

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 2ND DAY OF NOVEMBER 2020

THE HON'BLE MS.JUSTICE P.T.ASHA

A.Nos.1675, 1676 and 1708 of 2020
in
C.S.No.124 of 2020

Pollachi V.Jayaraman
S/o.Varadaraju Chettiar,
N.C.B.19,
P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai 600 028.

..Plaintiffs

-Vs-

1.M.K.Stalin,
S/o.Late Dr.M.Karunanidhi,
No.25/9, Chittaranjan Road,
Cenotaph Road, Alwarpet,
Chennai-600 018.

2.V.Sabarisan,
S/o.Vedamurthy,
Residing at No.8-A,
Chittaranjan Road,
Alwarpet, Chennai 600 018.

3.Nakkheeran Gopal,
Father's name not known
Editor, Publisher & Printer,
Nakkheeran Publications,
No.105, Jaanu John Khan Road,
Royapettah,
Chennai 600 014.

4.S.Arivazhagan,
Editor-Junior Vikatan
No.757, Vasan Avenue,
Anna Salai, Thousand Lights,
Chennai 600 002.

5.Kalaingar TV Private Limited,
Represented by its Director,
Having Office at No.367/369,
Anna Arivalayam, 3rd Floor,
Anna Salai, Teynampet,
Chennai 600 018.

..Defendants

A.No.1675 of 2020:

Kalaingar TV Private Limited,
Represented by its Director,
Having Office at No.367/369,
Anna Arivalayam, 3rd Floor,
Anna Salai, Teynampet,
Chennai 600 018.

..Applicant/Defendant No.5

/Vs./

1.Pollachi V.Jayaraman
S/o.Varadaraju Chettiar,
N.C.B.19, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai 600 028.

..Respondent No.1/Plaintiff

2.M.K.Stalin,
S/o.Late Dr.M.Karunanidhi,
No.25/9, Chittaranjan Road,
Cenotaph Road, Alwarpet,
Chennai-600 018.

..Respondent No.2/Defendant No.1

3.V.Sabarisan,
S/o.Vedamurthy,m
Residing at No.8-A,
Chittaranjan Road,
Alwarpet, Chennai 600 018.

..Respondent No.3/Defendant No.2

4.Nakkheeran Gopal,
 Father's name not known
 Editor, Publisher & Printer,
 Nakkheeran Publications,
 No.105, Jaanu John Khan Road,
 Royapettah,
 Chennai 600 014.

..Respondent No.4/Defendant No.3

5.S.Arivazhagan,
 Editor-Junior Vikatan
 No.757, Vasan Avenue,
 Anna Salai, Thousand Lights,
 Chennai 600 002.

..Respondent No.5/Defendant No.4

Application praying that this Hon'ble Court be pleased to reject the
 plaint filed by the Respondent/Plaintiff in a defective manner as the plaint
 does not disclose any cause of action to file the present suit for permanent
 injunction as against this Applicant/Defendant No.5

A.No.1676 of 2020:

V.Sabarisan,
 S/o.Vedamurthy,
 Residing at No.8-A,
 Chittaranjan Road,
 Alwarpet, Chennai 600 018.

.. Applicant/Defendant No.2

/Vs./

1.Pollachi V.Jayaraman
 S/o.Varadaraju Chettiar,
 N.C.B.19, P.S.Kumarasamy Raja Salai,
 Raja Annamalaipuram,
 Chennai 600 028.

..Respondent No.1/Plaintiff

2.M.K.Stalin,
S/o.Late Dr.M.Karunidhi,
No.25/9, Chittaranjan Road,
Cenotaph Road, Alwarpet,
Chennai-600 018.

..Respondent No.2/Defendant No.1

3.Nakkheeran Gopal,
Father's name not known
Editor, Publisher & Printer,
Nakkheeran Publications,
No.105, Jaanu John Khan Road,
Royapettah,
Chennai 600 014.

..Respondent No.3/Defendant No.3

4.S.Arivazhagan,
Editor-Junior Vikatan
No.757, Vasam Avenue,
Anna Salai, Thousand Lights,
Chennai 600 002.

