



A.No.688 of 2023

in C.S.No.189 of 2022

<i>Reserved on</i>	<i>21.04.2023</i>
<i>Delivered on</i>	<i>26.06.2023</i>

K.KUMARESH BABU, J.

The application had been filed seeking to direct detention of the respondent in civil prison for wilful disobedience and breach of the order dated 08.09.2022 passed in O.A.No.588 of 2022.

2.This Court by its order dated 08.09.2022 has held as follows:

4.It is also to be expressed that if ever anybody either through the print media or through electronic media or in any other form seeks to voice out opinion, caution should be exercised and a code should also be maintained that such opinion should be put forth in the first instance to the person who would be either directly or indirectly affected by such opinion expressed, obtain their remarks on the same and then put forward both the opinion and the remarks as an information to be disseminated to the general public and leave it to the general public to form their opinion.



5. Expressing opinions without caution to facts would invite allegations that they are defamatory and only establishes that caution was not prudently exercised by the defendant and there was intent to defame the plaintiff.

6. The plaintiff is seriously aggrieved by the various statements made by the defendant. Those statements can be assessed only when they are put to test during the course of trial. But since such defamatory statements would prima facie affect the normal course of business and do not appear to be based on facts, and had not been put to the plaintiff, injunction naturally follows. Injunction is granted as prayed for.

3. The applicant has come before this Court complaining that the respondent had continued to make defamatory & unverified statements in social media and also on public platforms violating the orders passed by this Court. The applicant had specifically pleaded that the respondent is fully aware of the proceedings before this Court. In spite of having been aware of the order of injunction passed against the respondent, the respondent had made further statements on the social media which are as follows:



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(i)09.09.2022 @ 11.21 am: “Sources: The subtle land grab being done by G Square now happens with temerity. G Square occupies a land in civil dispute and erects a name board. The litigants come up with an advertisement in Coimbatore Dinamalar.”

(ii)09.09.2022 @ 12.34 pm: “Sources: Hoarding at the disputed site at Coimbatore Taluk and District, Sowripalayam village. Earlier, the owners of the property had issued an advertisement in Dinamalar saying “The hoarding kept by G Square should be removed forthwith, or they will face a civil defamation and contempt. PS: Savukku Shankar has been issued with a gag order not to “publish any 'defamatory content against G. Square.”

(iii)12.09.2022 @ 9.02 am: “And they do not want anyone to talk about this. That's why they use courts.”

(iv)12.09.2022 @ 6.31 pm: “Chennai City Police becomes the brand ambassador of G Square. Earlier Chennai City Police registered false case on the complaint of G Square against Vikatan MD, it's employees, Maridass & Savukku Shankar. It was withdrawn after huge backlash.”



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(v)13.01.2023 @ 11.00 am: “Sources: Crisis in the Numero Uno Realty firm G Square. Two top executives of G Square resign citing personal reasons. Sreejith and Purushothaman resign from G Square. They both were at the helm of affairs. Sreejith is a close relative of G Square Bala an Purushothaman is the complainant who filed complaint against Keving, Vikatan, Maridass & Savukku Shankar.”

(vi)17.01.2023 @ 5.43 pm: “The most powerful realty firm across the country gets into trouble. Its two major projects run into trouble. G Square's project in Belgaum and Hyderabad faced trouble which the firm could not solve with their political influence. More info about this crisis will be revealed in due course.”

(vii)28.01.2023 @ 10.45 am: “Sources: Crisis intensifies in G Square. Employees directed either to shift to Bangalore office or Hyderabad office. In other words, leave. Already the number two and three Sreejith and Purushothaman resigned earlier.



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4.He would submit that this Court had taken into consideration, the statements made by the respondent, prima facie those statements would affect the normal course of business and also that they are not based on fact and that the applicant had been not put on notice on such statements for which injunction had been granted. Even after the injunction granted, the respondent had continued his statements without putting the applicant on notice and hence would seek this Court to punish the respondent for violation of the orders passed by this Court.

5.Controverting the claim made by the applicant, the respondent had filed a counter affidavit. The claim made by the respondent in his counter affidavit is that the applicant is wanting to interpret the order dated 08.09.2022 as a gag order. He would also claim that he is a political commentator and a journalist whose prime task is to comment on public matters. He would further submit that the applicant had also been aware that the gag order sought by the applicant is against the public interest, constitution and the judicial precedence and beyond the scope of the suit for defamation. He would also state that the order of injunction is not a blanket gag order that prohibits the respondent from talking about the applicant. He



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would also make a further claim that the tweets posted by him are not defamatory & are statements of facts which would not cause any damage to the applicant. He had further averred that the application is malafide, malicious and merely a SLAPP strategy to silent the respondent.

6.I have perused the counter affidavit filed by the respondent. From thorough reading of the counter affidavit, I failed to find any averment expressing any remorse to the complaint made against the respondent except to state that if the Court comes to a finding that he had made a mistake, he would tender his unconditional apology.

7.This counter affidavit, in my view does not in any manner purge the respondent himself from the complaint made against him. The respondent had in fact filed an application seeking to vacate the interim order granted by this Court. The said application had been filed before this Court on 15.02.2023 on the affidavit sworn by the respondent on the same date as that of the counter affidavit here. The respondent was aware of the order of this Court dated 08.09.2022 as the same is evident from the tweet made by the respondent on 08.09.2022, which has not been disputed by the



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respondent. Having knowledge of the interim order passed by this Court, the respondent had continued to make statements on various occasions. Even though, the respondent tries to interpret the order of this Court as if an order which had not completely enjoined him from making any statements against the applicant, it is relevant to consider a tweet that he had made in his account on 09.09.2022, wherein, the respondent himself has tweeted that he had been issued with a gag order not to publish any defamatory contents against G Square.

