



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)Nos.17560,17562,17561 and 17563 of 2016

and

Crl.M.P(MD) Nos.8732,8733,8730,8731,8733,8734,8723, 8724 and 8735 of 2016

1. R.Raghavan

Partner of Dinamalar Group
Dinamalar (RF) New Standard Press Annex
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2. R.Sathiamoorthi

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... Petitioners in Crl.O.P(MD) No.
17560 and 17561 of 2016

Dr.R.Krishnamurthy

Editor
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... Petitioner in Crl.O.P(MD) No.
17562 and 17563 of 2016

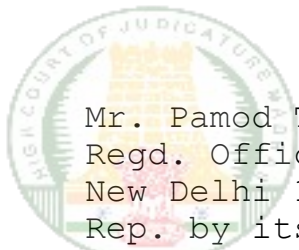
vs.

Educomp Solutions Ltd
Through its Senior Manager
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New Delhi 110 008
Rep. by its Power of Attorney
Mr.K. Bhagavathi Raja
S/o.S.Karuppanna Swamy
No.165, Indhira Nagar (North)
Palani, Tamil Nadu

... Respondent in Crl.O.P(MD) Nos.
17560 and 17562 of 2016

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S/o.K. Karupanna Swamy
No.165, Indhia Nagar(North)
Palani, Tamil Nadu

... Respondent in Crl.O.P(MD) Nos.
17561 and 17563 of 2016

COMMON PRAYER: Criminal Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned proceedings in C.C.Nos.147 and 148 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai and quash the same.

For Petitioners
in Crl.O.P.(MD)Nos.17560 & 17561/2016 : Mr.R.Manickaraj

For Petitioners
in Crl.O.P.(MD)Nos.17562 & 17563/2016 : No Appearance

For Respondents
in Crl.O.P.(MD)Nos.17560, 17562 & :Mr.K. Muthumalai
17563/2016 (Vakalat withdrawn vide
USR Nos.518, 543 & 544 of 2020)

COMMON ORDER

These petitions have been filed to call for the records relating to the impugned proceedings in C.C.Nos.147 and 148 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai and quash the same.

2. The learned counsel for the respondents filed memo stating that he is withdrawing the memo of appearance filed on behalf of the respondents stating that the respondents have gone out of contact and unable to communicate.

3. The petitioners herein are the partners of Dinamalar group for publishing Tamil daily. The respondents are running an education institute providing smart class rooms. The news items in the petitioners daily was published in their Madurai Edition on 15.07.2015 and Erode, Tiruchy Edition on 19.07.2015 reporting the order passed by the Consumer Court against the respondent wherein it is stated that the respondents' Institution was directed to pay compensation of Rs.50000/- and costs of Rs.5000/- to the four educational institutions for deficiency to the service and mental agony caused to them for not providing service promised.



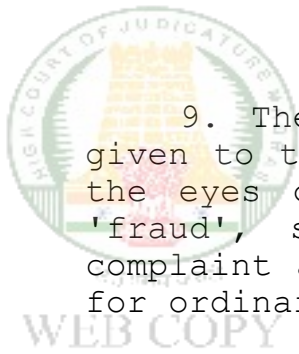
4. The respondents have filed a complaint under Section 191(A) and 200 Cr.P.C alleging that the news item has been published by the petitioners herein without considering the imputation being inflicted on them. The word 'fraud' used in the news item has caused imputation and injury to its reputation. The said complaint for defamation was taken on file by the learned Judicial Magistrate No.V, Madurai in C.C. Nos. 147 and 148 of 2016 and the summons were caused. Hence the present petitions to quash the complaint.

5. On a reading of the complaint, this Court finds that while reporting the judgment of the consumer forum the petitioners have used the word 'fraud' which according to the respondents is objectionable and defamatory expression. According to the respondents, the complaint against them was breach of contract and deficiency of service. Complaint itself was a motivated one just to avoid and evade payment of contractual money. While so, reporting the exparte order of the consumer court, the petitioners herein, without verification, by unwarrantedly and unnecessarily employing the word 'fraud' had caused damage to their reputation.

6. According to the petitioners they have reported news only after thorough perusal of the pleading and scrutiny of the evidence. Hence they have used the term 'fraud' in their report with the limited meaning for the publication of the news item, since the deceptive method adopted by the complainant has been spoken in the pleadings and evidence. The petitioners have employed the word 'fraud' used in common parlance. Therefore the word 'fraud' used in the news item is not a defamatory expression. It is also pointed out by the petitioners that they have used the said expression in good faith. It being a *bonafide* reporting of the court verdict, it will not attract the ingredients of defamation. Having published the court verdict in the public interest without any ill motive or dishonest intention, the complaint against them has to be quashed.

7. Heard the learned counsel for the petitioners. The counsel for the respondents have withdrawn the memo of appearance and a memo is filed to that effect.

8. On a cumulative reading of the order passed by the District Consumer Redressal Forum, Virudhunagar in C.C. No.02 of 2015 dated 13.07.2015 and the news report which is under scrutiny in this petition, this Court finds that the word 'fraud' has been employed in the news report since the consumer forum has held that the respondent company after promising to provide smart class to the students by employing teachers have failed to employ teachers, thereby caused monetary loss to the concerned institute and also mental agony to them.



9. The holistic reading of the news report and the caption given to the news item, the word 'fraud' has been used to catch the eyes of the reader. The petitioners have employed the word 'fraud', since the fact of the case warrants to use it. The complaint alleges the news report and caption attracts ingredients for ordinary dictionary meaning for 'fraud'.

10. The petitioners are editors and publishers of a reputed news paper. There is no element of malice or ulterior motive to report anything defamatory. The word 'fraud' as defined in the IPC cannot be found present in the case reported. However the word 'fraud' is used by the petitioners for the common man understanding. Reporting the verdict of consumer forum cannot be construed as defamatory expression causing disrepute to the respondents.

11. Hence this Court find merit in these petitions and these petitions are allowed and the proceedings in C.C.Nos.147 and 148 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai, are hereby quashed. Consequently connected miscellaneous petitions are closed.

12. This Court wish to record that hereinafter the petitioners shall be very cautious in using the word 'fraud' while reporting and avoid recurrence of this incident.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

aav

To

The Judicial Magistrate No.V, Madurai

Crl.O.P. (MD) Nos.17560,17562,
17561 and 17563 of 2016
19.03.2020

KM/AP(17/06/2020) 4P 2C