..Respondent No.4/Defendant No.4

5.Kalaignar TV Private Limited,
Represented by its Director,
Having Office at No.367/369,
Anna Arivalayam, 3rd Floor,
Anna Salai, Teynampet,
Chennai 600 018.

..Respondent No.5/Defendant No.5

Application praying that this Hon'ble Court be pleased to reject the plaint filed by the Respondent/Plaintiff in a defective manner as the plaint does not disclose any cause of action to file the present suit for permanent injunction restraining the Applicant / Defendant No.2 and for claiming damages against the Applicant / Defendant No.2.

A.No.1708 of 2020:

Nakkheeran Gopal,
Father's name not known
Editor, Publisher & Printer,
Nakkheeran Publications,
No.105, Jaanu John Khan Road,
Royapettah,
Chennai 600 014.

..Applicant/Defendant No.3

-Vs/-

1.Pollachi V.Jayaraman
S/o.Varadaraju Chettiar,
N.C.B.19, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai 600 028.

..1st Respondent /Plaintiff

2.M.K.Stalin,
S/o.Late Dr.M.Karunidhi,
No.25/9, Chittaranjan Road,
Cenotaph Road, Alwarpet,
Chennai-600 018.

..2nd Respondent/1st Defendant

3.V.Sabarisan,
S/o.Vedamurthy,
Residing at No.8-A,
Chittaranjan Road,
Alwarpet, Chennai 600 018.

.. 3rd Respondent/Defendant No.2

4.S.Arivazhagan,
Editor-Junior Vikatan
No.757, Vasam Avenue,
Anna Salai, Thousand Lights,
Chennai 600 002.

..4th /Defendant/4th Defendant

5.Kalaignar TV Private Limited,
Represented by its Director,
Having Office at No.367/369,
Anna Arivalayam, 3rd Floor,
Anna Salai, Teynampet,
Chennai 600 018.

..5th Respondent/5th Defendant

Application praying that this Hon'ble Court be pleased to pass an order rejecting the plaint in C.S.No.124 of 2020 on the file of this Hon'ble Court.

These Applications coming on this day before this Court for hearing, the Court made the following order:

Reserved on : 22.09.2020

Delivered on : 02.11.2020

COMMON ORDER

Three of the defendants in a suit filed for damages for defamation have taken out applications for rejecting the plaint.

2. A.No.1675 of 2020 has been filed by the 5th defendant, A.No.1676 of 2020 has been filed by the second defendant and A.No.1708 of 2020 has been filed by the third defendant.

3. Considering the fact that the applications in question are filed for rejecting the plaint, it is necessary to briefly allude to the contents of the

Plaint

4. Parties are referred to in the same ranking as in the suit.

5. Plaintiff's Case:

5.1. The plaintiff has filed the suit in question for an injunction restraining the defendants from making and publishing false and defamatory statements against him in any print media or television media or in any other manner and to direct the defendants to jointly and severally pay a sum of Rs.1,00,01,000/- to the plaintiff as damages.

5.2. It is the case of the plaintiff that the plaintiff's sons had been implicated in a Sex Scandal which has been given the moniker " Pollachi Sex Scandal".

5.3. The plaintiff would submit that he is presently the Deputy Speaker of the Legislative Assembly of Tamil Nadu, a person who had risen to this position from the grassroots. He is not only well known and held in high esteem amongst his friends, family members and well wishers but also by his party men.

5.4. While so, on 15.03.2019, a publication was made by the second and third defendants in a Tamil Daily, "Tamil Murasu" containing false and

defamatory allegations against the plaintiff with a sole aim of defaming him. The second defendant had alleged, by means of innuendos, that an AIADMK VIP's son was involved in the Sex Scandal. The third defendant however in his various publications has not held back but has directly referred to the plaintiff. The third defendant had alleged that the plaintiff was manipulating the Police not to implicate his sons. Further, he was being given a share in the revenue from the bars attached to the Tasmac shops and also from out of the sale of spurious liquor. The third defendant has also alleged that the plaintiff had visited the travellers guest house of the Public Works Department with a sole intent of rescuing his son when he came to know that the Police were going to the said place as they had received complaints about the nefarious activities that was going in the said place. In the publication dated 20.03.2019, further allegations were made that the plaintiff had threatened to expose videos showing Members of the Ruling party in various compromising positions and threatened to destroy the party itself if his children were implicated. The publication of the third defendant dated 27.04.2019 had further alleged that the intention of the plaintiff and another Minister was to convert a murder case into an accident case. At every stage and in every publication, the plaintiff has been directly named and the headlines of some of the news item referred only to the plaintiff, all of these had been made with a malafide intention of defaming the plaintiff.