8.The respondent had also made a tweet on 12.09.2022, wherein the following statements had been made:

“And they do not want anyone to talk about this. That's why they use courts”

9.I am very disturbed particularly by the statement *“That's why they use courts”*. This statement gives an impression that the Courts are being used by certain individuals to their benefits, this in my view, is a statement impinging upon the majesty of this Court.



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10. Further while dealing with an Original Application No.588 of 2022, I had given a categorical finding that atleast two of the statements have been made by the respondent in a reckless manner. Further the statements made by the respondent as enumerated supra are not only reckless but also in clear disobedience of the order passed by this Court. While dealing an application for violation of the order in A.No.1045 of 2023 in C.S.No.172 of 2022, this Court had imposed a cost of Rs.1,00,000/- payable to the Tamil Nadu State Legal Services Authority on finding that the conduct of the respondent impinges upon the majesty of the Court. In the counter affidavit filed by him, in spite of the specific allegation there are no averment from the respondent under what circumstances, he had made a statement particularly “ *That's why they use courts*”.

11. Even in the earlier order had emphasized the law laid down by the Hon'ble Apex Court in two judgments, the relevant paragraphs are extracted hereunder:

(a) Tayabhai M. Bagasarwalla and another vs Hind Rubber Industries Pvt.Ltd, reported in (1997) 3 SCC 443

“28. The correct principle, therefore, is the one



recognised and reiterated in Section 9-A — to wit, where an objection to jurisdiction of a civil court is raised to entertain a suit and to pass any interim orders therein, the Court should decide the question of jurisdiction in the first instance but that does not mean that pending the decision on the question of jurisdiction, the Court has no jurisdiction to pass interim orders as may be called for in the facts and circumstances of the case. A mere objection to jurisdiction does not instantly disable the court from passing any interim orders. It can yet pass appropriate orders. At the same time, it should also decide the question of jurisdiction at the earliest possible time. The interim orders so passed are orders within jurisdiction when passed and effective till the court decides that it has no jurisdiction to entertain the suit. These interim orders undoubtedly come to an end with the decision that this Court had no jurisdiction. It is open to the court to modify these orders while holding that it has no jurisdiction to try the suit. Indeed, in certain situations, it would be its duty to modify such orders or make appropriate directions. For example, take a case, where a party has been dispossessed from the suit property by appointing a receiver or otherwise; in such a case, the Court should, while holding that it has no jurisdiction to entertain the suit, put back the party in the position he was on the date of suit. But this power or obligation has nothing



to do with the proposition that while in force, these orders have to be obeyed and their violation can be punished even after the question of jurisdiction is decided against the plaintiff provided the violation is committed before the decision of the Court on the question of jurisdiction.”

(b) Prithawi Nath Ram vs State of Jharkhand and others,

reported in ***(2004) 7 SCC 261***

“8. If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order or invoke jurisdiction of the appellate court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. While dealing with an application for contempt the court cannot traverse beyond the order, non-compliance with which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be



impermissible and indefensible. In that view of the matter, the order of the High Court is set aside and the matter is remitted for fresh consideration. It shall deal with the application in its proper perspective in accordance with law afresh. We make it clear that we have not expressed any opinion regarding acceptability or otherwise of the application for initiation of contempt proceedings.

9. In a given case, even if ultimately the interim order is vacated or relief in the main proceeding is not granted to a party, the other side cannot take that as a ground for disobedience of any interim order passed by the court.”

12. In reiteration of the aforesaid judgments when there is an interim order operating against the respondent, the respondent ought not to have made any statements whatsoever against the applicant.

13. It is also pertinent to note that the Hon'ble Apex Court in a judgment in the case of ***Patel Rajnikant Dhulabhai and Another vs Patel Chandrakant Dhulabhai and Others*** reported in ***(2008) 14 SCC 561*** had observed as follows:



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*“70.From the above decisions, it is clear that punishing a person for contempt of court is indeed a drastic step and normally such action should not be taken. At the same time, however, **it is not only the power but the duty of the court to uphold and maintain the dignity of courts and majesty of law which may call for such extreme step.** If for proper administration of justice and to ensure due compliance with the orders passed by a court, it is required to take strict view under the Act, it should not hesitate in wielding the potent weapon of contempt.”*

Even though the aforesaid observation had arose out of proceedings under the provisions of the Contempt of Courts Act, the Hon'ble Apex Court had in clear terms expressed that it is not only the power but the duty of the Courts to uphold and maintain the dignity of the Courts and majesty of the law which would call for extreme steps.

14.In such circumstances, I am of the view that the respondent has committed not only wilful disobedience of the interim order dated 08.09.2022 & has also impinged on the majesty of the Court and therefore as a punishment he shall pay a sum of Rs.1,00,000/- to the Tamil Nadu State Legal Services Authority within a period of four weeks from today.



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15. In A.No.1045 of 2023 in C.S.No.172 of 2022, I have also directed the respondent to file an affidavit of undertaking, such undertaking shall also be filed within the period stipulated therein.

16. With the aforesaid directions, this application is disposed of.

26.06.2023

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K.KUMARESH BABU, J.

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Pre-delivery order in

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