



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY THE 28th DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

C.S. No.100 of 2019

O.S.Manian (M/64)
S/o. Somuthevar
Presently residing at
NB36, Pothigai Valagam,
Greenways Road, Chennai 600 028.

Permanently residing at:
No.5/54, Kaarai Vaikkaal Nallar Road,
Oradiyampulam
Thalanayar III Sethi, Vedaranyam Taluk,
Nagapattinam District
Nagapattinam 614 712.

: Plaintiffs

Vs

Naveena Netrikkan
Tamil Weekly Magazine
Rep.by its Proprietor, Editor & Publisher
A.S.Mani, Having office at
No.91, Vaigundapuram, 1st Street,
Nungambakkam, Chennai 600 034.

: Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment

and decree in his favour and against the defendant:-

a) Directing the Defendant herein to pay the plaintiff a sum of
Rs.1,10,00,000/- towards compensatory damages suffered by the Plaintiff
due to the highly immoral, unethical, scandalous, malicious and defamatory



statements as against the plaintiff and his family members in Defendant's magazine and posters by the defendant in the editions dated 31.08.2018, 09.09.2018 and 01.02.2019 published on 24.08.2018, 31.08.2018 and 25.01.2019;

b) Grant a Permanent Injunction restraining the defendant, his men, agents and representatives from in any manner publishing in any of issues of the magazines, or in any press, media, posters, etc., making defamatory articles/statements as against the plaintiff;

c) Direct the defendant to pay the entire costs of the above suit.

This Suit having been heard on 17.03.2022 in the presence of Mr.S.Kumara Devan, Advocate for the plaintiff herein and the defendant herein not appeared in person or by advocate and the said defendant herein having been set exparte and upon reading the plaint filed herein and upon perusing the evidence adduced therein and the other exhibits therein referred to and having stood over for consideration till this date and coming on this date before this Court for orders in the presence of the said advocate and this court having opined that the Court cannot mechanically issue mere direction and this Court finds that as the defendant has tendered unconditional apology in Application No.7905 of 2019, and the same was



closed, Plaintiff is not entitled to claim the compensation and it is settled proposition of law that even though the defendant has not filed written statement and he has not come to the box and also has not cross examined the Plaintiff, as the Plaintiff has to prove his case, he cannot take advantage of the loophole left by the defendant stating that family members and relatives enquired about the articles, since he has not established through any of the witnesses that the statement of articles published in the magazine is false, and therefore, the Plaintiff is not entitled to get the relief as sought for, and

it is ordered as follows:-

That the suit in C.S.No.100 of 2019, be and is hereby dismissed.

2. That there shall be no costs of this suit.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 28th DAY OF MARCH 2022.

Sd./-

ASSISTANT REGISTRAR (O.S-I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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18.04.2022

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C.S. No.100 of 2019

ORDER

DATED : 28.03.2022

THE HON'BLE MR. JUSTICE
P.VELMURUGAN

FOR APPROVAL: 21.04.2022

APPROVED ON: 21.04.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 17.03.2022	Delivered on 28.03.2022
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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.S.No.100 of 2019

O.S.Manian

... Plaintiff

Vs

Naveena Netrikkan
Tamil weekly Magazine,
Rep., by its Proprietor, Editor & Publisher
A.S.Mani, having office at
No.91, Vaigundapuram, 1st Street,
Nungambakkam, Chennai – 600 034.

... Defendant

Prayer:- Suit is filed under Order IV Rule 1 of O.S.Rules R/W. Order VII Rule 1 of CPC a) directing the defendant herein to pay the plaintiff a sum of Rs.1,10,00,000/- towards compensatory damages suffered by the Plaintiff due to the highly immoral, unethical, scandalous, malicious and defamatory statements as against the plaintiff and his family members in Defendant's magazine and posters by the defendant in the editions dated 31.08.2018, 09.09.2018 and 01.02.2019 published on 24.08.2018,



31.08.2018 and 25.01.2019; b) grant a permanent injunction restraining the defendant, his men, agents and representatives from in any manner publishing in any of issues of the magazines, or in any press, media, posters, etc., making defamatory articles/statements as against the plaintiff; and (c) direct the defendant to pay the entire costs of the above suit.

For Plaintiff	:	Mr.S.Kumara Devan
For Defendant	:	No Appearance Set Ex-parte

JUDGMENT

Civil Suit No.100 of 2019 is filed under Order IV Rule 1 of O.S.Rules R/W Order VII Rule 1 CPC by the plaintiff to

(a) direct the defendant to pay the Plaintiff a sum of Rs.1,10,00,000/- towards compensatory damages suffered by him due to the highly immoral, unethical, scandalous, malicious and defamatory statements as against the plaintiff and his family members;

(b) grant a permanent injunction restraining the defendant, his men, agents and representatives from in any manner publishing in any of issues of the magazines, or in any press, media, posters, etc., making defamatory



articles/statements as against the Plaintiff; and

(c) direct the defendant to pay the entire costs of the above suit.

