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Crl.O.P.No.6763 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.11.2023

PRONOUNCED ON : 05.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6763 of 2020
and Crl.M.P.Nos.3711 of 2020 & 2680 of 2021

Dr.S.Ramadoss

...Petitioner

-Vs-

Murasoli Trust
Rep. by its Trustee R.S.Bharathi,
No.180, Kodambakkam High Road,
Nungambakkam,
Chennai – 600 034.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records in C.C.No.1280 of 2020 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai District and quash the same.

For Petitioner : Mr.Anantha Narayanan, Senior Counsel
For Mr.K.Balu

For Respondent : Mr.N.R.Elango, Senior Counsel
For Mr.S.Manuraj



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ORDER

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This petition has been filed to quash the compliant lodged by the respondent in C.C.No.1280 of 2020 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai District, thereby taken cognizance for the offences under Sections 499 & 500 of IPC, as against the petitioner.

2. The respondent filed private complaint for the offences punishable under Sections 499 & 500 of IPC. The crux of the allegations in the complaint is that the respondent owns, prints and publishes the daily newspaper Murasoli. The petitioner is the founder of a political party and he manages a twitter handle under the name and style of Dr.S.Ramadosh with URL <http://twitter.com/drramadosh> (hereinafter after called as “official twitter account”). The petitioner twitted from his official twitter account on 17.10.2019. Further he also twitted four twits from his official twitter account on 19.10.2019 at about 12.07 p.m. Once again he twitted from his official twitter account on 19.11.2019 at 8.39 p.m.



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3. According to the respondent, the contents of the tweets are false, baseless, untrue and *per se* defamatory. It constitutes a calculated attempt to malign the reputation of the respondent. The constitutional protection of freedom of speech and expression is subject to reasonable restrictions, which includes defamation as such, the action of the petitioner falls beyond the scope of freedom of speech. He is seeking political mileage and his ulterior motive is apparent from the tweets made by him against the respondent's political party. There is no bona fide reason for raising this issue by way of twitter. Therefore, the respondent has suffered immeasurable mental agony and the reputation of the Murasoli Trust has been degraded, tarnished and smeared due to the tweets made by the petitioner.

4. Therefore, the respondent caused legal notice dated 22.11.2019, thereby called upon the petitioner to remove the above defamatory tweets dated 17.10.2019, 19.10.2019 & 19.11.2019. Further tender an open and unconditional apology within 48 hours from the date of receipt of the notice and refrain from repeating such unethical acts in future. After receipt of the same, the petitioner issued reply notice containing untrue and defamatory statement. Hence the respondent



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lodged the present complaint. On receipt of the complaint, the trial Court had taken cognizance in C.C.No.1280 of 2020 for the offences punishable under Sections 499 & 500 of IPC and issued summons to the petitioner.

5. The learned Senior Counsel appearing for the petitioner submitted that the complaint filed by the respondent is not at all maintainable under penal law, since the trust has no right to question the tweets made by the petitioner. The trust is not a legal entity to make a complaint for defamation before the Court of law. The petitioner being the founder and leader of the political party, relentlessly fighting for securing social justice for all section of people and to eradicate poverty to provide free education for children and to eliminate corruption from public life and politics. He is the one to critically analyze the policies, acts and deed of the Governments in power and of various organizations in public domain including political parties and makes unbiased, impartial and constructive comments on the functioning of such entities in the larger interest of and the welfare of citizens of the country.



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5.1. He further submitted that the rival political party leader had seen a Tamil movie “Asuran” and had twitted that the film is not a movie, but a lesson. Therefore, the petitioner had twitted that he believed that the panchami land has to be returned by the respondent trust by learning lesson from the said movie, since there has been a consistent demand from many organizations and political parties to restore panchami land from the respondent trust to its lawful owners. After the twit, the respondent's political party leader had shown the patta copy of the respondent trust in support of his claim. By way of reply, the petitioner has twitted that the patta copy is not a title document and made a demand to show the title deed and parent document related to the respondent. Though the respondent's political party leader replied that where ever it required, it will be produced at appropriate time before the suitable forum, he did not come forward to produce any title deed as promised by him. Therefore, there is no defamatory words in the twits made by the petitioner.

5.2. He further submitted that on the complaint before the National Commission for SC & ST, the respondent was issued with notice. The said notice was challenged before this Court in W.P.No.35 of



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2020. In the said writ petition, the respondent categorically stated that they are tenant and not owner of the property. They are the tenant of the punjami land which belongs to one Anjugammal Trust. Therefore, the present complaint is nothing but clear abuse of process of law and liable to be quashed.

