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C.S.No.252 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.10.2024

PRONOUNCED ON : 04.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.S No.252 of 2014

T.R.Balu

.. Plaintiff

..Vs..

1.R.Kannan

Editor - Junior Vikatan

Vasan Publications Private Limited

2.K.Ashokan

Publisher - Junior Vikatan

Vasan Publications Private Limited

3.S.Madhavan

Printer- Junior Vikatan

Vasan Publications Private Limited

all having office at

757, Anna Salai

Chennai-600 002.

.. Defendants

Prayer: Civil Suit has been filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 2 CPC, praying to pass the following judgment and decree against the defendants:



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a) directing the defendants to pay a sum of Rs.1 Crore jointly and severally to the plaintiff together with interest @ 18% per annum from the date of filing the suit till realization of the decree.

b) granting permanent injunction restraining the defendants, their men, agents, staff, subordinates or any person claiming through or on behalf of them from in any way printing, publishing and circulating the defamatory news items and the photographs of the plaintiff or his family or publishing any caricature or fudged photographs of the plaintiff or his family members in their magazine "Junior Vikatan" in any manner causing damage to the reputation of the plaintiff and his family without seeking any clarification from the plaintiff.

c) for costs.

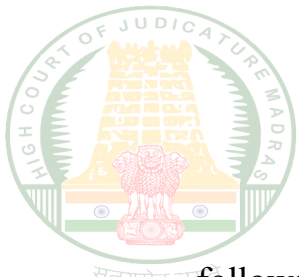
For Plaintiff : Mr.P.Wilson, Senior Counsel
(For M/s.P.Wilson Associates)

For Defendants : Mr.N.Ramesh

J U D G M E N T

This Civil Suit has been filed for the relief as stated in the prayer.

2.The case of the Plaintiff, as set out, in the plaint is as



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follows:-
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(i) The plaintiff is a long lasting member of a reputed political party in Tamil Nadu viz., Dravida Munnetra Kazhagam since 1957. In view of his sincere and hard work, he was elected as the Secretary of the then United Chennai District DMK and continued in the said post from 1982 to 1993. In the mean time, he was elected as the Member of Rajya Sabha in the year 1986 and served as the Member of the Parliament during the period from 1986 to 1992. Thereafter, he was elected as the Member of the Lok Sabha from the South Madras Parliamentary Constituency in 1996 and was sworn as the Union Minister of State for Petroleum and Natural Gas during the period from 1996 to 1998. In the year 1998, he was once again elected as Member of Parliament for the second time to the XII Lok Sabha from the South Madras Parliament Constituency. During the year 1998-1999, he served as a Member of Committee on Railways and Member of Consultative Committee of Ministry of Home Affairs. Once again he was elected from the same constituency as a Member of Parliament to the XIII Lok Sabha in the year 1999. Consequently, he joined the Union Cabinet and served as Cabinet Minister for Environment and Forests from 13.10.1999 to 20.12.2003. While he was the Union



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Minister for Environment and Forests, he was also the President of the United Nations Framework Convention on climate change in which Ministers of 190 countries from all over the world were members. He was again elected as the Member of Parliament for the fourth time to the XIV Lok Sabha from the same South Madras Parliamentary Constituency and he served as the Union Minister for Shipping, Road Transport and Highways during the years 2004 to 2009. In the year 2009, he has been yet again elected as Member of Parliament from the Sriperumbudur Parliamentary Constituency in the XV Lok Sabha elections and he is at present serving as Chairman, Standing Committee on Railways, Member of Committee on Ethics, Member of Committee on Social Justice and Member of the Joint Parliamentary Committee. It is on account of the plaintiff's tireless work, vibrant political and social activities with an indefatigable zeal and enthusiasm, earnestness and loyalty towards his party under the renowned leadership of Dr.Kalaignar M.Karunanithi for more than five decades, he has reached the pinnacle of fame and reputation.

(ii).The 1st defendant is the Editor of the bi-weekly Tamil magazine "Junior Vikatan" published from Chennai and it has got wide



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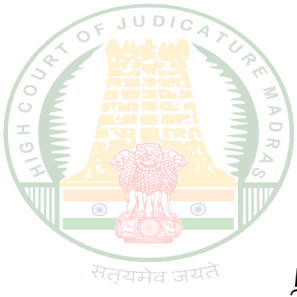
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coverage of readers. The 2nd defendant is the Publisher of the above magazine and the 3rd defendant is the Printer of the same. All of them have habitually indulged in publishing various defamatory news items time and again in their earlier issues, and despite the plaintiff bringing those malicious and defamatory news items to their notice, they have failed to render due apology. Therefore, the plaintiff has initiated various legal proceedings against the defendants for defamation and the same are pending before the competent Courts. The 1st defendant in their magazine "Junior Vikatan" dated 28.03.2012 published by the 2nd defendant and printed by the 3rd defendant, have brought out a malicious and defamatory news article under the guise of replying to a question of one Mr.R.Subramanian, Guduvanchery under the caption "Kazhugaar bathilgal" which is extracted hereunder:

சேது சமுத்திரத்திட்டம் என்ன ஆனது?