2. The case of the Plaintiff is that he had been in public life for more than 30 years. In the year 1988, he was appointed as the Union Secretary of Thalanayar and 1989-1991, he was appointed as District Secretary of A.I.A.D.M.K for the combined Nagapattinam and Thiruvarur District; 1993-2000, after the bifurcation of Nagapattinam District, served as a District Secretary for Nagapattinam District; In the year 1995, he was elected as the Member of Rajya Sabha and thereafter he acted as the Chairman-cum-Managing Director to the Tamil Nadu Handicrafts and Development Corporation; between 2000-2007, he was appointed as Propaganda Secretary for A.I.A.D.M.K, political party; in the year 2009, he successfully contested in Mayiladuthurai Parliamentary Constituency by defeating the former Union Minister Manishankar Iyer and in 2016, he elected as the State Legislative Assembly Member of Vedaranyam and he was served as a Minister of Handloom and Textile Department. Further he stated that he has earned very good name and fame in his public life and his two daughters were already married and they were leading a decent life.



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3. On 31.08.2018 and 07.09.2018, the defendant has published the articles in the magazine stating that the Plaintiff and his family members were involved in the murder of one Ramesh Babu. Further the Plaintiff has stated that on 25.01.2019 and 01.02.2019, again the defendant has published the defamatory articles in the Magazine relating to murder of Ramesh Babu and the other issues with an intention to tarnish his image. Therefore, the Plaintiff has filed the present suit for the relief stated above.

4. The learned counsel appearing for the Plaintiff would submit that in connection with the murder of Ramesh Babu, the Sirkali Police have registered a case in Crime No.216 of 2018 for the offences punishable under Sections 147,148, 341, 302 of IPC and Section 3, 4(a) of Explosives Substances Act, 1908 and Section 3(1) of TNPPDL Act, 1992 and thereafter, the Police had arrested 12 persons and remanded them to judicial custody. During the course of investigation, the Police have seized the material objects and the same were also placed before the concerned Magistrate Court and the investigation is still pending. If any person is aggrieved against the action of the police, they can move the appropriate



forum for relief. The learned counsel submitted that in this case, nobody had file any petition against the investigation of the case before the concerned authority, however the defendant penned the said article without verifying with the Plaintiff or his counsel.

5. Further, the learned counsel submitted that the Plaintiff was holding the post of Minister of State and in order to tarnish his image, fame and reputation, false reports have been published by the defendant in the magazine. It is further submitted that Article 21 of the Constitution of India, guarantees right of privacy. The respondent without any material and verification has no right to publish a report damaging the image of the Plaintiff.

6. Further, the learned counsel submitted that the news report of the defendant magazine has been read by thousands of public, AIADMK Party members, businessmen, friends and relatives etc., and the family members of the Plaintiff have been called by several persons to know the veracity of the news published and they even ridiculed and humiliated the plaintiff and his family members and supporters. Since the relatives enquired about the



veracity of the same with the Plaintiff, he has convinced them by stating that in a public life anybody can accuse any one like him, who is holding a high position and they should neglect the same and therefore, the Plaintiff had not send any legal notice to the defendant. The learned counsel further submitted that the defendant by way of article made reckless disregard of the truth, misleading and false, which caused serious harm to the name and reputation of the Plaintiff. Further, it is submitted that news report has caused extensive damage to the Plaintiff's name and reputation with an intention to spoil his political career and his avowed object of serving the masses through the democratic system of the country. Therefore, the learned counsel submitted that the Plaintiff is entitled to claim a sum of Rs.1,10,00,000/- for causing immense mental agony, hardship, damage caused to the name, fame and reputation, spoiling of his political career so far developed and hence, he is liable to be compensated.

7. In the suit, the sole defendant has not filed the written statement and hence, this Court set the defendant exparte and also directed the matter to be placed before the learned Master on 17.02.2022.



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8. Before the learned Master, the Plaintiff has filed the proof affidavit and he reiterated the entire averments filed in the plaint. The five documents were marked as Exs.P1 to P5.