All these publications related to the "Pollachi Sex Scandal", as it was referred to in the publications.

5.5. In the public meeting which was held on 23.02.2020 at Madurai and which was telecast live on the fifth defendant's channel, the plaintiff's name had been taken by the first defendant who had addressed the gathering by stating that the plaintiff was influencing the Police and Intelligence Department. In fact, in the said meeting, the first defendant had openly taunted the plaintiff to take legal action against him for defamation. The first defendant had also drawn support for his public address from the third defendant's publication.

5.6. The plaintiff would further submit that all this has been made only with an intent of showing him in a poor light which would have a direct impact on his reputation. Therefore he was constrained to file the above suit.

Applications for rejecting the plaint:

6. After receiving the summons in the above suit, three of the defendants have come forward with the above applications for rejecting the plaint. The first and fourth defendants have not chosen to take out a similar

application.

6.1. The fifth defendant (A.No.1675 of 2020) would contend that there is absolutely no cause of action made out against them. In fact, it has only been vaguely stated that the publication has been made in the news channel of the fifth defendant. The plaintiff does not specify the channel in which the news had appeared. It is the contention of the fifth defendant that they have seven Channels and the plaintiff has not stated in which of these Channels the above telecast has been made. The fifth defendant would seek to have the plaint rejected on the ground that the plaint does not contain a cause of action and also on the ground of mis-joinder of parties as no specific allegation has been made against them.

6.2. The second defendant has also come forward with a similar application in A.No.1676 of 2020. The second defendant would contend that the only cause of action which has been pressed into service in his case is narrated in Paragraph No.23 of the Plaint. The plaintiff has submitted that the second defendant had published false and defamatory allegations against the plaintiff in a Tamil Daily 'Tamil Murasu'. However, there is nothing to show how the second defendant is connected with the publication. Therefore in the absence of such a statement, there is no cause

of action against the second defendant. That apart, the second defendant would submit that he has been roped in only on account of political vendetta since he is the son-in-law of the first defendant. He would therefore seek to have the Plaint rejected as the suit is motivated by vendetta.

6.3. The third defendant has come forward with the application to reject the plaint in A.No.1708 of 2020. It is the contention of this defendant that in order to establish a Civil wrong or a tort of defamation, the suit in question should consist of the following:

- a) There should be a publication;
- b) The publication must be critical of the aggrieved party namely, the plaintiff;
- c) The publication must be activated by private malice, invoking the principles of animus injurandi;
- d) The impugned publications must have been read by a named person and that named person must have contacted the aggrieved party to tell him about the publication and state that by reason of this publication, the aggrieved party has come down in his esteem;
- e) the plaintiff should prove the actual loss sustained by him.

6.4. The 3rd respondent would put forth the following grounds for rejecting the plaint:

- a) Nowhere in the plaint has the plaintiff pleaded malice;
- b) the publication by the third respondent was nothing but a crime reporting and done in the usual course of their publishing business;
- c) the plaint does not disclose that a named person had contacted the plaintiff about the publication and that in his eyes the reputation enjoyed by the plaintiff has come down.

Counter to the applications:

7.1. A counter has been filed in A.Nos.1675 and 1708 of 2020. The sum and substance of the counter that has been filed by the plaintiff is that nowhere has any of the defendants refuted the statement that they have made the derogatory statements against the plaintiff. The defendants have in defense only raised technical pleas. As regards the fifth defendant, the plaintiff would submit that not only was there a publication in the news channel of the fifth defendant but also in the Youtube Channel which is named as 'Kalaingar TV News'. Therefore the defendants cannot seek to have the Plaint rejected. The fifth defendant has nowhere in the application contended that such a telecast has not been made or that the contents are not

defamatory. Therefore by implication, the fifth defendant has admitted the

telecast. As to whether the statement is defamatory or not is something that has to be gone into only during the trial and arguments thereafter. Prima facie the plaintiff would contend that he has established that certain defamatory statements have been made in their publications and speeches which has been read/heard by the general public. Considering the fact that he is a public figure and the telecast having been watched by a wide section of the society, there is bound to be a fall in reputation of the plaintiff in the eyes of the general public.