5.3. He also submitted that the said issue was raised by various political parties including the person belongs to the same political party of the respondent. In fact, the current Minister who is holding Cabinet rank also made statement about the land in which the respondent trust is situated. However the respondent picked the petitioner alone and lodged the complaint. Further the petitioner never made any statement to defame the respondent or its political party. The petitioner raised question and it would not amount to defamation and it comes under the first exception of Section 499 of IPC. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India reported in **2022 SCC OnLine SC 1434** in the case of **Manoj Kumar Tiwari Vs. Manish Sisodia & ors.**



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6. Per contra, the respondent filed counter and the learned Senior Counsel appearing for the respondent submitted that the petitioner made totally seven tweets thereby defamed the reputation of the respondent trust and its political party. The defamatory tweets are false, baseless, untrue and *per se* defamatory. It is individual and severally constitute a calculated attempt to malign the reputation of the respondent. Therefore, immediately the respondent caused legal notice and even after receipt of the same, the petitioner failed to remove the tweets made by him. The respondent is an aggrieved party due to the defamatory tweets made by the petitioner and as such, it has locus standi and the present complaint is very much maintainable. It cannot be alleged that the complaint is made against the petitioner for political reason. On plain reading of the tweets *prima facie* constitute the offence of defamation. It was made with ulterior motive only to defame the respondent.

6.1. He further submitted that on the complaint before the National Commission for SC & ST, the respondent produced all the original documents pertaining to the respondent and the same was duly verified by then Vice Chairperson of the Commission for SC & ST, New



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Delhi. However, the said Vice Chairperson has become a Minister and made a statement thereby defamed the respondent trust. Hence the respondent trust filed complaint 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 MP&MLA, Chennai and the same was challenged before this Court in Crl.O.P.No.10277 of 2022. This Court by an order dated 05.09.2023, dismissed the quash petition. The very same defamatory statement made by him, is now made by the petitioner herein.

6.2. While dismissing the quash petition, this Court observed that in an offence of defamation, the statement 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 statement will be understood by others as if the petitioner is repeatedly questioning the right and title of the property, over which the respondent 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



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had understood it in the same manner and started making enquiries with the respondent.

6.3. Therefore, this Court cannot go into the merits of the case of disputed questions of fact. It 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. The petitioner also made similar twits with same set of allegation. Therefore, the respondent made out *prima facie* case to constitute the offence under Section 499 of IPC., and prayed for dismissal of the quash petition.

7. Heard the learned counsel appearing on either side and perused the materials placed before the Court.

8. The respondent lodged private complaint for the offence under Sections 499 & 500 of IPC. In the complaint the respondent alleged that the petitioner made twits as follows :-



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On 17.10.2019 at 10.36 a.m.:

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"1. பஞ்சமி நில மீட்பு குறித்து பேசும் அகரன் படம் அல்ல பாடம் திமுக தலைவர் மு.க.ஸ்டாலின். ஆஉறா.... அற்புதம்... அகரன் கற்றுத் தந்த பாடத்தை ஏற்று, முரசொலி அலுவலகத்திற்காக வளைக்கப்பட்ட பஞ்சமி நிலங்களை உரியவர்களிடம் மீண்டும் ஒப்படைப்பார் என்று நம்புவோம்!"

On 19.10.2019 at 12.07 p.m.:

2. முரசொலி அலுவலகம் அமைந்துள்ள இடம் பஞ்சமி நிலம் இல்லை என்பதை நிர்நபிக்க 1985-ஆம் ஆண்டு வாங்கப்பட்ட பட்டாவை ஆதாரமாகக் காட்டியிருக்கிறார் மு.க.ஸ்டாலின். இதற்கு காட்ட வேண்டிய ஆதாரம் நிலப்பதிவு ஆவணமும், மூலஆவணங்களும். அவை எங்கே? நில உரிமையாளரிடமே ஆவணங்கள் இல்லையா?

3. முரசொலி அலுவலகம் கட்டப்பட்டது எப்போது? அதற்கான இடம் வாங்கப்பட்டது எப்போது? அவற்றை விடுத்து 1985-ஆம் ஆண்டின் பட்டாவை ஸ்டாலின் காட்டுகிறார் என்றால், இடையில் உள்ள சுமார் 20 ஆண்டுகள் மறைக்கப்படுவது ஏன்? அதன் மர்மம் என்ன?

4. முரசொலி அலுவலகம் உள்ள இடத்தில் அதற்கு முன் அரசு ஆதி திராவிடர் மாவணர் நல விருதி இருந்தது உண்மை விளம்பி ஸ்டாலினுக்கு தெரியுமா? முரசொலி இடம் வழிவழியாக



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தனியாருக்கு சொந்தமான மனை என்கிறார் ஸ்டாலின். அப்படியானால் அங்கு அரசு ஆதிதிராவிடர் மாணவர் நல விடுதி எப்படி வந்தது?