ஸ்வாகா ஆகிவிட்டது அதுதான் அண்ணாவின் கனவுத் திட்டம் என்று சொன்னவர்களே, அமைதி அகிவிட்டார்களே!

கடலுக்குள் மண்ணைக் கொட்டினாலும் காசைக் கொட்டினாலும் அல்ல முடியாது என்று மறுபடியும் நிரூபணம் ஆகி இருக்கிறது. இந்தத் திட்டம்



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நிறைவேறினால் இந்தியாவின் வர்த்தக நிலைமை உயரும் என்று சொன்னார்கள். ஆனால், டி.ஆர்.பாலுவுக்கு மட்டுமே பயனைக் கொடுத்து, திட்டம் பணால் ஆகிவிட்டது. இதைப் பார்த்த பிறகு உஷாராகி, கருணாநிதி ஓர் அறிக்கை விடலாம்!”

By giving an impression as if the entire investment in the Sethu Samuthiram project has been swallowed; the amount that has been invested under the sea, cannot be realized and that the said project has only benefited the plaintiff, whereas in reality, the project would improve the economic status of not only Tamil Nadu but also the entire country. The above allegations are highly mischievous and derogatory. The plaintiff was appointed as a Union Minister for Shipping, Road Transport and Highways only to serve the people and not otherwise as alleged by the defendants. As a serving Minister at that point of time, he has worked hard to bring good future to India and in particular to the State of Tamil Nadu through this project. Therefore, the reply given by the 1st defendant in the said publication under the caption "Kazhugaar Bathilgal" is defamatory and has caused dent to his reputation, goodwill and his political career.

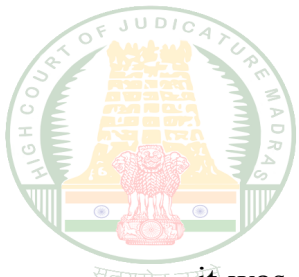
(iii) The prestigious 'Sethu Project' was duly considered and approved by the Union Cabinet under the Chairmanship of Hon'ble Prime



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Minister Dr.Manmohan Singh and the same was launched by him on 02.07.2005. When the viability of the said Project was challenged by way of various litigations which include litigations initiated by some of the political leaders, the Hon'ble High Court of Madras refused to grant stay of the said project. During the progress of the said project, some more litigations were initiated before the Hon'ble Supreme Court of India by some political parties and few other persons and therefore, all the cases were transferred to the Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the matter granted interim orders in the nature of staying the implementation of the said project and has also issued certain directions. This being so, knowing fully well about the status of the said project, the defendants have with mala-fide intention, under the guise of replying to the above said questions have not only committed contempt by commenting on an issue which is sub-judice defamatory and misleading article. It is a well known fact that the "Sethu Project" is delayed only due to litigations which are pending before the Hon'ble Supreme Court of India and it is a fact that the plaintiff has not caused any delay in implementing the said Project which would have served for better economic development of India, especially in the Southern Districts of Tamil Nadu by this time, if

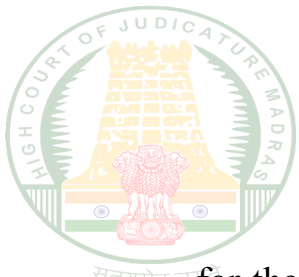


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it was allowed to be completed. As the facts remain so, the unsavory reply to the so-called questions from the so-called readers and has caused damaged to the reputation and esteem of the plaintiff. All the defendants have wantonly, deliberately and knowing well about the status of the plaintiff have not given a correct reply about the said project nor have they sought to verify such accusations before publishing it in their bi-weekly dated 28.03.2012. Therefore, the plaintiff caused to issue a legal notice dated 06.04.2012 calling upon the defendants to refrain from repeating such unethical acts of publishing mischievous and defamatory articles in the future and sought an unconditional apology from the defendants besides publishing that notice prominently in the next publication of Junior Vikatan within 24 hours from the date of receipt of that notice failing which the plaintiff would be constrained to initiate appropriate legal proceedings against all the defendants holding them liable for all the costs and consequences arising therefrom. The 1st defendant instead of tendering apology chose to write a reply dated 19.04.2012 addressing the plaintiff justifying the stand taken by the defendants in their publications.

