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A.No.412 of 2024
in
C.S.No.82 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :09.01.2025

Pronounced on :21.01.2025

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

A.No.412 of 2024

in

C.S.No.82 of 2019

Edapadi K.Palanisamy,
S/o Kruppa Gounder,
NB-9, Seveenthi,
TSKR Road, Chennai 600 028.

..Applicant/Plaintiff

/versus/

1.Mathew Samuel
2.Jibin Pulian Godan
3.Shija Anil
4.Shivani
5.Radha Krishnan
Respondents 1 to 5/Defendants 1 to 5
Having office at
Narada News,
K-38A, Green Park Market,
Block T, Block K, Green Park,

1/13



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New Delhi, Delhi 110 016.
6.Sayan,
S/o Velu,
Residing at,
Koonakkampully House,
P.O.Edakulam
Thrissur-680 688.

7.Valayar Manoj,
S/o Cherumkoran,
Residing at
Korathery House,
Parappukara, P.O.Rappal,
Thrissur-680 301.

.. Respondents 1 to 7/
Defendants 1 to 7

Prayer: Application has been filed under Order XIV, Rule 8, O.S.Rules read with Order VI, Rule 16 of Code of Civil Procedure, praying:

- (i) this application be not treated as urgent?
- (ii) this Hon'ble Court be not pleased to strike out the paragraphs 6 to 72 of the written statement of the 1st defendant/respondent herein filed in C.S.No.82 of 2019.
- (iii) this Hon'ble Court be not pleased to pass such further or other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

For Applicants :Mr.S.R.Rajagopal, Senior Counsel for
Mr.S.R.Raghunathan
For Respondents :Mr.E.V.Chandru for
Mr.S.Manuraj



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ORDER

The plaintiff, who was the former Chief Minister of Tamil Nadu, being aggrieved by a video put up by the first defendant in Youtube and other social media platforms, had preferred a Suit claiming damages and other incidental relief alleging the said video containing the interview of one Sayan (an accused in a criminal case known as “Koda Nadu Estate Murder Trial”) is defamatory in nature intended to malign and cast aspersions on his character.

2. The first respondent earlier filed Application No:3967 of 2019 to reject the plaint on the grounds that: (i)there is no cause of action for the suit, (ii)The suit is bad for non-joinder of party. (iii)The plaintiff has no reputation and therefore, there is no question of him being defamed, and (iv) The plaintiff being a public servant cannot maintain a suit for defamation.



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3. This Court, vide order dated 19.08.2020 dismissed the above mentioned application to reject the plaint, holding that the plaintiff has made out a cause of action to sustain the suit by setting out how the first respondent based on hearsay has made out innuendos trying to link the incident at Koda Nadu Estate directly to the plaintiff.

4. Thereafter, the first defendant/first respondent presented his written statement which was taken on file after condoning the delay. Rest of the defendants remained absent and hence, set exparte. The written statement of the first defendant contains 75 paragraphs in total. In his written statement, the first defendant had made certain averments to justify his interview and put o record as pleadings, the antecedent of the plaintiff, which according to



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the defendant, for a person to claim damages for defamation, not worthy of consideration.

5. Considering the rival averments, this Court has framed issues and directed the parties to lead evidence. At that juncture, this application under Order VI, Rule 16 of Code of Civil Procedure, to strike out paragraphs 6 to 72 of the first defendant's written statement is filed by the plaintiff stating that the averments found in these paragraphs are unnecessary, scandalous, vexatious, tend to prejudice and delay the fair trial. That apart, these averments are made to use the written statement as a medium to further tarnish the reputation and image of the plaintiff.

6. The first defendant is a Journalist by profession and in the course of his profession, he has interviewed a person, who is a suspect in the Notorious Koda Nadu Estate burglary-cum-Murder case. The defendant in the course of defending the defamation suit has revealed certain other facts



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which are within his knowledge to bring his interview within the scope of freedom of expression and truth about a public servant. According to the first defendant's source, the plaintiff is suspected to be the master brain behind the incident and he attempts to cover up the incident by misusing his power. Whereas, the plaintiff claims that certain allegations made against him are irrelevant to the suit and if it is left to remain, unnecessary questions will be put during examination of witnesses and that will delay the trial.

