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C.S.No.158 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.158 of 2022

Dr.C.Vijayabaskar

.. Plaintiff

Vs.

R.Sharmila

.. Defendant

PRAYER: Complaint filed under Order VII Rule 1 of the CPC., r/w. Order IV Rule 1 of the High Court Original Side Rules praying for the judgment and decree against the defendant as follows:

(i)Pass a judgment and decree directing the defendant to pay a sum of Rs.10,00,00,000/- (Rupees Ten Crores only) as compensation to the plaintiff towards loss of reputation/personal injury, mental anguish, emotional distress, for the continuous defamatory statements made by the defendant to the print, electronic media and journals;

(ii)To grant a judgment and decree of permanent injunction restraining the defendant or anyone acting through or under her from writing/publishing any defamatory allegations and slanderous material



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about the plaintiff and his family in newsprint, electronic or any other media in any manner whatsoever;

(iii) To grant an order of mandatory injunction directing the defendant to publish an unconditional apology in prominent newspapers, social media and electronic platforms; and

(iv) Direct the defendant to pay the costs of the suit to the plaintiff.

For Plaintiff : Mr.Nithyaesh Natraj
for Mr.Vaibhav R Venkatesh
& Mr.Anirudh A Sriram

For Defendant : Set Ex-parte

J U D G M E N T

This suit has been filed by the plaintiff before this Court for a direction to the defendant to pay a sum of Rs.10,00,00,000/- (Rupees Ten Crores only) as compensation to him towards loss of reputation/personal injury, mental anguish, emotional distress, for the continuous defamatory statements made by the defendant to the print, electronic media and journals; further to grant permanent injunction restraining the defendant or anyone acting through or under her from writing/publishing any defamatory allegations and slanderous material about the plaintiff and his family in newsprint, electronic or any other media in any manner whatsoever and also to grant an order of



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mandatory injunction directing the defendant to publish an unconditional apology in prominent newspapers, social media and electronic platforms and to pay the costs of the suit.

2. Heard Mr.Nithyaesh Natraj, learned counsel for the plaintiff.

3. The brief facts of the case is as follows:

The plaintiff herein was elected as a Member of the Tamil Nadu State Legislative Assembly and appointed as Health Minister. He primarily focused on education and health facilities. The plaintiff has made huge development in the health sector and gained reputation in the eye of public in his tenure as a Health Minister. He was instrumental for the State of Tamil Nadu for receiving various awards from the Central and State Governments. When the matter stood as such, the defendant, who is no way connected with the plaintiff has started giving false complaints from the year 2020 and such complaints were made on 26.08.2020 and 03.11.2021, by way of false allegations in the press release and starting giving false interviews from the year 2020 and the same continued till 2021. Besides, she has also lodged a complaint on 03.11.2021 to the Deputy Inspector



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General, Tirunelveli by making derogatory allegations against the plaintiff. In fact, she has also made a statement to that effect that she know the plaintiff from the year 2013 and there were business transactions between them and the plaintiff owes a sum of Rs.14 Crores to her. Further, she stated that the plaintiff's wife also borrowed jewellery worth about Rs.14 Crores. Similar allegations has also pressed into service as if the plaintiff introduced the owners of Joyalukkas and Malabar Jewellers. Similarly, the allegation has been made by the defendant stating that the plaintiff conspired with the owners of the jewellery shops and registered a fake complaint against her. Further allegation is that the defendant had split the gold into three parts and handed over the same to the plaintiff in three different places namely, Chennai, Pudukottai and Coimbatore and these allegations are *per-se* defamatory and the unfounded allegations published against the plaintiff, who being a public functionary is for tarnishing not only his image but also his reputation in the eyes of public and also deteriorate the duty performed by him as a Minister. Hence, the present suit has been sued by the plaintiff against the defendant for making such allegations and damaging his reputation.



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4. Despite service of notice, the defendant remained ex-parte.

5. The plaintiff examined himself as P.W.1 and exhibits P1 to P15 were marked. One Dr.M.Ramasamy was examined as P.W.2, who is the President of the Tamil Nadu Dental Council. P.W.1 in his evidence spoken about the allegations made by the defendant in various platforms from the year 2020 to 2021. Ex.P1 was filed to show that the efforts putforth by the plaintiff during his tenure as a Health Minister, made the State of Tamil Nadu to receive the Best State Award for Swasth Bharat Yatram. Exs.P2 to P8 are the statements made by the defendant alleging that the plaintiff owes a sum of Rs.14 crores for which he has also introduced jewellery owners and he has also purchased gold worth Rs.14 Crores and the said gold were delivered to the plaintiff in three different places in Tamil Nadu. Ex.P9 is the complaint containing the same allegations lodged before the DIG, Tirunelveli. Similarly, Exs.P10 to P12 were filed to show that unverified statements made touching upon the reputation of the plaintiff. Ex.P13 is the lawyer's notice issued by the plaintiff to the defendant. Ex.P14 is the reply sent by the defendant wherein she has



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asserted that plaintiff has to pay Rs.17 Crores. Ex.P15 evidences the awards received by the plaintiff as a member of the Tamil Nadu Legislative Assembly and as a Minister, he has gained popularity among the public and his reputation was so high at the relevant point of time.

