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*Crl.O.P.No.10277 of 2022*

In the High Court of Judicature at Madras

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| Reserved on :<br>31.8.2023 | Delivered on :<br>05.9.2023 |
|----------------------------|-----------------------------|

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.10277 of 2022  
& Crl.M.P.No.6094 of 2022

Dr.L.Murugan,  
State President BJP,  
presently Minister of State  
in the Ministry of Fisheries,  
Animal Husbandry & Dairying,  
New Delhi.

...Petitioner

Vs

Murasoli Trust, rep.by its  
Trustee R.S.Bharathi

...Respondent

PETITION under Section 482 of the Criminal Procedure Code  
praying to call for the records in C.C.No.47 of 2021 pending before the  
learned Assistant Sessions Judge/Additional Special Court for Trial of  
Cases related to Members of Parliament and Members of Legislative  
Assembly of Tamil Nadu, Chennai and quash the same.



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For Petitioner : Mr.G.Rajagopalan, SC for  
Mr.Rabu Manohar  
For Respondent : Mr.N.R.Elango, SC for  
Mr.S.Manuraj

### ORDER

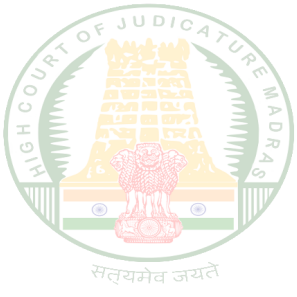
The petitioner is the former State President of the Bharatiya Janata Party and presently, he is the Minister of State in the Central Government. In this petition, the petitioner has challenged the proceedings initiated by the respondent in C.C.No.47 of 2021 on the file of the learned Assistant Sessions Judge/Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai.

2. The facts leading to filing of this petition are stated as hereunder :

(i) Certain alleged defamatory statements were made by the petitioner when he attended a press meet on 28.12.2020.

(ii) The said alleged defamatory statements made by the petitioner are extracted as hereunder :

"சமூகநீதி குறித்து பேச திமுகவுக்கு எந்த அருகதையும் இல்லை. திமுகவினர் எவ்வாறு பட்டியலின



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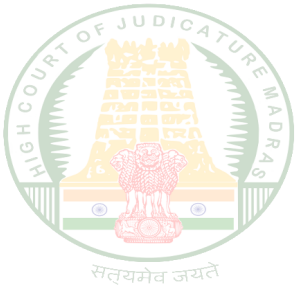
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மக்களை அவமானப்படுத்தி வருகின்றனர் என்பது அனைவருக்கும் தெரியும். திமுகவின் முரசொலி பத்திரிக்கை அலுவலகம் அமைந்துள்ள நிலத்தின் மூலப்பத்திரம் பற்றி பேசக்கூடாது என்று நினைத்திருந்தேன். நான், தேசிய எஸ்.சி. கமிஷனில் துணைத்தலைவராக இருந்தபோதே, மூலப்பத்திரம் புகாரை நான் விசாரிக்கக் கூடாது என்று திமுக எதிர்ப்பு தெரிவித்தது.

சரி, ஸ்டாலின், எங்கே அந்த மூலப்பத்திரம்? ஏன் அதைக் கொடுக்க மறுக்கிறீர்கள்? தைரியம் இருந்தால் அதைக் காட்டிவிட்டு போகலாமே? மூலப்பத்திரத்தை காட்டுவீர்கள் என்று நம்புகிறேன். இல்லையேல், பட்டியலின மக்கள் தக்க நேரத்தில் தக்க பதில் தருவார்கள்".

(iii) According to the respondent, the above statements were made by the petitioner with an ulterior motive to degrade and tarnish the reputation of the Murasoli Trust in the eyes of the general public. After the said statements were made by the petitioner in the press meet and they were published in the newspapers, a legal notice dated 29.12.2020 was issued to the petitioner calling upon him to withdraw the defamatory statements and to tender unconditional apology. The petitioner, in spite of receiving the said legal notice, failed to respond to the same.

(iv) Therefore, the respondent filed a private complaint against the petitioner for offences under Sections and 499 and 500 of the Indian Penal Code (for short, the IPC). Hence, the petitioner is before this Court challenging the said proceedings.