9. Heard the learned counsel appearing for the Plaintiff and perused the materials placed on record.

10. Before the learned Master, the Plaintiff examined himself as PW1, and he has filed the proof affidavit for the chief examination and marked five documents as Exs.P1 to P5. In the proof affidavit, it has been stated that the defendant with ulterior motive published the defamatory statement in the news magazine against the Plaintiff and his family members about the murder of one Mr.Ramesh Babu. Further, it has been stated that as the Plaintiff was holding the Post of Minister of State, in order to tarnish his image, damaged his name, fame and reputation, spoiled his political career so far developed, the defendant published the defamatory statement against the Plaintiff and his family members. Further, it is stated that thousands of public, AIADMK Party members, businessmen, friends and



relatives etc., and the family members of the Plaintiff have read the said article and they have called the plaintiff to know the veracity of the news published and even ridiculed and humiliated the plaintiff and his family members and supporters. Therefore, the plaintiff has filed the present suit directing the defendant to pay the Plaintiff a sum of Rs.1,10,00,000/- towards compensatory damages suffered by him due to the highly immoral, unethical, scandalous, malicious and defamatory statements as against the plaintiff and his family members.

11. Along with the Suit, the Plaintiff has taken out an application in O.A.No.101 of 2019 seeking an order of interim injunction restraining the defendant publishing any further defamatory articles, statements, photos or caricature imputing the character or insinuating the reputation or linking the name of the applicant/plaintiff and his daughters M.Bharathy and M.Vasuki with any person or defaming the name of the applicant/plaintiff and his daughters. This Court granted an order of interim injunction against the defendant on 31.01.2019, however the same was modified by this Court on 11.04.2019. Thereafter the applicant/Plaintiff has filed an Application in



A.No.7905 of 2019 seeking to punish the respondent/defendant for violating the order of this Court in O.A.No.101 of 2019, dated 31.01.2019 and 11.04.2019. However, in the said application, the learned counsel appearing for the respondent/defendant contended that no article has been published in the magazine relating to the private life of the applicant/Plaintiff and also by filing a counter affidavit expressed unconditional apology and also issued a statement in the magazine dated 22.11.2019. This Court considering the fact that the respondent/defendant has tendered unconditional apology and he will strictly obey the orders of this Court, closed the application.

12. Though the plaintiff has filed the proof affidavit and marked five documents as Exs.P.1 to P5, he submitted that articles were published by the defendant against the Plaintiff's daughters, sons in law and they were worrying very much about the said articles, the plaintiff except himself has not examined either sons-in-law or daughters before the learned Master.

13. Further, it has been stated in the plaint particularly in para 13, even though their relatives, friends, businessmen, AIADMK Party members



enquired about the veracity of the articles, and the plaintiff convinced them by stating that in a public life anybody can accuse any one holding high position like him and we should neglect the same, he did not send any legal notice against the defendant. Except marking of two articles of the magazine, none of them have been examined and therefore in the absence of any such proof to establish that the Plaintiff has stated that the relatives, friends etc have enquired about the articles and he has convinced them, it has not been established by the Plaintiff.

14. Further allegation is that the defamatory article published by the defendant in the magazine due to which act of defendant, the Plaintiff has been caused mental agony, hardship, damage to the name, fame and reputation, spoiling of his political career so far developed and earned by him, he should be compensated by a sum of Rs.1,10,00,000/- by the defendant. Though such allegation is made, in the absence of any of the independent witness, the same has not been considered favourably because the attempt of the Plaintiff by filing the present Suit is only to threaten the reporter of the magazine. Therefore, this court is of the opinion that this Court cannot mechanically issue mere direction and this Court finds that as



the defendant has tendered unconditional apology in Application No.7905 of 2019, and the same was closed, Plaintiff is not entitled to claim the compensation.

15. It is settled proposition of law that even though the defendant has not filed written statement and he has not come to the box and also has not cross examined the Plaintiff, as the Plaintiff has to prove his case, he cannot take advantage of the loophole left by the defendant stating that family members and relatives enquired about the articles, since he has not established through any of the witnesses that the statement of articles published in the magazine is false.

16. Therefore, in the facts and circumstances of the case, the Plaintiff is not entitled to get the relief as sought for and the Suit is dismissed. No costs.

Sd./-P.V.J.,
28.03.2022

List of the witnesses examined on the side of the plaintiff:

P.W.1 – O.S.Manian

List of Exhibits marked on the side of the plaintiff:



<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
1	Ex.P1	Print out copy of F.I.R Crime No.216/2018	28.07.2018
2	Ex.P2	Original Magazine of Naveena Netrikkan	31.08.2018
3	Ex.P3	Original Magazine of Naveena Netrikkan	07.09.2018
4	Ex.P4	Photocopy of posters	23.01.2019
5	Ex.P5	Original Magazine of Naveena Netrikkan	25.01.2019

Sd./-P.V.J.,
28.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

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