7. After lengthy arguments on either side, the plaintiff as well as the first defendant had come forward to point out the part of the written statements which, in their view, may not necessary or relevant to decide the issues involved in this suit. A memo on behalf of the first defendant filed conceding to remove those portions of the written statement without prejudice to any of his right to defend the suit.



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8. At this juncture, this Court is of the view that it is relevant to refer the following two paragraphs from the judgment in *Dejo Kappan –vs- Deccan Herald reported in (2024 SCC OnLine Ker 6494)*, rendered by the Full Bench of the Hon’ble Kerala High Court, drafted with eloquence and erudition, which guides us to balance the two fundamental rights namely, Freedom of Expression and Freedom of Life with dignity/reputation.

“26.

- *In the case of a conflict arising between the right of the media to freedom of speech and expression under Article 19(1)(a) , and the right of an individual to his/her dignity or reputation that is traceable to Article 21 of the constitution, the former has to be seen as controlled not only by the latter, but also by the ideals, values, concepts and fundamental duties recognised under the Constitution which are equally binding on the media. The right under Article 19 (1)(a) thus gets correspondingly*



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delimited and, in appropriate cases, must yield to the right of the individual under Article 21 of the constitution.

- *In the context of reporting facts relating to criminal investigations or cases pending adjudication before the various adjudicatory forums, the right of the media to freedom of speech and expression under Article 19(1)(a) would be further de-limited by their obligation to defer to the principle of separation of powers that is recognised under our Constitution. The said principle, coupled with the concept of rule of law, mandates that the final and authoritative determination of guilt or innocence can be pronounced only by a judicial authority. Therefore the expression by the media of any definitive opinion regarding the guilt or innocence of a party in a criminal investigation or a case pending adjudication, before an authoritative pronouncement is made by the adjudicatory forum concerned, would not get the protection under Article 19(1)(a) of the Constitution.”*



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9. This Court, on careful consideration of the Law and Precedent, besides the memo filed by the first defendant consenting to remove certain paragraphs of his written statement, is of the view that, having held that the plaintiff has made out a *prima facie* case to maintain the suit for damages and other relief, the right of the first defendant to put forth his defence cannot be curtailed without considering the portions of his written statement, which are relevant and necessary for proper trial.

10. A defendant in a civil suit is expected to raise all matters, which would show that the suit is not to be maintained, or that the transaction is either void or voidable in a point of law, and all such grounds of defence as if, not being raised, would likely, take the opposite party by surprise. It is



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also not sufficient for a defendant to deny the allegation in the plaint generally, but he must deal specifically with each allegation of fact of which he does not admit the truth, except damages. The denial must not be evasive but it must be the answer to the point of substance. If the defendant failed to specifically deny allegation of fact in the plaint, he has to suffer the presumption of admitting those facts.

11. Therefore, averments contain in paragraphs 7, 12, 15, 16, 17, 58 , 59 and 60 are struck off. In so far as paragraph 19, the last two sentences which reads as “Actually, the plaintiff tried his best to suppress the truth of the murder and burglary in his leaders' Kodanad Estate and the subsequent series of deaths by approaching this Hon'ble Court to protect his public life as well as his public office and particularly, the claims in para 6 are in no way connected with the defendant and nothing but self serving assertions and are false.” alone is retained. The first part of paragraph 19 is struck off.



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12. Except the paragraphs and portions mentioned above, which are not necessary for deciding the issues involved in this case, the rest of the averments in the written statement are to remain. In view of this Court, the portions of the written statement retained are either relevant to facts in issue or facts leading to introduce a relevant fact. If those averments are also stuck off, the first defendant will be deprived of putting his defence effectively. At the same time, it is necessary to observe that the parties to prove the averments made in their respective pleadings by preponderance of probability, in the course of trial and what said in this order is restricted to the relief sought under Order VI, Rule 16 of C.P.C.

13. In the result, **Application No.412 of 2024 is partly allowed.** No order as to costs.

21.01.2025



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Index:yes/no
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DR.G.JAYACHANDRAN,J.

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