5. நிலம் அபகரிப்பு திமுகவினருக்கு முழுநேரத்தொழில் தானே? அனாதை இல்லம் என்ற பெயரில் அண்ணா அறிவாலயம் கட்டுவதில் நடந்த மோசடிகள் தொடர்பாக 2004-ல் அதிமுக ஆட்சியில் அனுப்பப்பட்ட அறிவிக்கையை 2007-ல் திமுக ஆட்சியில் தங்களுக்குத் தாங்களே ரத்து செய்து கொண்ட நியாயவான்கள்தானே திமுக தலைமை !"

On 19.11.2019 at 08.39 p.m.:

6. முரசொலி நிலத்தின் மூலப்பத்திரத்தை அதன் நிர்வாகம் தேசிய தாழ்த்தப்பட்டோர் ஆணைத்திடம் இன்றும் தாக்கல் செய்யவில்லை. மாறாக ஆணையத்துக்கே மிரட்டல் விரும்பு வழுக்கமான வேலையைதான் திமுக செய்திருக்கிறது. மிரட்டல் விடுப்பதை விடுத்து மூலப்பத்திரத்தை காட்டுங்கள் அதுதான் அறம். அதுதான் நேர்மை.

7. முரசொலி விவகாரத்தில் குற்றமற்றவர்கள் என நிரூபிக்க முடியாத திமுக, அச்சிக்கலை எழுப்பிய மருத்துவரின் 1000 ஏக்கர் குறித்து தெரிவிக்கப்போவதாக கூறியுள்ளது. சவாலை ஏற்கிறேன். எனது 1000 ஏக்கர் குறித்த விவரத்தை கூறட்டும். அப்படி ஒரு நிலம்



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இருந்தால் அதை அவர்களுக்கே
கொடுத்துவிடுகிறேன்!"

9. Even according to the respondent, the respondent's political party leader only tweets in his twitter account that after seeing the film Asuran, the said film is not a movie and it is a lesson. On seeing the said tweet, the petitioner tweeted on 17.10.2019 that, the twitter made by the respondent's political party leader is wonderful. Hope accepting the lessons taught by the said movie, the panchami land which was grabbed by the respondent would be returned to its rightful owners. Once again, the respondent's political leader had shown the copy of patta for the land in which the respondent trust is situated. By way of reply, once again, the petitioner had tweeted that patta copy is not a title document and made demand to show the title deed and parent deed for the said land. For which the respondent's political party leader had tweeted that title deed of the land in question would be produced before the appropriate forum on appropriate time. Therefore, there was conversation by way of tweets between the petitioner and respondent's political party leader and hence the petitioner made tweets on 19.10.2019 and 19.11.2019 as stated above.



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10. It is also seen from the twits made by the petitioner, all are in the form of questionnaire. In fact, the respondent's political party leader also made twits to produce the title of the land owned by the petitioner ad measuring 1000 acres possessed by the petitioner. By way of reply, the petitioner twitted that if the respondent's political party leader proved that the land which is allegedly possessed by him, he will return the land to the respondent's political party leader. Therefore, both are being the political party leaders, they twitted against their land allegedly possessed by them.

11. The learned Senior Counsel appearing for the petitioner relied upon the judgment reported in **2022 SCC OnLine SC 1434** in the case of **Manoj Kumar Tiwari Vs Manish Sisodia & ors.**, in a case of making false and defamatory statements in a press conference as the complainant was involved in corruption to the tune of Rs.2000 crores, in the matter of award of contracts for building classrooms in Delhi government schools. In the said issue the Hon'ble Supreme Court of India answered for the issue whether the twits attributed can be said to be *per se* defamatory and held as follows :-



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61. *Admittedly and obviously the twentyfour questions posed by Shri Vijender Gupta (A5) to respondent No.1 cannot be said to be defamatory as these questions seek answers to certain facts relating to the construction of some buildings. What is sought to be projected as defamatory, is only one statement namely “I am sure that your answer will disclose your scam in the construction of these rooms but you are avoiding to give answer but I will obtain the reply”.*

62. *We do not know how a statement in a tweet that the answers of respondent No.1 to the questions posed by the appellant will disclose his scam, can be said to be defamatory. We are afraid that even if a person belonging to a political party had challenged a person holding public office by stating “I will expose your scam”, the same may not amount to defamation. Defamatory statement should be specific and not very vague and general. The essential ingredient of Section 499 is that the imputation made by the accused should have the potential to harm the reputation of the person against whom the imputation is made. Therefore, we are of the view that the statement made by Shri Vijender Gupta (A5) to the effect “your answer will disclose your scam” cannot be considered to be an*



imputation intending to harm or knowing or having reason to believe that it will harm the reputation of respondent No.1.

