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A.No.1009 of 2023

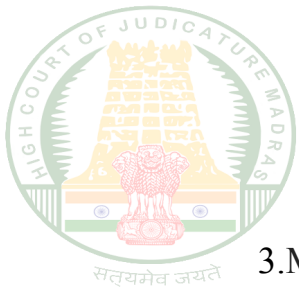
in C.S.No.189 of 2022

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

K.KUMARESH BABU, J.

A.No.1009 of 2023 has been filed to vacate the order dated 08.09.2022 passed in O.A.No.588 of 2022.

2.Heard Mr.Karthick Seshadri, learned counsel appearing for Ms.Elizabeth Seshadri, learned counsel for the applicant and Mr.V.Raghavachari, learned Senior Counsel appearing for Mr.K.Surender, learned counsel for the respondent.



3.Mr.Karthick Seshadri, learned counsel for the applicant would submit that

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the applicant is a journalist and political commentator who writes and speaks profusely on issues of corruption, politics and governance. Being a commentator and a journalist, the applicant had noticed the growth of the respondent's real estate business which was extraordinary from mid of 2021.

4.He would submit that the applicant had worked in the Department of Vigilance and Anti-corruption, and in the past had exposed many scams and brought to light many matters of public interest, which were kept hidden from the public by those in power. So the applicant has sources and networks to cross-check all information with different persons on the field wherever necessary, and only then he comments on such matters. It is further submitted that he runs a blog called “Savukku Online” and gives interviews to journalists. These interviews are often in Question & Answer format where the applicant is questioned on his views. The journalist asks the opposing questions and provides the counter-view, and the



applicant defends his statements based on critical analysis and with deductive logic

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and reasoning.

5.He would also submit that many times his criticism has led to the Government taking corrective steps, which brings satisfaction and purpose to the applicant's work. It is stated that the respondent's company being a part of a network of about 48 companies, had a sudden growth from mid 2021, this is the reason for the applicant's attention towards the respondent's company. The applicant being a political commentator gathered information from different sources to get to what exactly is happening. Some of the matters required some investigative exercise., and through these ways many scams have come into light. All these are essential for a free society.

6.He would further submit that the video dated 24.05.2022 posted in the Youtube Channel 'Tamil Mint', it was the interviewer who posed questions and also

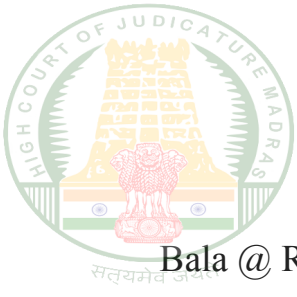


asked the applicant as to why he has not instituted a suit against the respondent

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after raising doubts in their activities. For which the applicant replied he has suspicion about the activities of the respondent company as to how it is possible for a man selling colour TVs could get this kind of growth. Further he adds that it was the CEO of the respondent's company who told in an interview to Times Group Newspaper that their company had achieved Rs.2000 crores in 8 months, and their next year's target is Rs.4000 crores. He would also submit that the respondent's company has close association with Annanagar Karthik and the same can be seen from the company group's public record.

7.Learned counsel for the applicant would submit that from the annual report of the Auditors statement, it shows that the respondent's company has granted loans which are controversial to the provision of Section 185 and 186 of the Companies Act. The RERA website shows that G Square has no projects from 2017 to 2020. The public records show that the Annanagar karthik and G Square



Bala @ Ramajayam are doing business together. All the statements which are made

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by the applicant are not defamatory but verified contents with records available in public domain, and all were questions based on mere logic and analysis.

8.He would submit that the video posted on 24.08.2022 on the Youtube channel 'SDC World' the applicant had talked about the opposition leader and it was he who had stated, that one big organization (without naming the respondent) had purchased lands in kovai for CM's family, connecting the change of integrated bus stand scheme, where the respondent's company had 150 acres of land. Further in the tweets dated 21.08.2022, the applicant has not named the respondent's company. Moreover the applicant submits that the statements made by him are in the nature of criticism towards actions of the Government and cannot be construed as defamatory statements.

9.He would also submit that the video posted on 22.08.2022 in the YouTube channel 'Aadhan tamil', the applicant was interviewed by a Journalist Madhesh,

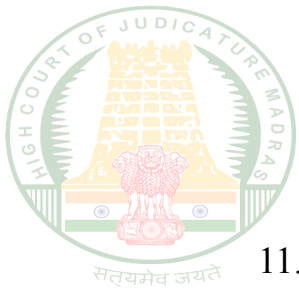


and the applicant had given his opinions and views on the rigorous questioning.

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The twitter posts dated 25.08.2022 and 27.08.2022, are not defamatory; these are only a part of public discussions.