(iv).Whereas, the defendants have once again published an article dated 22.12.2013 in Junior Vikatan at page 5 which reads under the



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for the defamatory news items that were made against the plaintiff by the edition dated 01.08.2004, 04.08.2004 and 23.10.2005, the plaintiff had already initiated C.C No.6623 of 2005 against the defendants which are pending for adjudication before the learned XVII Metropolitan Magistrate, Saidapet, Chennai. That apart, against the defamatory and unconfirmed publication dated 22.12.2013, the plaintiff has also initiated criminal proceedings by filing a criminal case on 02.01.2014 before the learned XVII Metropolitan Magistrate, Saidapet, Chennai. The Courts have emphasised time and again that freedom of expression for the press is not absolute to publish any news item without conducting a preliminary and basic verification of the authenticity and the contents of such news item before publishing the same. The established ethics of journalism have been deliberately flouted by the defendants and the defendants have completely abused the freedom of press with total disregard to any probity and morality. Therefore, the statement under the guise of reply in the said magazine against the plaintiff is absolutely false, baseless, mischievous and defamatory which attracts the provision of Section 499 of the Indian Penal Code besides causes damages to plaintiff's reputation, image and career and hence the plaintiff is entitled for damages.



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(v).The plaintiff's party men, friends and relatives have started making enquiries regarding the said defamatory publications. The two defamatory news item published by the defendants as stated above have his reputation in the estimation of his friends, party men and relatives and hence the plaintiff is entitled to claim damages. The defendants have committed offences punishable under Sections 500, 501 and 502 of the Indian Penal Code. The plaintiff has initiated criminal proceedings. Instead of apologizing, the 1st defendant wrote a reply dated 19.04.2012 to the plaintiff justifying their stand in publishing the defamatory and derogatory news item in their edition dated 28.03.2012. The defamatory article and the news item have caused great dent to the plaintiff's image and reputation. The next parliament election has been announced and propagation for the ensuing parliamentary election is in its full swing. The plaintiff has proposed to contest from Tanjavur Parliamentary Constituency which has been approved by his party headquarters. Each candidate and his party are canvassing for the success of the candidate. At this juncture, apart from having published the above derogatory and defamatory news item, the defendants have made an illegal attempt once again to tarnish the image of the plaintiff by hook or crook. One such attempt is to publish defamatory



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remarks against the plaintiff touching upon the personal life of the plaintiff and his family. Since the plaintiff has already sought for an unconditional apology from the defendants for the defamatory remarks and news items that had been made by the defendants by way of publishing in their magazine, out of vengeance and rage, the plaintiff reliably understands that the defendants are contemplating to publish unauthenticated and unconfirmed defamatory remarks against the plaintiff and his family in their ensuing publications.

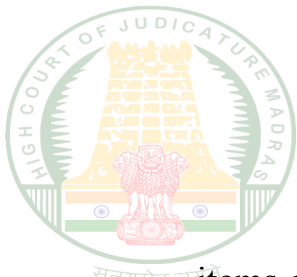
(vi).One of the reporters of the defendants' office without identifying his name and identity called the plaintiff's Manager on 02.04.2014 and informed that the defendants are contemplating to publish the personal life of the plaintiff and his family in the ensuing edition so as to hamper the prospects of the plaintiff's candidature in the ensuing Parliamentary Election in Thanjavur when the plaintiff's Manager sought to know his name he hanged the phone which happened to be a public booth number. The defendants are thus bent upon committing illegality and unlawful action by indulging in printing and publishing mischievous and unreliable, unauthenticated and unconfirmed defamatory remarks without seeking clarification from the plaintiff. It is apprehended that the



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defendants would publish derogatory and false allegations against the plaintiff and his family at any time during the election campaign with the mala-fide intention and ulterior motive to defame the reputation of the plaintiff and his family in the minds of the electorate. The plaintiff has made out a case for granting permanent injunction. Balance of convenience is in favour of the plaintiff. If an order of permanent injunction is not granted, irreparable loss and hardships would be caused to the plaintiff.

(vii) Right to life and personal liberty has been guaranteed under Article 21 of the Constitution of India. This indicates that every citizen of this country has a right to live a decent and dignified life. The family members do not fall under the domain of public figures. Even the public figures have their personal life which cannot be interfered with by the defendants as guaranteed by Article 21 of the Constitution of India. No right is an absolute right much less freedom of expression which is guaranteed under Article 19(1) of the Constitution. The rights guaranteed under Article 19(1) of the Constitution are subject to Article 19(2). The defendants instead of apologizing for publishing unconfirmed defamatory news item in their edition dated 28.03.2012 against the plaintiff are now indulging in mudslinging activities of publishing further defamatory news



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items not only on the plaintiff but also on the family life of the plaintiff including the family members. In the case of District Registrar and Collector Vs. Canara Bank and others reported in (2005) I SCC 496, Larger Bench (three) of the Supreme Court of India has held thus.