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3. The crux of the submissions made by the learned Senior Counsel appearing on behalf of the petitioner was captured by this Court while passing the order dated 10.8.2023 and the same is extracted as hereunder :

*"Heard Mr.G.Rajagopalan, learned Senior counsel appearing on behalf of the petitioner.*

*2. The subject matter of challenge in the present criminal original petition pertains to the complaint filed by the respondent against the petitioner for offence under Section 499 of IPC punishable under Section 500 of IPC. The crux of the alleged defamation statement made by the petitioner is extracted herein:*

*'சமூகநீதி குறித்து பேச திமுகவுக்கு எந்த அருகதையும் இல்லை. திமுகவினர் எவ்வாறு பட்டியலின மக்களை அவமானப்படுத்தி வருகின்றனர் என்பது அனைவருக்கும் தெரியும். திமுகவின் முரசொலி பத்திரிக்கை அலுவலகம் அமைந்துள்ள நிலத்தின் மூலப்பத்திரம் பற்றி பேசக்கூடாது என்று நினைத்திருந்தேன். நான், தேசிய எஸ்.சி. கமிஷனில் துணைத்தலைவராக இருந்தபோதே, மூலப்பத்திரம் புகாரை நான் விசாரிக்கக் கூடாது என்று திமுக எதிர்ப்பு தெரிவித்தது.*

*சரி, ஸ்டாலின், எங்கே அந்த மூலப்பத்திரம்? ஏன் அதைக் கொடுக்க மறுக்கிறீர்கள்? தைரியம் இருந்தால் அதைக் காட்டிவிட்டு போகலாமே? மூலப்பத்திரத்தை காட்டுவீர்கள் என்று நம்புகிறேன். இல்லையேல், பட்டியலின மக்கள் தக்க நேரத்தில் தக்க பதில் தருவார்கள்'.*

*3. The learned Senior counsel made the following submissions:*

*(a) The complainant in this case is the Murasoli*



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*Trust represented by its Trustee. The alleged defamation statement was not made against the Murasoli Trust. The complainant/Murasoli Trust came into the scene only after they have purchased the property on 07.02.2022, whereas the complaint was filed before the Court below on 27.01.2021. Hence, on the date when the complaint was given before the Court below, the complainant was not the aggrieved person and the pre-requisite under Section 199 of CrPC has not been fulfilled.*

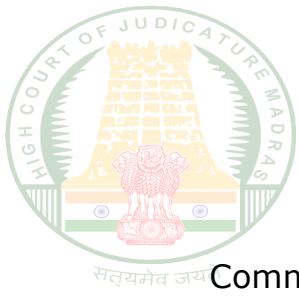
*(b) Even if the statement made by the petitioner is taken as it is, there are absolutely no defamatory imputations satisfying the requirements of Section 499 of IPC and hence, the very complaint given by the respondent is an abuse process of law.*

*To substantiate the above submissions, the relevant documents were also placed before this Court.*

*4. The learned counsel for the respondent seeks for some time on the ground that he is lead by Senior counsel.*

*5. Post this case under the caption 'Part Heard Cases' on 24.08.2023."*

4. Per contra, the learned Senior Counsel appearing on behalf of the respondent submitted that the complaint given by the respondent must be understood with some background facts and only then, the real intent of the petitioner can be understood. According to him, the petitioner was previously the Vice Chairperson of the National



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Commission for Scheduled Castes (for brevity, the Commission) and in that capacity, a notice came to be issued directing the Managing Director of the Murasoli Trust to appear and forward the list of documents to substantiate the right and title over the property where the Murasoli Trust is being run.

5. The learned Senior Counsel appearing on behalf of the respondent further submitted that this notice was issued on the premise that the Murasoli Trust is being run in a panchami land, that the said proceedings were challenged by the respondent in W.P.No.35 of 2020 contending that the Commission did not have jurisdiction to decide on the right and title over the property in question, that the said writ petition was entertained by this Court and an interim order was granted on 02.1.2020 directing the respondent to nominate a person and hand over the list of documents, based on which, the respondent is claiming title over the property and that there was a further direction to the Commission not to adjudicate upon the right and title over the property in question.

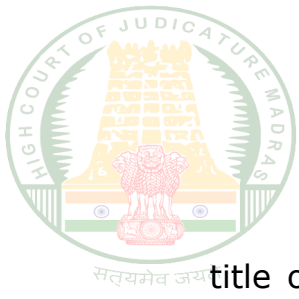


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6. The learned Senior Counsel appearing on behalf of the respondent also submitted that the petitioner was aware about the said order of this Court and also the list of documents that were submitted and in spite of the same, he once again attempted to create an impression as if the respondent is running the Murasoli Trust in the panchami land. He further submitted that the allegations were directed against the Murasoli Trust and hence, they are the persons, who are aggrieved and accordingly, the complaint came to be filed by the Murasoli Trust.

7. The learned Senior Counsel appearing on behalf of the respondent brought to the notice of this Court Section 199 of the Criminal Procedure Code (hereinafter called the Code) in this regard and submitted that even an organization can come within the scope of an aggrieved person under Section 199 of the Code. It was made clear that the insinuation was actually against the Murasoli Trust and not against Mr.M.K.Stalin, who is also one of the trustees of the Murasoli Trust. He further submitted that the Murasoli Trust has been functioning for more than 35 years, that it has been functioning in the same place and that there is no question of challenging the right and



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title of the property, over which, the Murasoli Trust is functioning. It was also submitted that the so-called purchase of the property in the year 2022, which was pointed out by the learned Senior Counsel appearing on behalf of the petitioner, has no role to play in deciding this quash petition.