10.It is the contention of the applicant that before making any statements, he used to conduct research and only then engaged in political analysis. The attempts made by the respondent company is to shut down voices of criticism. The applicant claims that he exercises his legitimate right as a citizen to discuss matters that are of public interest and that are in the public domain. This suit is an attempt to scuttle participative democracy, the statements made by the applicant are not defamatory, and are justified truth and are fair comments. The applicant has absolutely no personal animosity or even a relationship with the respondent to give him any reason to defame the respondent.



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11.Learned counsel for the applicant would rely upon *documents filed in the written statement in A.No.688 of 2023 to substantiate the sources in which responden's company has been analysed by different media houses.*

12.Learned counsel for the applicant would also rely upon the following judgments:

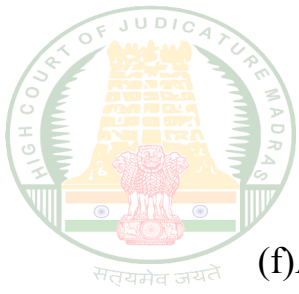
(a)***Kartar Singh and Ors. V. State of Punjab***, reported in ***AIR 1956 SC 541***

(b)***R.Rajagopal and Another V. State of Tamil Nadu and others*** reported in ***(1994) 6 SCC 632***

(c)***R.Rajagopal and another V. J.Jayalalitha and Anr.*** reported in ***(2006) 2 LW 377***

(d)***Tata Sons Ltd. V. Greenpeace International and Anr.*** reported in ***(2011) 178 DLT 705***

(e)***Menaka and Co. V. Arappor Iyakkam and Anr.*** reported in ***SCC OnLine Mad 39165***



(f) *Food Corporation of India V. Sukh Deo Prasad* reported in (2009) 5

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SCC 665

(g) *Khushwant singh and another vs Maneka Gandhi* reported in 2001

SCC OnLine Del 1030

(h) *S. Rangarajan v Jagjivan Ram, reported in (1989) 2 SCC 574*

13. Countering his arguments, Mr.V.Raghavachari, learned Senior Counsel appearing for the respondent would submit that G Square Realtors Private Limited is engaged in the business of real estate development and has been carrying on its business under the brand-name, “G Square”. The respondent has earned an impeccable reputation and goodwill, among the general public. He would further submit that the applicant worked as a lower division clerk in the Department of Vigilance and Anti-Corruption, Government of Tamil Nadu and is a self-proclaimed journalist posts slanderous, malicious and defamatory videos and articles on social media platforms as against various individuals, corporate entities,



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state machineries as well as the Judiciary, with unfounded and imaginary allegations, and several videos are also posted against the respondent in Youtube and in his Twitter handle @veera284. The applicant has been regularly giving interviews to various Youtube Channels by falsely accusing the respondent. The applicant is doing all these to get cheap publicity.

14.He would submit that the applicant's website was blocked pursuant to the directions issued by this Hon'ble Court. However he has been continuing to stage his unlawful activities by creating proxy websites, through social media such as YouTube and Twitter, and that this Hon'ble Court has also initiated contempt proceedings against the applicant for publishing unscrupulous remarks against the Judiciary.

15.He would also submit that all the statements made by the applicant are ill-motivated and these statements have gravely affected the reputation of the

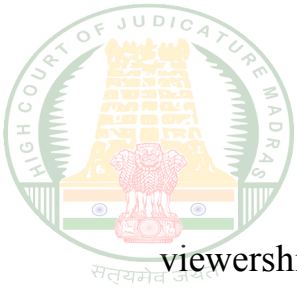


respondent. Regarding the video posted on 24.08.2022, the learned Senior Counsel

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states that all the plots in the said project were sold in March, 2022, whereas, the announcement by the Government was made only in August, 2022. The fact remains that the respondent does not have any project in the said places. Without verifying the facts and knowing fully well that it would harm the reputation of the respondent, the applicant had been continuously engaging himself in such gross and demeaning insinuations against the respondent.

16.He would further submit that in an interview the applicant has questioned, “Has G Square grown through hard work like that of Ratan Tata? Who is Ramajayam?” Further, the applicant has stated, I will not allow these companies to happily conduct business”. He would submit that none of the allegations are supported with any sort of evidence & the applicant has been habituated to make a living out of such sensational and falsified news, through viewership and publicity. The videos and posts of the applicant has got widespread circulation and the

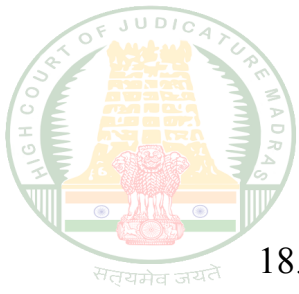


viewership of the said video publications range from at least 40,000 to 9,00,000.