"Para 20 Article 12 of the Universal Declaration of Human Rights (1948) refers to privacy and it states:

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

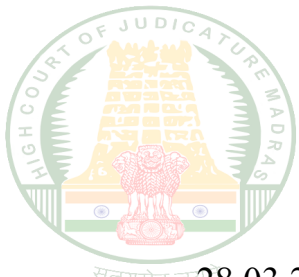
"Article 17 of the International Covenants of Civil and Political Rights (to which India is a party), refers to privacy and states that:

"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home and correspondence, nor to unlawful attacks on his honour and reputation.

"Para 21. The European Convention on Human Rights, which came into effect on 3.9.1953, also states in Article 8:

"1. Everyone has the right of respect for his private and family life, his home and correspondence.

(viii).The contents of new items published in the editions dated



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28.03.2012 and 22.12.2013 are insulating, frivolous, highly malicious and derogatory, which cannot be countenanced in law. The defendants, in order to attribute sinister motives and tarnish the image of the plaintiff have not only dragging the plaintiff but also attributing motives for publishing such malicious and unconfirmed news items. All the allegations contained in these two news items have been invented, false, frivolous and calculated with mala-fide intention to implicate the plaintiff into such baseless allegations. As stated above after publication of the news item stated 28.03.2012 and 22.12.2013 in the magazine of Junior Vikatan and having published the plaintiff's photograph, many of the plaintiff's friends, relatives and clients called on the plaintiff in person as well as over phone and enquired about the news article. The plaintiff was put to intimidation, mental torture besides being put to shame and embarrassment. The details of list of callers who would be examined at the appropriate time. These publications and the enquiries made by the friends and relatives of the plaintiff have brought down the reputation of the plaintiff in the eyes of his friends, relatives, leaders, large numbers of public and people from his Parliamentary Constituency. The attitude of the defendants unambiguously exhibits their mentality and that there is total disregard to any probity,



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morality or ethics. These news items have caused plaintiff quantifies the damages at Rs.1 Crore to be paid by the defendants publisher and 3rd defendant is the printer are equally responsible for the defamatory news item and article and the damages suffered by the plaintiff and hence are liable to pay the damages jointly and severally. The repeated news articles dated 28.03.2012 and 22.12.2013 would unambiguously establish that the defendants have conspired together and acted against the interest of the plaintiff for the sole purpose of damaging, degrading and maligning the plaintiff in the eyes of the public. The defendants are hand in gloves with the disgruntled political opponents and therefore, an order of permanent injunction has to be granted restraining the defendants from in any way bringing any damaging news articles concerning the plaintiff or printing, publishing and circulating photographs / fudged photograph/caricature in their bi-weekly edition Junior Vikatan.

(ix).The defamatory news item dated 28.03.2012 and 22.12.2013 in the form of question and answer are nothing but redolent, whimsical and fanciful, without any basis of truth and in totality both the defamatory news items have been written, edited, printed, published and marketed with the



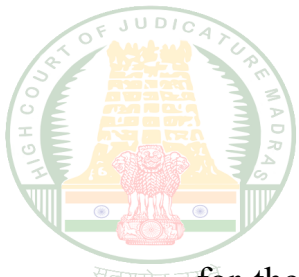
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clear object and intention of those news items to be read not by the people of Tamil Nadu alone but by all those who have access to the magazine even outside the State of Tamil Nadu thereby the image of the plaintiff has been tarnished beyond repair. The press does not have any privilege in publishing such derogatory and unconfirmed malicious news items in their magazine. It is the paramount duty of the reporter, editor, printer and publisher before inserting an article in the news magazine to scrutinize the same with utmost care and caution besides verifying the credibility and credit to worthiness of the source of information and ascertain that the information that has been either furnished or received by them are true before publishing, more particularly when the news item is with reference to the plaintiff and his family life. Hence this suit.

3. The case of the Defendants 1 to 3, in a nutshell, as set out in his written statement, is as follows:-

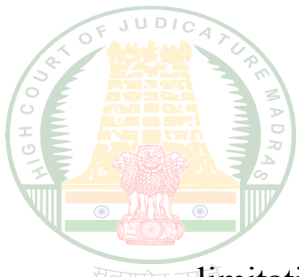
(i) All the allegations contained in the plaint are denied except those that are specifically admitted herein. The magazine 'Junior Vikatan' is published by the same group from the year 1984, had strived to achieve excellence in the field of journalism and never resorted to sinister methods



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for the sake of increasing circulations. The defendants in their magazine "Junior Vikatan" in issue dated 28.03.2012 published question-answer under the caption "Kazhugaar bathilgal" in which the plaintiff alleges that the above content as malicious and defamatory and that it gives an impression as if the entire investment in the project has been swallowed and that the amount that has been invested under the sea, cannot be realized and that the said project has only benefited the plaintiff. The defendants deny the allegation and it was not the true intent of the answer and it does not convey any such meaning as read by the plaintiff. The plaintiff has misread the contents and giving different meaning which it never intends or conveys. It is nowhere said that the project was delayed due to the plaintiff. Satisfactory reply dated 19.04.2012 was given to the legal notice dated 6.4.2012 issued by the plaintiff. Therefore, this cannot be defamatory by any stretch of interpretation.