8. This Court has carefully considered the submissions made by the learned Senior Counsel on either side and perused the materials available on record.

9. In order to constitute an offence under Section 499 of the IPC, there is a three fold test that has been suggested by the Apex Court in the case of ***Mohd. Abdulla Khan Vs. Prakash,K [reported in 2018 (1) SCC 615]***. They are :

(a) Whether the imputation was made with intention or knowledge or with reason to believe that such imputation will harm the reputation of the intended person?

(b) Whether the imputation is expressed in words (spoken or written) or by making signs or through visible representations ? and

(c) Whether the imputation could be





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either made or published i.e relayed to third parties?

10. On a careful reading of the complaint filed by the respondent, it is alleged that the petitioner was aware of the documents that were submitted by the respondent, in his capacity as the Vice Chairperson of the Commission. The petitioner raked up the same issue as if the Murasoli Trust is functioning in the panchami land. Thereafter, once again the petitioner raked up the same issue when addressing the press meet on 28.12.2020 wherein it was projected as if the Murasoli Trust refused to show the title documents.

11. According to the respondent, the petitioner was again and again trying to project as if the Murasoli Trust is functioning in a property without any right or title and thereby the petitioner was intentionally causing loss of reputation to the Murasoli Trust in the mind of the general public. Necessary allegations have been made in this regard from paragraphs 7 to 11 of the complaint filed before the Trial Court against the petitioner.



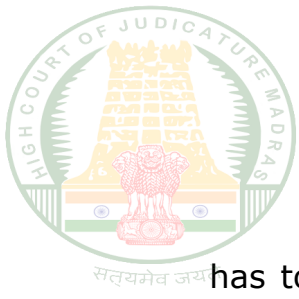
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12. The learned Senior Counsel appearing on behalf of the petitioner submitted that there was no imputation and that the petitioner had merely asked Mr.M.K.Stalin to show the documents pertaining to the Murasoli Trust.

13. In an offence of defamation, the statements have to be tested only from the point of view of a common prudent man, who comes across the defamatory statements made. Even if the petitioner thinks that there was no imputation and that he had merely put a question, such statements will be understood by others as if the petitioner is repeatedly questioning the right and title of the property, over which, the Murasoli Trust is functioning and he also wants to drive home the point that it is functioning in the panchami land. That is how the respondent has understood the statements made by the petitioner and even in the complaint, the allegations have been made to the effect that many others had understood it in the same manner and started making enquiries with the respondent.

14. While dealing with the quash petition, this Court cannot go into the merits of the case or the disputed questions of fact. This Court



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has to merely go by what is alleged in the complaint and prima facie find out as to whether the offence is made out. On going through the complaint and also the materials placed, this Court is prima facie convinced that the first limb of the offence of defamation has been satisfied by the complaint given against the petitioner.

15. The petitioner made statements during a press meet and they were also published in the newspapers the next day. Hence, there is no difficulty in rendering a finding that the second limb of the ingredients under Section 499 of the IPC is also satisfied.

16. The statements were made by the petitioner in a press meet and they were also published in the newspapers and they had come to the knowledge of the persons belonging to DMK Party and also to the general public. Accordingly, the third limb of Section 499 of the IPC is also satisfied.

17. The learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner had only given his honest opinion on the issue and that he had the right to make such a



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statement, which is guaranteed under Article 19(1)(a) of The  
WEB COPY Constitution of India.

18. The learned Senior Counsel appearing on behalf of the petitioner also attempted to bring the facts of this case into the First and Ninth Exceptions to Section 499 of the IPC.

19. The above submissions made by the learned Senior Counsel appearing on behalf of the petitioner are matters to be decided during trial since they involve appreciation of facts. The respondent has taken a very specific stand that the complaint was given against the petitioner to address the legal injury of reputation suffered by the respondent. To substantiate the same, necessary allegations have also been made in the complaint touching upon the intention and motive of the petitioner in making such statements.

20. In the light of the above discussions, this Court is not inclined to quash the impugned proceedings at this stage.



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21. In the result, the above criminal original petition is dismissed. There shall be a direction to the learned Assistant Sessions Judge/Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai to dispose of C.C.No.47 of 2021 within a period of three months from the date of receipt of a copy of this order. It is left open to the petitioner to raise all the grounds before the Trial Court and the same will be considered on its own merits and in accordance with law. The observations, if any, contained in this order will not have any bearing on the Trial Court. Consequently, the connected Crl.M.P. is also dismissed.

05.9.2023

Index : Yes  
Neutral Citation : Yes  
Speaking Order : Yes

To

- 1.The Assistant Sessions Judge/Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai
- 2.The Public Prosecutor, High Court, Madras.

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N.ANAND VENKATESH,J

RS

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