7.2. The right to privacy and reputation is an integral part of the right to life as guaranteed under Article 21 of the Constitution of India. The fifth and third defendant as the Media has to be diligent and responsible while making a publication. The fifth defendant is bound to make a responsible and unbiased reporting.

7.3. In the application filed by the third defendant, they have in clear and categorical terms, admitted the publication which forms the subject matter of the suit. He would further seek to justify the same by contending that it is a crime investigation and it is the truth. The crime in question has already been handed over to the Central Bureau of Investigation who are in the midst of investigating the matter and the third defendant cannot conduct

a parallel media trial. In fact the publication made by the third defendant has already held the plaintiff and his sons guilty without a trial. The third defendant has taken out the name of the plaintiff in a very derogatory terms while making the defamatory allegations. The allegations that a named person has not been disclosed in the Plaintiff who had read the defamatory news and informed the plaintiff is an issue which has to be proved during trial. In the Plaintiff, the plaintiff has clearly stated that on seeing the news item he had received phone calls from well wishers, family members and friends and this has definitely caused a dent in his reputation amongst them. The third defendant on the other hand has not only made the allegations but has also stated that he has material to prove the contents. Therefore this very statement would prove that there is cause of action for filing the Suit and it cannot be rejected at the threshold. The plaintiff would therefore contend that a mere reading of the Plaintiff would make out the cause of action for filing the suit.

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Submissions:

8. Since the submissions of all the applicants complement each other the same is being dealt with in common except for extracting arguments which have been specifically made with reference to the respective

the learned counsel for the applicant in A.No.1675 of 2020, Mr.N.R.Elangovan, Senior Counsel who has appeared for the learned counsel for the applicant in A.No.1676 of 2020 and Mr.P.T.Perumal, learned counsel for the applicant in A.No.1708 of 2020 were heard by me.

8.1. The counsels, in unison, would submit that the plaint deserves to be rejected since no cause of action that has been made out, more particularly against the defendants 2 and 5. The applicants would contend that rather vague allegations have been made and the plaint does not in any fashion state as to how each of the defendants were liable for the defamatory statement.

8.2. Mr.P.T.Perumal, learned counsel would contend that the suit is an ill-conceived one and is lacking in pleadings as to how the publication is defamatory. Without proving that the same has been actuated by malice and that there was lowering of the reputation of the plaintiff on account of such publication the plaint is liable to be rejected. The plaintiff has not even pleaded any animosity between him and the third defendant. The plaintiff has not pleaded as to who are the persons who have read the publication and conveyed the same to him and told him that after reading the said publication the plaintiff has fallen in their esteem.

8.3. The Senior counsels would both submit that the plaintiff being a public figure cannot raise a contention that his reputation has been lowered by a statement of fact. Further, it is the responsibility of the fourth estate to inform the public about any wrong doing that their elected representative was involved in. Mr.R.Shanmugasundaram, Senior Counsel would submit that the statement in the public meeting has been made by the first defendant as a responsible opposition leader as it is the duty of the opposition leaders as watchdogs of democracy both within and outside the legislative assembly to highlight the wrongdoings. Mr.N.R.Elangovan, Senior Counsel would submit that the plaintiff has not, in clear terms, stated as to how the second defendant was connected with the publication "Tamil Murasu". The only connection that this defendant has with any of the parties to the suit is that the first defendant is his father-in-law. The second defendant is totally unconnected with politics. The learned Senior Counsel appearing for the fifth defendant would rely upon the following judgments:

"i. Hanudev Investments Pvt. Ltd., Vs. Oriental bank of Commerce and another - ***O.A.No.199 of 2019 & A.Nos.1637 and 1639 of 2019 in C.S. (Comm.Div) No.636 of 2018.***

ii. Sopan Sukhdeo Sable and others Vs. Assistant Charity

iii. Vidyaa Hari Iyer Vs. Metallic bellows India Pvt. Ltd. - **2019 (5)**

CTC 755.