(ii)The defendants state that to file a suit for defamation claiming damages, law of limitation prescribes a period of one year from the date of publication. The above alleged publication was dated 28.03.2012 and this suit has been filed in April, 2014. Consequently, this suit is barred by



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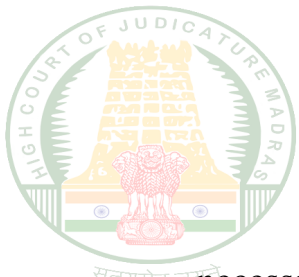
limitation and consequently liable to be rejected as far the above publication is concerned. The defendant had published an news item at page No.5 of Junior Vikatan issue dated 22.12.2013. The plaintiff alleges that the above news item has been made to defame his reputation. It is not stated how the publication of above news item would affect his reputation. There is nothing defamatory about him. The above version/content was published by various news papers and other media. His above speech was in public domain. He never denied his above speech to the media and public when it was widely published by other newspapers. The defendants deny allegation that the publication of news item was done to malign the plaintiff. The plaintiff did not issue any notice to the defendants denying the veracity of news item. Had there been any such denial it would also have been published by the magazine. There is no allegation on the private life of the plaintiff and no right of privacy of the plaintiff was violated. The articles published by the Junior Vikatan constitute fair and bona fide comments on a matter of national interest. Material facts were truly stated in the articles and it is published bona-fide. The articles are guided by principles of objectivity and fairness. Several other newspapers and magazines had carried same news item.



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(iii)As narrated by the plaintiff himself in his plaint, he is a public figure and he is in public life. His public actions are subject to criticism by the Media for public interest. There was no comment on the private life of the plaintiff. The defendants have published the news based on news and proceedings in the public domain. The publication cannot be even remotely categorized as defamatory. Therefore, the suit itself is not at all maintainable as it is well settled that public officials cannot maintain any action for damages with respect to acts and conduct relevant to the discharge of their public duties. The criminal case defamation filed against the editor of the defendant's magazine in C.C No.6623 of 2005 pending on the file of learned XVII Metropolitan Magistrate, Saidapet, Chennai was dismissed on 13.05.2015. Another criminal complaint against the defendant's magazine initiated by the plaintiff on 02.01.2014 before the XVII Metropolitan Magistrate, Saidapet, Chennai was also already dismissed. Dismissal of these criminal proceedings would reveal that there were no merits in the allegations and he is in the habit of threatening the defendant's magazine with unsuccessful proceedings. The magazine did not comment/write anything about the plaintiff during elections due to order of this Court. The public gaze cannot be avoided which is a



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necessary corollary of a person holding public office. The people are entitled to know the public activities of any person who holds a public office. The Supreme Court in the case filed by Association for Democratic Reforms had clearly set out that the right of the citizens to know several details of a candidate who is standing on the election which includes assets held by him, his qualifications and antecedents of his life, including involvement in criminal case.

(viii) The claim of damages and the relief of permanent injunction against the press, are in violation of the fundamental right guaranteed under Article 19(1)(a) of the Constitution of India to publish and disseminate news to the people of India in public interest. Even the alleged news item that has been published concerned only the acts and conduct of the plaintiff as a politician and public figure. A number of prominent newspapers had published the same contents. The press has a right to comment on the discharge of duties by a person in public life. The plaintiff was public official and Union Minister at the time of publication. The freedom of press is part and parcel of the right to freedom of speech and expression which includes the freedom to communicate, advertise, publish and disseminate information to the citizens of our nation who have



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a right to know and receive information of any event of national importance. A reading of the news items will never give the impression that the news items are malicious. The balance of convenience is also in favour of the defendants. It needs to be reemphasized that no allegation on the private life of the plaintiff has been commented upon and under the circumstances, interim injunction originally granted has got to be vacated, and the relief of permanent injunction has to be dismissed. Hence the suit is liable to be dismissed with exemplary costs.

4. On the pleadings of the parties and hearing the learned counsel on either side, the following issues were framed for determination:-

- (1) *Whether the suit is barred by limitation?*
- (2) *Whether the news items appeared in bi-weekly Tamil magazine 'Junior Vikatan' on 28.03.2012 and 22.12.2013, are malicious and defamatory?*
- (3) *Whether the news items dated 28.03.2012 and 22.12.2013 published in 'Junior Vikatan' lowered the character and reputation of the plaintiff?*
- (4) *Whether the plaintiff is entitled for damages on account of his lowering of image among the public as well as his family?*
- (5) *Whether the plaintiff is entitled to decree for permanent injunction?*



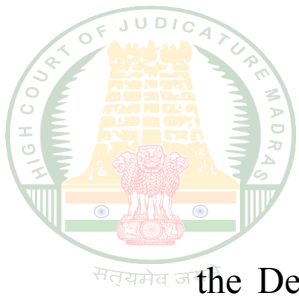
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WEB COPY(6) *To what relief, the plaintiff is entitled?*

5. On the side of the Plaintiff, the plaintiff and two other witnesses were examined as PW1 to PW3 and Ex.P1 to Ex.P5 were marked. On the side of the Defendants, one witness was examined as DW1 and Ex.D1 to D7 were marked.