6. When a person in the State of Affairs and holding a rank of a Minister and in charge of the Medical Field and taken measures to improve the quality of education in the said field and also taken steps to improve the health provision in the State of Tamil Nadu, making derogatory allegations, particularly, in the print media continuously and throwing such allegations in public wide debate will certainly lower the image and reputation of the public functionary and the same cannot be ruled out. The allegations against the plaintiff, who holds the state of affairs of the State, particularly, in the medical field, which in fact, have a serious impact in the eye of public and lower his reputation by injuring his very conduct itself. Such statements particularly, against a person like the plaintiff surly will defame his trade name and also affect his political career etc. Though in defence one can say that such statements, is nothing but truth, the same has



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to be established by the person asserting that the statements are the true facts. However to substantiate such stand, the defendant has not taken any steps either by way of written statement or defending the case before this Court, whereas she remained ex-parte. In the absence of any explanation on the side of the defendant to show that there is a valid defence in proving the statements alleged by her against the plaintiff, this Court has necessarily to hold that the statements made in the eye of public by way of various print and electronic media is nothing but targeted to tarnish the image and reputation of the plaintiff. In such view of the matter, though exact amount for damages cannot be ascertained but however, considering the fact that the false allegations were made for more than one year when the plaintiff was a Minister, certainly, he would have suffered huge mental agony in various quarters.

7. It is a settled principle of law, while awarding damages, the following factors has to be taken into account as per the case in ***Parshuram Babaram Sawant Vs. Time Global Boardcasting Co. Ltd.,, Mumbai 400013 in Special Civil Suit No.1984 of 2008 dated 26.04.2011***, wherein the learned Judge has made reference in regard



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to the factors for claiming damages by quoting the factors passed in a judgment of the **Hon'ble Bombay High Court at Panaji**, which reads as under:

- 1.The gravity of the allegation.
- 2.The size and influence of the circulation.
- 3.The effect of the publication.
- 4.The extent and nature of the claimant's reputation.
- 5.The behaviour of the defendant.
- 6.The behaviour of the claimant.

8. In view of the above board of principles, this Court is of the view that a compensation of Rs.1,00,00,000/- (Rupees One Crore Only) is suffice to secure the ends of justice. It is also made clear that the plaintiff is also entitled to apply to all the print and electronic medias and all the intermediaries to remove all the defamatory articles, publications and statements available against him. On such applications being made, the authorities concerned shall remove all the defamatory contents against the plaintiff.

9. For the foregoing reasons, this Court is of the view that since



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no definite amount could be quantified for the damages and also taking into consideration of the board of principles as stated supra, directs the defendant to pay a sum of Rs.1 Crore for the damages caused to the plaintiff. Accordingly, the suit is decreed by directing the defendant to pay a sum of Rs.1 Crore as compensation for damages with costs and permanent injunction is also granted against the defendant restraining her from making any such defamatory statements against the plaintiff in future.

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DP

1.List of witnesses examined on the side of the plaintiff:-

P.W.1 -Dr.C.Vijayabaskar
P.W.2 -Dr.M.Ramasamy

2.List of Exhibits marked on the side of the plaintiff :- Exs.P1 to P15

a)Ex.P1-Photocopy of the Hindu New Article in Tamil Nadu Best State Award for Swasth Bharat Yatra dated 29.01.2019.

b)Ex.P2-CD regarding an interview video of the defendant to Nakkiran along with screenshots dated 26.08.2020.



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c)Ex.P3-Photocopy of the Nakheeran News Articles dated 28.08.2020.

d)Ex.P4-Photocopy of the Tamil Weekly Nakheeran Volume 33 Issue No.39.

e)Ex.P5-Photocopy of the Vikatan New Article dated 30.01.2021.

f)Ex.P6-Photocopy of the Kalaingar Seithigal News Article dated 02.02.2021.

g)Ex.P7-CD regarding News published against the plaintiff in the Kalaingar News Channel based on the statement by the defendant along with screenshots.

h)Ex.P8-CD regarding an interview of the defendant to Sun News along with screenshots.

i)Ex.P9-Copy of the police complaint given by the defendant dated 03.11.2021 along with translation.

j)Ex.P10-Photocopy of the Asian News Article dated 03.11.2021.

k)Ex.P11-Photocopy of the One India Tamil News Article dated 03.11.2021.

l)Ex.P12-Photocopy of the DT Next News Article dated 04.11.2021.

m)Ex.P13-Original defamation notice sent by the plaintiff to the defendant.

n)Ex.P14-Original reply dated 02.12.2021 to the defamation notice sent by the defendant to the plaintiff.



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o)Ex.P15-Photocopy of the Awards received by the plaintiff.

3.List of witnesses examined on the side of the defendant :- Nil

4.List of Exhibits marked on the side of the defendant:- Nil

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Index:Yes/No

NCC : Yes/No

Order: Speaking/Non Speaking

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N.SATHISH KUMAR, J.

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