iv. R.Rajagopal Vs. J.Jayalalitha and others - **AIR 2006 Mad 312**

v. Petronet LNG Ltd. Vs. Indian Petro Group and others. - **(2009) 9**

SCL 207 (Del)

vi. Tata Sons Limited Vs. Greenpeace International and others - **178**

(2011) DLT 705

vii. Menaka & Co and others Vs. Arappor Iyakkam and another

viii. Compass Group Canada (Health Services) Ltd. Compass Group Canada (Beaver) Ltd. and Compass Group Canada Ltd. Vs. Hospital Employees Union, and its members, servants and agents, and persons acting or purporting to act on its behalf - **2004 BCSC 51**

ix. Charanjit Singh Vs. Arun Purie and others - **(1982) ILR 2 Delhi**

953.

x. Ram Jethmalani Vs. Subramaniam Swamy - **AIR 2006 Del 300**

xi. Khushwant Singh and others Vs. Maneka Gandhi - **AIR 2000 Del**

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8.4. Mr. P.T. Perumal, learned counsel would rely on the following

i) Narottamdas L.Shah Vs. Patel Maganbhai Revabhai and others - **1984 CriLJ 1790**

ii) Brijlal Prasad Ramcharan Sharma Vs. Laldas Guru Gautamdas Bairagee - **AIR 1940 Nag 125.**

iii) V.S.Achuthanandan Vs. G.Kamalamma and others - **2008 CriLJ 4221.**

iv) Veena Sood Vs. Ramesh Kumar Sood - **2012 (3) ShimLC 1430.**

v) R.Rajagopal and others Vs. State of Tamil Nadu and others - **AIR 1995 SC 264.**

vi) Union of India (UOI) and others Vs. Association for Democratic Reforms and others - **AIR 2002 SC 2112.**

vii) Peoples Union for Civil Liberties (Delhi) Vs. Union of India - **2003 LawSuit (SC) 346.**

viii) R.Mani Senior, Correspondent, India Today Tamil Weekly Vs. The State of Tamil Nadu - **CDJ 2018 MHC 6652**

ix) Sasikala Pushpa Vs. Facebook India and others - **C.S.(OS).No.510 of 2016.**

x) National Sugar Mills Ltd. Vs. Ashutosh Mukherjee - **AIR 1962 Cal**

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xi) **CDJ 2012 MHC 4544**

xii) Sri Nithyananda Swami Vs. S.Arathi Rao and others - CDJ **2012**

MHC 4819.

9.1. Per contra, Mr.S.R.Rajagopal, the Additional Advocate General appearing on behalf of Mr.B.Arvind Srevatsa, learned counsel for the plaintiff would at the outset submit that none of the applicants have denied their role in publishing/making the defamatory statements against the plaintiff. In fact, the third defendant has gone on record to state that they have made publication and what they have stated is the truth and which they believe to be the truth.

9.2. He would further submit that the statement made by the 1st defendant which has been telecast by the fifth defendant is made deliberately with the intent of causing disrepute to the plaintiff and it is nothing short of defamation. The statement has been made in a public meeting. That the statement has been made being fully aware of the ramifications is evident from the fact that the first defendant has stated that he is ready to be arrested from making these statements as his intention is to expose the plaintiff. He would further submit that not only has the first defendant addressed the public meeting but the same has also been uploaded by the fifth defendant and posted in their news Channel as well in their

Youtube channel on the social media. Therefore, this false information has traveled far and wide thereby causing considerable harm to the reputation of the plaintiff.

9.3. He would further submit that the plaint cannot be rejected in part. The third defendant has clearly and categorically admitted the fact that he has put out the publication acting as a crime reporter. The learned counsel would submit that once the investigating officer, in the instant case the CBI, are in the midst of the investigation any investigative reporting by the media would hamper the investigation. He would submit that an onus is cast upon the media both visual as well as print to exercise a great deal of restraint while reporting and more particularly cases of such nature and not give their opinion and conclusions for the consumption of the general public.