6. Heard both sides and perused the materials available on record.

7. The learned counsel for the Plaintiff has submitted that the Defendants had chosen words perniciously in the article dated 28.03.2012 published in Junior Vikatan, that the Plaintiff monetarily benefitted from the Sethusamudram project and that the public money had drowned in the sea by misusing the trust placed upon the government. The word "Swaha" (ஸ்வாகா) is uttered during poojas to signify something has gone to heaven. The word swaha is a Sanskrit word derived from the words 'Swah' meaning heaven and "Aha" which is to receive. Therefore, people utter the word Swaha to signify that something has gone to heaven. In other words,



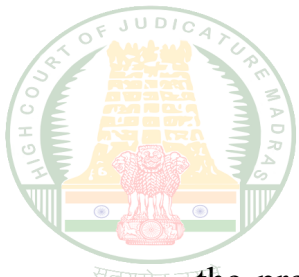
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the Defendants are saying that the money spent on the Sethusamudaram scheme has vanished to the skies. Further, the offending article states that only the Plaintiff has benefited from the scheme, thereby implying that the scheme has benefited the Plaintiff alone. This is per se defamatory as the scheme is a government project to boost the shipping industry and therefore boost trade and commerce.

8. It has been further submitted that the Defendants further defamed the Plaintiff by falsely reporting a speech allegedly made by the Plaintiff in their article dated 22.12.2013 to have made by the Plaintiff in the General Body meeting of the DMK that took place on 15.12.2013 at Anna Arivalayam. The Plaintiff did not even speak at this general body meeting. The said article is totally false, concocted and defamatory. The plaintiff got calls from family, friends, other leaders, party workers and public asking about the offending article and the offending article has lowered his reputation in the eyes of the public.

9. The learned counsel for the Plaintiff has further submitted that Courts have emphasised time and again that freedom of expression for



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the press is not absolute to publish any news item without conducting a preliminary and basic verification of the authenticity and the contents of such news item before publishing the same. The established ethics of Journalism have been deliberately flouted by the Defendants and the Defendants have completely abused the freedom of press with total disregard to any probity and morality.

10. In support of his arguments, the learned counsel for the plaintiff has relied upon the Judgments in “*Subramanian Swamy v. Union of India*”, (2016) 7 SCC 221, in *Kaushal Kishor v. State of U.P.*, (2023) 4 SCC 1, of the Hon'ble Supreme Court, in *Sanjay Kumar Sharma v. Krishnendu Narayan Choudhury*, 2024 SCC OnLine Cal 7309 of the Hon'ble High Court of Calcutta , in *Rajan Bihari Lal Raheja and Ors. Vs. Planman Consulting India Pvt. Ltd. and Ors* 2011 (126) DRJ 468, in *Gaurav Bhatia v. Naveen Kumar*, 2024 SCC OnLine Del 2704, of the Hon'ble High Court of Delhi, in “*Rahul Gandhi Vs. Purnesh Ishwerbhai Modi*” 2023 SCC OnLine Guj 2156, of the Hon'ble High Court of Gujarat. Thus, he prays the relief as sought in the suit prayer.

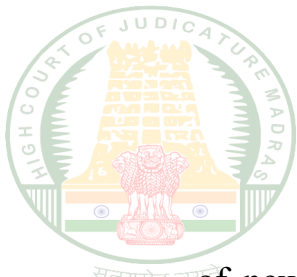


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11. The learned counsel for the defendants would submit that in the issue dated 28.03.2012 published question-answer under the caption "Kazhugaar bathilgal" does not convey any such meaning as stated by the plaintiff. The plaintiff has misread the contents and giving different meaning which it never intends or conveys. It is nowhere said that the project was delayed due to the plaintiff. Satisfactory reply dated 19.04.2012 was given to the legal notice dated 6.4.2012 issued by the plaintiff. Therefore, this cannot be defamatory by any stretch of interpretation. Further, to file a suit for defamation claiming damages, law of limitation prescribes a period of one year from the date of publication. The above alleged publication was dated 28.03.2012 and this suit has been filed in April, 2014. Consequently, this suit is barred by limitation and consequently liable to be rejected as far the above publication is concerned.