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Rumours like these spread like wildfire on social media platforms. By way of these false interviews, tweets, messages, stories and posts, the applicant has been deliberately projected the respondent as an outlaw in the eyes of the general public.

17.Learned Senior Counsel would submit that due to the false allegations, the customers who have made their booking with their company have cancelled and the respondent was constrained to refund the amount. This has resulted in loss of customers and monetary loss to the respondent. The loss is directly attributable to the defamatory statements made by the applicant. From May, 2022, there are about 28 cancellations resulting in loss to the tune of about Rs.15,16,00,000/-. Further, the respondent was constrained to refund a sum of Rs. 76,96,046/- to its customers pursuant to cancellation of transactions following the applicant's defamatory publications.



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18.Learned Senior Counsel would further submit that the applicant has defamed the respondent without any lawful justification causing huge loss to the reputation and goodwill of the respondent by repeatedly publishing incorrect and unsubstantiated information, with an intention to defame the respondent, and for the applicant's own publicity. He would further state that the actions of the applicant ex-facie attract the provisions of Section 499 and 500 of the Indian Penal Code and that the respondent reserves its right to initiate appropriate criminal prosecution as against the applicant.

19.The learned Senior Counsel would rely upon the following judgments:

(a)***Ms.Kanimozhi Karunanidhi vs P.Varadsarajan and 6 others in O.No.871 of 2014 dated 16.05.2018***

(b)***V.Senthil Balaji vs Nirmal Kumar ans 3 others, in O.A.No.731 of 2022 dated 12.04.2023.***



20.I have considered the respective submission made by the learned counsel

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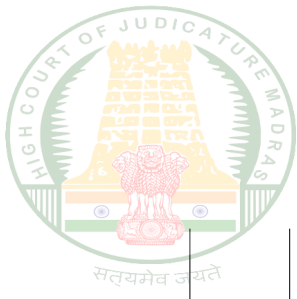
appearing on either side and perused the materials available on record.

21.Following are the various allegations made by the applicant in Youtube platform as against the respondent tabulated hereunder:

S.No	Date	Statements	Link
1	24.05.22	the applicant has made a false allegation stating that the money lying with the respondent belongs to one, Anna Nagar, Karthi. After reiterating the said statement repeatedly in the said video, the applicant has stated that he would face the litigation that follows the statement.	https://www.youtube.com/watch?v=6Hgk4rYyIiw
2	24.08.22	the applicant has claimed that wherever G Square has its business, the Government would introduce welfare schemes in the said locality. This was made in	https://www.youtube.com/watch?v=5k4cdmudVBU&



		<p>furtherance of a false allegation that the Government had proposed to change the location of Coimbatore Bus Stand from Vellaloor to L&T Bypass Road since there was a project of G Square in L&T Bypass Road.</p>	
3	24.08.22	<p>In the same video, applicant has stated that the respondent is finalising two projects in Achipati and Echanari, Pollachi District, where the Government had conducted a function in the same place.</p>	<p>https://www.youtube.com/watch?=5k4cdmudVBU&</p>
4	22.08.22	<p>the applicant has suggested that the respondent has received funds through illegal means and that the respondent Company was incorporated only to convert black money into white money.</p>	<p>https://www.youtube.com/watch?v=20_eWqP-5MU</p>
5	22.08.22	<p>applicant has fabricated a theory as if in 2016, the Founder-cum-Managing Director of the respondent, Mr. Ramajayam did not have even Rs.20,00,000/- and that now he runs an entity worth</p>	<p>https://www.youtube.com/watch?v=20_eWqP-5MU</p>



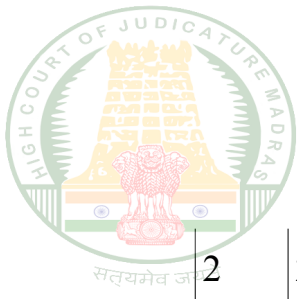
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of Rs. 2000 crores. The applicant has further stated that one, Mr. Sabarisan had funded the respondent.

22. Following are the tweets posted by the applicant in his Twitter account as against the respondent:

S.No	Date	Contents	Twitter handle
1	21.08.22	<p>Humongous scam in the construction of new integrated bus stand at Coimbatore. The government had announced and selected 61 acres of land at Vellalur, Coimbatore.</p> <p>Now the bus stand is shifed to L&T outer bypass, between Trichy & Avinashi Road 1/4</p>	@veera284