9.4. He would further submit that all those publications which have been filed as documents would clearly show that the defendants had already declared the plaintiff guilty and this when published in the public domain would cause irreversible harm to the plaintiff's reputation. Every publication had referred only to the plaintiff and therefore the suit cannot be dismissed at the threshold. Considering the statement made in the

issues have to be tested during trial. Therefore, he would submit that the plaint cannot be rejected at this stage. The learned Counsel would rely on the following Judgments in support of his arguments:

i. Shakti Bhog Food Industries Vs. Central Bank of India - **2020 SCC**

Online Sc 482

ii. Madhav Prasad Aggarwal Vs. Axis Bank Ltd. - **(2019) 7 SCC 158**

iii. R. Arumugam Vs. P. R. Palanisamy - **2013 (1) MWN Civil 531.**

iv. Mathew Samuel Vs. Edapadi Palanisamy and others - **A.No.3967 of 2019 in C.S.No.82 of 2019.**

v. Jageshwari Devi Vs. Shatrughan Ram - **(2007) 15 SCC 52.**

vi. Sewakram Sobhani Vs. R. K. Karanjia - **(1981) 3 SCC 208.**

vii. Sopan Sukhdeo Sable Vs. Asst. Charity Commissioner - **(2004) 3 SCC 137.**

Discussion:

10. The point for consideration in the above application after hearing the arguments are as follows:

a) Whether the plaint filed requires to be rejected on the ground of absence of cause of action, which is the ground on which the applications have been filed?

b) Whether there can be a partial rejection of the plaint with reference to some of the defendants ?

10.1. I am taking up the second issue first. The provisions of Order VII Rule 11 deals with rejection of the plaint, it does not deal with a partial rejection of the plaint. The rejection of the plaint results in the dismissal of the suit and under the provisions of Section 2 (2) of the Code of Civil Procedure (hereinafter called the Code), the rejection of a plaint amounts to a decree. The Court cannot dissect the pleading into several parts and consider whether each of them discloses a cause of action. The following Judgment has clearly laid down the law that there cannot be a partial rejection of the plaint.

"Madhav Prasad Aggarwal and Another Vs Axis Bank Limited and Another reported in [(2019) 7 SCC page 158]"

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"10. We do not deem it necessary to elaborate on all other arguments as we are inclined to accept the objection of the appellant(s) that the relief of rejection of plaint in exercise of powers under Order 7 Rule 11(d) of CPC cannot be pursued only in respect of one of the defendant(s). In other words,

the plaint has to be rejected as a whole or not at all, in exercise of power Order 7 Rule 11 (d) of CPC. Indeed, the learned Single Judge rejected this objection raised by the appellant(s) by relying on the decision of the Division Bench of the same High Court. However, we find that the decision of this Court in the case of Sejal Glass Limited (supra) is directly on the point. In that case, an application was filed by the defendant(s) under Order 7 Rule 11 (d) of CPC stating that the plaint disclosed no cause of action. The civil court held that the plaint is to be bifurcated as it did not disclose any cause of action against the director's defendant(s) 2 to 4 therein. On that basis, the High Court had opined that the suit can continue against defendant No.1 company alone. The question considered by this Court was whether such a course is open to the civil court in exercise of powers under Order 7 Rule 11(d) of CPC. The Court answered the said question in the negative by advertng to several decisions on the point which had consistently held that the plaint can

either be rejected as a whole or not at all. The Court held that it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties, Order 7 Rule 11(d) of CPC will have no application at all, and the suit as a whole must then proceed to trial."

In fact on an earlier occasion, this Court had also considered the issue as to whether there can be a partial rejection of the plaint and after relying on the judgment of the Hon'ble Supreme Court reported in "**(1999) 3 SCC page 267 D. Ramachandran vs. RV Janakiraman & others**," this Court has held that the plaint cannot be rejected partially (**CRP PD. No. 4128 of 2017 Natesan Poosari and others vs K.M. Sudaramoorthy**).