63. Unfortunately the summoning Order dated 28.11.2019 passed by the Additional Chief Metropolitan Magistrate, did not go into the contents of the tweets made by Shri Vijender Gupta. To that extent, there was no application of mind on the part of the Additional Chief Metropolitan Magistrate.”

It cannot be said to be defamatory as these questions seek answers to certain facts.

12. In the case on hand, the petitioner asked several questions. In fact, some of the tweets were answered by the respondent's political party leader. Therefore, it would not amount to defamation. It is relevant to extract the provision under Section 499 of IPC., as follows :-

“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.



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The First Exception. - imputation of truth which public good requires to be made or published – it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.”

The defamatory statement should be specific and not very vague and general. The essential ingredient of Section 499 of IPC., is that the imputation made by the accused should have the potential to harm the reputation of the person against whom the imputation is made. The question raised by the petitioner cannot be considered to be an imputation intending to harm or knowing or having reason to believe that it will harm the reputation of the respondent.

13. Further, the learned Senior Counsel appearing for the petitioner vehemently contended that same questions raised by various politicians and in fact from the very same political party belongs to the respondent, raised the same questions. In support of his contention, he relied upon the statements made by the various political party including the present Cabinet Minister. However, the respondent filed this



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complaint only against the petitioner. It is also seen that, the respondent trust filed writ petition before this Court in W.P.No.35 of 2020, prohibiting the National Commission for Schedule Castes, from in any way proceeding with the hearing or adjudication of the complaint dated 21.10.2019 lodged by one R.Srinivasan, who belongs to national political party as File No.14/140/TN/2019/ESDW. On receipt of the same, the said commission issued notice dated 15.11.2019 and 13.12.2019 to the respondent for enquiry.

14. The crux of the complaint dated 21.10.2019, is that the office of the respondent trust has been illegally constructed in a panjami site. The specific stand of the respondent is that it produced all original parent documents and the same were verified by the then Vice Chairman of the commission and returned back to the respondent. However in the said writ petition, the respondent avert that the property in question, ad measuring 12 grounds and 1825 sq.ft., has not been validly purchased by its owner with title tracing back over a period of 83 years. The respondent only a tenant under the owner. The respondent also explained before the Vice Chairman of the Commission that the respondent is a tenant and the owner of the property is leased out portion of the property.



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15. Further, the said Vice Chairman of the Commission has become Minister and he made press statement on 28.12.2020. Aggrieved by the said statement, the respondent filed complaint 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 MP & MLA, Chennai, for defamation. Though it was challenged before this Court, the same was dismissed by an order dated 05.09.2023. Aggrieved by the same, it was challenged before the Hon'ble Supreme Court of India in S.L.P.Nos.12091-12092/2023 and the Hon'ble Supreme Court of India, by an order dated 27.09.2023, stayed further proceedings of the trial Court in C.C.No.47 of 2021. Therefore, the issue raised by the petitioner is pending before the National Commission for SC/ST and hence, the questions raised by the petitioner cannot be said to be defamatory in nature.

16. On perusal of impugned complaint though it is avert that because of the twitter made by the petitioner, the respondent suffered mental agony and the reputation of the respondent has been degraded,



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tarnished and smeared, the respondent failed to make out the *prima facie* case to proceed against the petitioner for the offences under Sections 499 & 500 of IPC. The respondent failed to make out a *prima facie* case that the petitioner made twits with intention to harm or knowing or having reason to believe that such imputation will harm the reputation. There are no averment that on what way the twits made by the petitioner degraded or lower the reputation of the respondent trust.

17. That apart, as stated above the petitioner only raised questions and demanded to produce the parent document of the subject property, in which the respondent trust is situated. It would not harm the respondent in any way and to lower its reputation. There is no averments made in the complaint that the petitioner made defamatory allegations against the respondent. On reading of the complaint and the twits made by the petitioner, this Court feels that the petitioner had no intention to harm the respondent to lower its credit and dignity. The twits would not harm and defame the respondent reputation in the eye of public. It is a fundamental rule of criminal jurisprudence that if the allegations contained in the complaint, even if taken to be true, do not constitute the offence complained, the person should not be allowed to undergo the



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ordeal of a trial.

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18. In view of the above discussions, the impugned complaint cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, the proceedings in C.C.No.1280 of 2020 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai District, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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1. The XIV Metropolitan Magistrate,
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G.K.ILANTHIRAIYAN. J.

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ORDER IN
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