Hence, this Court is of the view that since no definite amount could be quantified for the damages and also taking into consideration of the board of principles as stated supra, directs the defendant to pay a sum of Rs.1,10,00,000/- for the damages caused to the plaintiff. Accordingly, the *suit is decreed* by directing the defendant to pay a sum of Rs.1,10,00,000/- as compensation for damages with costs and permanent injunction is also granted against the defendant restraining him from making any such defamatory statements against the plaintiff in future.

.11.2024

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1. List of Witnesses examined on the side of the plaintiff:-

P.W.1 – Mr. Eddapaddi K Palaniswami

P.W.2 – Mr.G.R.Mahesh Kumar

2. List of Exhibits Marked on the side of the plaintiff: Exs.P1 to P14

S.No	Exhibits	Description of Documents
1	P1	Compact disc containing the interview given by the defendant during May 2017.
2	P2	Certificate under Section 65-B of the Indian Evidence Act
3	P3	Compact disc containing the interview given by the defendant on 06.09.2023
4	P4	Certificate under Section 65-B of the Indian Evidence Act
5	P5	Copy of the plaint filed in C.S.No.82 of 2019 (photocopy)
6	P6	Copy of the interim order granted in O.A.No.86 of 2019 in C.S.No.82 of 2019 dated 23.01.2019
7	P7	F.I.R.No.158/2017 on the file of Sholurmattam Police Station, Nilgiris District, 65-B Certificate – Online Web copy
8	P8	Certificate under Section 65-B of the Indian Evidence Act
9	P9	Bail order passed by the Court of Sessions Judge of the Nilgiris at Udthagamandalam in CrI.M.P.No.633 of 2021, dated 10.11.2021. - Online Web copy
10	P10	Certificate under Section 65-B of the Indian Evidence Act
11	P11	F.I.R.No.341/2023 on the file of Mecheri Police Station, Salem District.- Online Web copy

S.No	Exhibits	Description of Documents
12	P12	Certificate under Section 65-B of the Indian Evidence Act
13	P13	Bail order passed by the Court of the Judicial Magistrate No.II in C.M.P.No.1806 of 2023 in CR.No. 341/2023 CrI.M.P.No.294/2023, dated 18.08.2023. - Online Web copy`
14	P14	Certificate under Section 65-B of the Indian Evidence Act.

3. List of witnesses examined on the side of the defendant:Nil

4. List of Exhibits marked on the side of the defendant:Nil

07.11.2024

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Neutral citation : Yes / No
Index : Yes / No
Speaking order : Yes / No

RMT.TEEKAA RAMAN,J.

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Pre-delivery Judgment in
C.S.No.185 of 2023

07.11.2024