

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.28172 of 2013

E.VK.S.Elangovan

.. Petitioner/Accused

Vs

The District Public Prosecutor,
Kancheepuram District,
Chengalpattu.

.. Respondent/Complainant

Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining in C.C.No.4 of 2013 pending on the file of the Principal Sessions Judge of Chengalpattu and quash the same.

For Petitioner : Mr.R.Chellamuthu
For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

The petitioner is the accused in C.C.No.4 of 2013 on the file of the Principal Sessions Court, Chengalpattu. The Public Prosecutor, Kancheepuram District, Chengalpattu filed a complaint before the Principal Sessions Judge, Chengalpattu in C.C.No.4 of 2013 against the petitioner / accused for the alleged offences under Sections 499 and 500 I.P.C., on the ground that Mr.E.V.K.S.Elangovan, former Union Minister spoke in a public meeting on 06.07.2013 with an intention to harm the reputation of the then Hon'ble Chief Minister Dr.J.Jayalalitha.

2.A perusal of the speech extracted in the private complaint shows that there is nothing to hold that the speech was intended to harm the reputation of the former Chief Minister Dr.J.Jayalalitha. Section 499 I.P.C. defamation reads thus:

"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.

Explanation 1 -It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2 -It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3 -An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 -No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.'

3. Normally the opposition leaders would criticize the Government and the Government would criticize the opposition and it is not defamation to express in good faith any opinion whatsoever respecting the conduct of a public servant in the discharge of his public function or respecting his character, so far as his characters appears in that conduct and no further. The present case falls under exception 3 of Section 499 and I therefore hold that the Public Prosecutor cannot maintain the complaint against the petitioner herein for the offences punishable under Sections 499 and 500 I.P.C. Accordingly, this Criminal Original Petition is ***allowed** and the entire proceedings in C.C. No.4 of 2013 is quashed.

Sd/-

Assistant Registrar (CS-VII)

Dated: 24.07.2018

*** Corrected as per the order of this Court dated 16.08.2018 made herein CrI.O.P.No.28172 of 2013.**

Sd/- Assistant Registrar (CS VII)

Dated: 07.09.2018

//True Copy//

Sub Assistant Registrar

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To

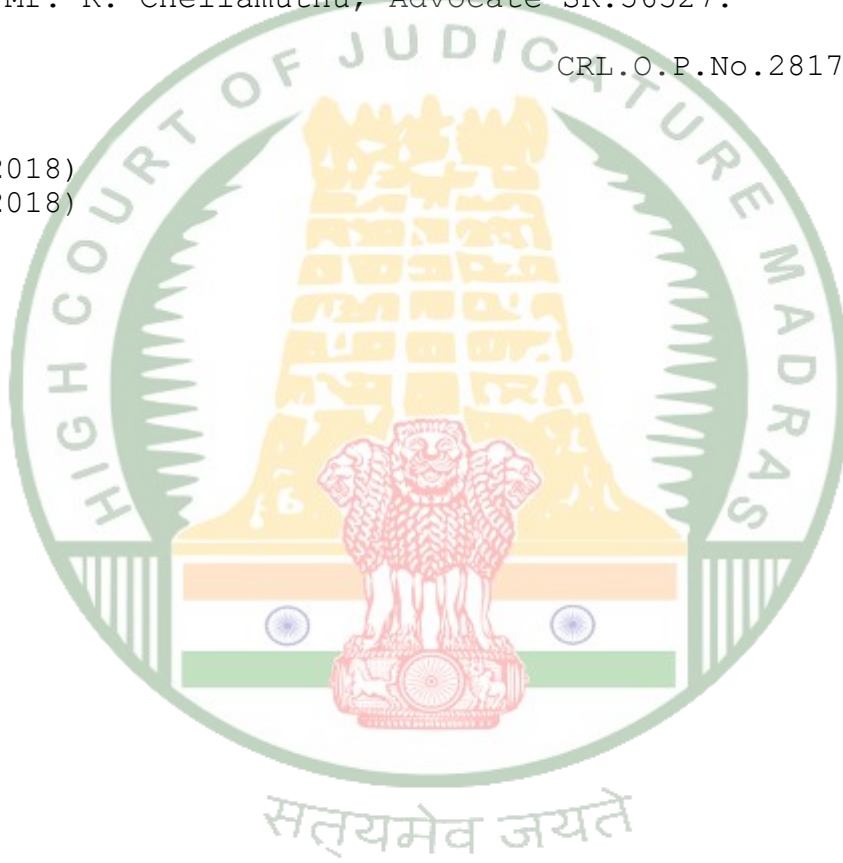
- 1.The Principal Sessions Judge,
Chengalpattu.
- 2.The District Public Prosecutor,
Kancheepuram District,
Chengalpattu.
- 3.The Public Prosecutor,
High Court, Madras.

To be substituted for the
order already despatched
on 09.08.2018.

+ 1 cc to Mr. R. Chellamuthu, Advocate SR.56527.

CRL.O.P.No.28172 of 2013

NMI (CO)
EU (25/07/2018)
SP (07/09/2018)



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