10.2. Let us now consider the first point for consideration. The main ground on which rejection is sought for by the applicants is that there is no cause of action pleaded against them and the plaint does not give any details

as to how they are sought to be implicated in the suit. The fifth defendant

has been added as a defendant as they had telecast live the public address of the first defendant at Madurai and uploaded the same in their news Channel and on the Social Media. The first defendant during this public address has not only reiterated the publication of the third defendant but had also stated that since the plaintiff is a public figure the first defendant being a political opponent was duty bound to bring the actions of the plaintiff to the knowledge of the general public. These facts have not been denied by any of the defendants. The defendants have only stated that the plaintiff is silent about which of the fifth defendant's channel had telecast this address. The plaintiff has filed the compact disc showing this public address. The 5th defendant has not denied the address by the first defendant or the telecast in categorical terms but has raised a defense that the Plaintiff is silent about the channel in which the address had been telecast. As regards the second defendant the defense and reason for seeking rejection is that the plaintiff does not contain any pleading as to how he is connected to the publication in Tamil Murasu. These are all issues that would give rise to application for striking of pleading/ parties and does not give rise to a cause of action for rejecting the plaintiff.

10.3. The contention of the defendants, particularly the third

defendant is that the plaintiff has not been able to attribute any malice for

the publication. Further, the plaintiff has not specifically pleaded that the publication has been read by a person who is named in the plaint and that person had informed the plaintiff about the publication and that on reading of the said publication there is a fall of reputation of the plaintiff in this person's eyes.

10.4. It is needless to state that it has been time and again held that while considering the application for rejecting the plaint it is only the plaint and the connected documents that has to be considered and not the defense taken by the respondents. In order to arrive at the decision let us analyse each of the defenses put forward by the applicants.

(i) **Want of Cause of action**

The fulcrum on which the entire suit rests is the publications made by the defendants in the form of publication in the print, visual and social media and the public addresses made with reference to the 'Pollachi Sex Scandal' and imputing the involvement of the plaintiff's sons and the plaintiff's attempts to cover up the same. The defendants who have filed the applications to reject the plaint have not denied that they have uttered or published a statement regarding the above. The second defendant would take a defense that the plaintiff has not stated as to how he was connected

with Tamil Murasu. The fifth defendant would state that the plaintiff has not stated in which channel the news was telecast. The third defendant however openly states that he has made the statements and he stands by them as they are the truth.

11. In the plaint the plaintiff has extracted the defamatory posts and has stated how he has fallen in the esteem of his friends and well wishers. In paragraph 4 of the plaint the plaintiff has stated as follows:

"The plaintiff humbly submits that the above acts are calculated to defame the plaintiff and cause damage to the plaintiff's reputation. The plaintiff has been receiving and continues to receive anxious phone calls from well wishers, family members and friends. The plaintiff has been made to look small in the eye of the public."

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12. The plaintiff is a public figure holding the post of Deputy Speaker in the State Legislative Assembly. He is known to the public at large. A publication as colourfully woven by the third defendant in particular, is bound to catch the eye of the public and would prima facie lower the reputation of the plaintiff in the eyes of the general public. That it is the

truth and not a mere defamatory statement can be proved only when parties go to trial.

13. Therefore it is clear that the plaintiff has made out a cause of action in the plaint. Therefore the first two ingredients and the fourth ingredient set out by the applicant in A.No.1708 of 2020 is available in the pleadings, i.e; there is a publication and the publication is highly critical of the plaintiff and that the publication has been read by people and they have informed the plaintiff about the same. The third ingredient that the counsel for the third defendant has contended is the existence of private malice. In the plaint the plaintiff has extracted the defamatory posts and a conjoint reading of all of them would prima facie show that the only intent of the defendants was to portray the plaintiff in a very poor light. The third defendant has taken the defense that the publication is not defamatory as they have reported only the truth which can be proved only at the time of trial.

(ii) Whether the publication is made out of malice

14. While reporting on the Pollachi Sex Scandal the publication of the third defendant dated 16.03.2019 would refer to the plaintiff receiving the daily collections from the bars in Pollachi and profits from the sale of spurious liquor. These are totally unconnected to the main news. In the

magazine dated 01.05.2019, the Sub-Inspector of the Pollachi Police Station is described as a friend of the Plaintiff's son which clearly shows that the third defendant is keen on keeping the narrative of the reporting only around the plaintiff. Whether the same is actuated by malice or is an unbiased reporting can be proved only at the time of trial.