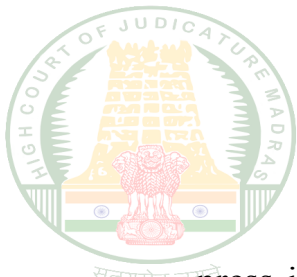
12. It has been further submitted that as regards the issue dated 22.12.2013, there is nothing defamatory about him. The above version/content was published by various news papers and other media. His above speech was in public domain. He never denied his above speech to the media and public when it was widely published by other newspapers. The plaintiff did not issue any notice to the defendants denying the veracity



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of news item. Had there been any such denial it would also have been published by the magazine. There is no allegation on the private life of the plaintiff and no right of privacy of the plaintiff was violated. The articles published by the Junior Vikatan constitute fair and bona fide comments on a matter of national interest. Material facts were truly stated in the articles and it is published bona-fide. The articles are guided by principles of objectivity and fairness. Several other newspapers and magazines had carried same news item.

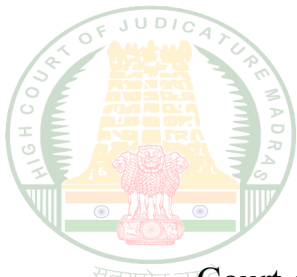
13.The learned counsel for the defendants would further submit that the claim of damages and the relief of permanent injunction against the press, are in violation of the fundamental right guaranteed under Article 19(1)(a) of the Constitution of India to publish and disseminate news to the people of India in public interest. Even the alleged news item that has been published concerned only the acts and conduct of the plaintiff as a politician and public figure. A number of prominent newspapers had published the same contents. The press has a right to comment on the discharge of duties by a person in public life. The plaintiff was public official and Union Minister at the time of publication. The freedom of



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press is part and parcel of the right to freedom of speech and expression which includes the freedom to communicate, advertise, publish and disseminate information to the citizens of our nation who have a right to know and receive information of any event of national importance. A reading of the news items will never give the impression that the news items are malicious. The balance of convenience is also in favour of the defendants. It needs to be re-emphasized that no allegation on the private life of the plaintiff has been commented upon and under the circumstances, interim injunction originally granted has got to be vacated, and the relief of permanent injunction has to be dismissed.

14. In support of his arguments, the learned counsel for the defendants has relied upon the Judgments in “*Indian Express Newspapers (Bombay) Private Ltd. And others v. Union of India and others*”, (1985) 1 SCC 641, in *Ajay Goswami Vs. Union of India and others* reported in (2007) 1 SCC 143” in *R.Rajagopal alias R.R.Gopal and another Vs. State of T.N. and others* reported in (1994) 6 SCC 632, of the Hon'ble Supreme Court, in *R.Rajagopal @ R.R.Gopal @ Nakkheeran Gopal and another Vs. Ms.J.Jayalalitha and another* (2006) 2 MLJ 689” of the Hon'ble High



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Court of Madras seeking to dismiss the suit with exemplary costs.

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15. On perusal of the news relating to the Sethu Samithiram Project, published in issue is dated 28.03.2012. However the present suit has been filed in the year 2014 after prescribed period of one year from the date of publication. Hence, in so far as the news dated 28.03.2012 regarding Sethu Samithiram Project is concerned, the suit is barred by law of limitation. However, in so far the news in issue dated 22.12.2013 is concerned, (“ ராகுல் சின்னப்பையன்”) it is not barred by limitation since the suit is filed within a period of one year as prescribed in the Law of limitation. Hence, the suit is not barred by limitation regarding the issue dated 22.12.2013 alone. Accordingly, Issue No.1 is answered. As the news in issue dated 28.03.2012 is barred by limitation, it is not required to discuss and answer for the issues related to it other than Issue dated 28.03.2012 published in Junior Vikatan.

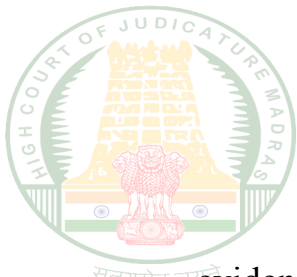
16. During the cross examination of DW1, it is admitted that the press were seated only outside the hall during the general body meeting and were allowed inside only at the beginning of the programme and at the end



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to take photographs. Under such circumstances, the DW1 himself admitted in the cross examination of question No.19, that in Arivalayam, there was a general body meeting which was held as in-camera meeting. Further, he deposed that "he had to collect news from that meeting that was his profession. He was inside the meeting hall and he knew who were all spoke in the meeting. On the basis of his personal knowledge and information gathered from other source, he prepared that report". While the General body meeting was held in-camera and he has not proved that he was in the meeting hall at that time or that the Plaintiff spoke the published contents in the general body meeting, it is seen from his evidence that the report has been prepared on the basis of personal knowledge and information gathered from other source without verifying the reports whether it is truth or not and veracity of the news items published on 28.03.2012.