15. In the judgment relied upon on the side of the fifth defendant i.e; "[*AIR 2004 SC page 180*] *Sopan Sukhdeo Sable Vs. Asst. Charity Commissioner*," the Hon'ble Supreme Court while considering an appeal against the rejection of the plaint had after considering the various judgments observed as follows in paragraph Nos. 17 and 18:

"17. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order VII Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, the Order X of the Code is a tool in the hands of the Courts by resorting to which and by searching examination of the party in case the Court is prima facie of the view that the suit is an abuse of the process of the

court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order VII Rule 11 of the Code can be exercised.

18. As noted supra, the Order VII Rule 11 does not justify rejection of any particular portion of the plaint. Order VI Rule 16 of the Code is relevant in this regard. It deals with 'striking out pleadings'. It has three clauses permitting the Court at any stage of the proceedings to strike out or amend any matter in any pleading i.e. (a) which may be unnecessary, scandalous, frivolous or vexatious, or, (b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or, (c) which is otherwise an abuse of the process of the Court."

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16. The Learned Judge had also relied on the observation made in **"Raptakos Brett and Company Limited Vs Ganesh Property** reported in **[AIR 1998 SC 3085]**" that the plaint should be read as a whole while deciding an application under the Provisions of Order VII Rule II of the

" 15. There cannot be any compartmentalization, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction or words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities."

17. The judgment of this Court reported in 2013(1) MWN Civil 531 - R. Arumugham Vs P.R. Palanisamy had differentiated between an illusory cause of action and a cause of action being false and had held that a false cause of action will not result in rejecting the plaint at paragraph No.10, which reads as follows:

"10.A reading of the said rule will show that neither suppression of fact nor misrepresentation, not even fraud, has been made a ground for rejection of plaint. Even the rule does not include abuse of process of court as a ground for rejection of plaint. Clauses (a) and (d), which deal with absence of disclosure of cause of action and the suit appearing from the statement to be barred by any law. Whether the plaint discloses a cause of action for the suit or not, has got to be decided only based on the averments made in the plaint and the documents produced along with the plaint. The cause of action alleged may not be true or may be a deliberate falsehood. The court dealing with a petition under Order VII Rule 11 cannot go into the question whether cause of action alleged in the

plaint is true or false and take a decision based on the defence plea taken by the defendant or based on the documents produced by the defendant. On the other hand, there may be cases in which the plea made in the plaint itself having the effect of destruction of the plea regarding the cause of action and making such plea regarding cause of action illusory. Only in such cases, the court has to decide whether the cause of action alleged in the plaint is real or that the plaint has been drafted in an intelligent manner to camouflage an illusory cause of action as a real cause of action. A cause of action alleged in the plaint being illusory different from the cause of action alleged in the plaint being false. Only in the former case, the court can reject the plaint on the ground that the plaint does not disclose a cause of action and not in the latter case."

18. The Learned Judge has proceeded to observe as follows in

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Paragraph 16:

"16.By now, the law has been well settled by various decisions of the Supreme Court that while considering an application under Order VII Rule 11 CPC, the court has to examine the averments in the plaint and the pleas taken by the defendants in their written statements would be irrelevant and that no amount of evidence can be looked into for invoking the power of rejection of the plaint under Order VII Rule 11 CPC. As such, rejection of the plaint under Order VII Rule 11 CPC cannot be made taking into account the facts, which might have been admitted during discovery, interrogatory or evidence. Such admissions, may, lead to the dismissal of the suit on a preliminary issue or on merits in consideration of all the issues, but the same will never amount to a ground for rejection of plaint under Order VII Rule 11 CPC, when the same is beyond the scope of averments made in the plaint. The third substantial question of law is answered accordingly. "

19. Therefore considering the fact that there cannot be a partial rejection of the plaint against a few defendants and a reading of the plaint and the documents makes out a cause of action which has to be proved by letting in evidence, the application for rejecting the plaint lacks merits. Therefore the applications for rejecting the plaint are herewith dismissed.

20. The defendants shall file their written statement by 10.12.2020.

Sd./-P.T.A.J
02.11.2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

JJ 06/11/2020

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