17. In the evidence of P.W3, he has deposed that he attended the general body meeting and throughout the meeting, the Plaintiff did not even make a speech. The said PW-3 has also produced the original of Tamil daily newspaper Murasoli dated 16.12.2013 (Ex.P5). The defendants have not produced any oral and documentary evidence to disprove the



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evidence of P.W.3.

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18. Despite the defendants have produced the ExD3 to ExD5 are the publications published in other magazines, the contents therein are different and not similar to the subject contents raised in the suit. while being so, the defendants cannot question the plaintiff why the defamation suit or criminal proceedings are not made against the magazine mentioned in Ex.D3 to Ex.D5. It is the right of the plaintiff on whom he has to sue the suit. The defendant cannot question the right of the plaintiff in this regard. Hence, the entire article published by the Defendants that the Plaintiff made a speech and called Rahul Gandhi a small boy (“ராஹுல் சின்னப்பையன்”) are made without proper verification or confirming the veracity of the news and published the same with a calculated intention of defaming the Plaintiff, calling a top leader of the Congress party who was the prime ministerial candidate of the UPA in 2014 as 'Small boy' is certainly offensive and attributing such words to the Plaintiff is purely out of ill will with an intention to defame the Plaintiff by tarnishing his image and reputation in the minds in the political leaders and the general public.



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19. Having considered the facts and circumstances of the case and reliance of the various Judgments cited by the learned counsel for the plaintiff, it is proved that the news items appeared in bi-weekly Tamil magazine 'Junior Vikatan' on 22.12.2013, are malicious and defamatory thereby lowered the character and reputation of the plaintiff. Accordingly, issue nos.2 and 3 are answered. Hence, the plaintiff is entitled for damages on account of his lowering of image among the public as well as his family. Accordingly, issue No.4 is answered.

20. It is seen from the evidence of DW1 that he has filed the proof affidavit without discussing or confirming the same with the defendants. Further, he has deposed that he was working as Senior Journalist in the Junior Vikatan during the publication of the subject contents and he has not produced any document to prove that he was one of the authority and approval person to publish the subject contents. To prove the news in issue dated 22.12.2013, the defendants have not produced a single document on the basis of which the said issues were published in their magazine. In the event of enjoying the freedom of press, they have all the liberty to publish the news to bring out to the people with the solid proof and they should not tarnish the image and reputation of a person



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without verifying the veracity of the news and confirming the same. Being the renowned magazine among the people having wide circulation, they should take much more cautious before publishing the news and they cannot take the privilege to tarnish the image and reputation of the Plaintiff amongst the minds of the public while the plaintiff held in various posts. Hence, the plaintiff is entitled to the compensation of Rs.25,00,000/- for causing the damages to the reputation of the plaintiff by the defendants. However, the plaintiff cannot seek for permanent injunction for the future publications regarding the subject matter in the present suit. Accordingly, Issue No.5 is answered. The defendants have all the liberty to collect the said compensation amount from M/s.Vasan Publications Private Limited. The defendants shall pay the compensation amount of Rs.25,00,000/- within a period of one month from the date of receipt of the Judgment. Accordingly, Issue No.6 is answered.

21.In fine, this Civil Suit is partly decreed in the aforesaid terms.

No costs.

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Index:Yes/No



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Web: Yes/No
Speaking/Non Speaking
IBM

1. List of Witnesses examined on the side of the Plaintiff:-

PW1 T.R.Baalu
PW2 A.Kumar
PW3 C.Dasarathan

2. List of Exhibits marked on the side of the Plaintiff:-

Ex.P1 28.03.2012 Xerox copy of Defamatory article published in the fortnightly Tamil Magazine namely "Junior Viakadan"

Ex.P2 06.04.2012 Office copy of the legal notice sent by the plaintiff's counsel to the defendants with annexure.

Ex.P3 19.04.2012 Original reply notice sent by the defendant's lawyer and received by the plaintiff.

Ex.P4 22.12.2013 Photocopy of another defamatory article published in fortnightly Tamil Magazine namely "Junior Vikadan"

Ex.P5 16.12.2013 Photocopy of the Murasoli newspaper

3. List of Witnesses examined on the side of the Defendants:-

DW1 S.A.M.Barakath Ali

4. List of Exhibits marked on the side of the Defendants:-



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- Ex.D1 28.03.2012 Original Junior Vikatan magazine
- Ex.D2 22.12.2013 Original Junior Vikatan magazine
- Ex.D3 26.08.2013 Photocopy of the Dinamalar
- Ex.D4 05.04.2014 Printout of the screenshot of the similar article published in business standard magazine
- Ex.D5 16.12.2013 Printout of the screenshot of the similar article published in mirror website
- Ex.D6 19.12.2013 Printout of the screenshot of the similar article published in Hindu tamil magazine
- Ex.D7 04.04.2012 Photocopy of the gist of letter sent by advocate SK.Nepolean published in Junior Vikatan magazine

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A.A.NAKKIRAN, J.

lbm

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