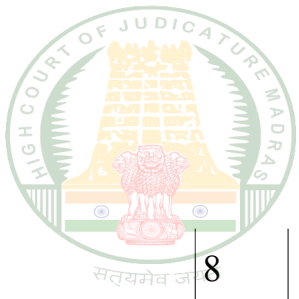


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2	23.08.22	<p>G Square enters into sale agreement for two major real estate deals in Poolachi.</p> <p>G Square finalises the deal to purchase 44.75 crores of land at Aachipatti, Pollachi District. An acre costs 4.10 crore.</p> <p>G Square also finalises, 19.76 acres at Eechanari 1/3</p>	@veera284
3		<p>G Square is going to be the Achilles heel of MK Stalin. Shifting of Coimbatore bus stand from Vellaloor to L&T bypass on the suggestion of CMO officials speaks volumes of the influence of G Square</p>	@veera284
4	25.08.22	<p>applicant has stated that the CM of TN has participated in a Government Event at Erode; that the venue chosen originally belong to Sakthi Infratex Group,</p>	<p>https://twitter.com/Veera284/status/1562673853729366016</p>

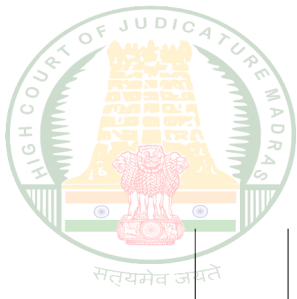


		a subsidiary of Eastman Exports Global Clothing Private Ltd; that G Square approached the Sakthi Infratex Group and asked them to sell the land; that if agreed, the CM would come for the meeting in the avenue for increasing the value of the land and; that the CM is the brand ambassador for the respondent's Company	
5	27.08.22	The humongous growth of G Square in lightening speed is a case study for London School of Economics. This has twin benefits also. Media can be buttered and asked sing hosannas to @mkstalin	https://twitter.com/Veera284/status/1563383304597819395
6	09.09.22	The subtle land grab being done by G Square now happens with temerity.	@veera284
7	09.09.22	Savukku shankar has been issued with a gag order not to “publish any defamatory content against G Square”	@veera282



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8	12.09.22	“And they do not want anyone to talk about this. That's why they use courts.”	”
9	12.09.22	“chennai city police becomes the brand ambassador of G Square.”	”
10	13.01.23	Crisis in the Numero Uno Realty firm G Square	”
11	13.01.23	“The most powerful realty firm across the country gets into trouble.”	”
12	17.01.23	Crisis intensifies in G Square	”
13	28.01.23	“Now G Square sues Savukku Shankar. G Square files a suit demanding damages and a gag order. The decision to suit and get a gag order was taken at the highest level in stalin family viz sabareesan. Multiple suits will be filed and gag orders have to be obtained is the strategy of Dravidian Mappillai Sabareesan.	”
14	08.09.22	“Madras HC grants an injunction in favour of G Square against Savukku Shankar passing	



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defamatory allegations and slanderous material. G Square sues Savukku Shankar for a damage of 1 crore and 10 Thousand rupees allegedly for making slanderous allegations against G Square”

23.Learned counsel appearing on either side had made submissions, as to whether the statements made by the applicant are true or not. I am of the view that at this juncture, particularly at the stage of a pretrial determination, the Court cannot hold any statements particularly, the statements made by the applicant are defamatory. It would be relevant to note that the Hon'ble Apex Court has held that even if the statement is not true, defamation per se could not be made out unless the person complaining of defamation establishes that the same had been made with the reckless regard for truth. It would be relevant to extract the observations of the Hon'ble Apex Court made in *R.Rajagopal case* reported in (1994) 6 SCC

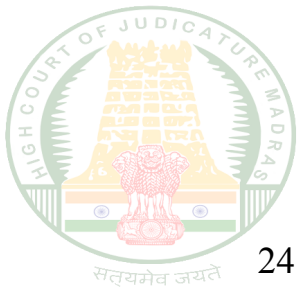
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...(3) *There is yet another exception to the rule in (1) above — indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.*



24. The question as to whether a pretrial injunction could be granted by this

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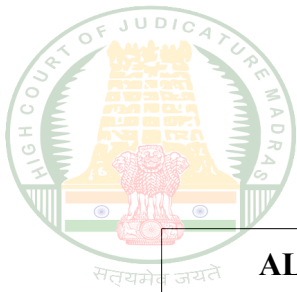
Court can be made only upon a prima facie conclusion as to whether the statements are made without verification of a fact and that the same had been in a reckless manner. In the present case, the learned counsel for the applicant has submitted the statements made by the respondent in a tabulated format. The same contained the reasons attributed by the respondent to allege that such statements are not defamatory and the materials produced by the applicant to substantiate the veracity of the statement. For better appreciation, the same is extracted hereunder:

ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
MONEYOFANNANAGAR KARTHI	Per se defamatory and baseless- Para 8	Written Statement- Analysis of video- Paras 15, 16, 19(b) 19(c), 19(d), 21
That in video of interview dated 24.05.2022, the money lying with the Plaintiff belongs to Annanagar Karthi. - Para 8	Gravely affected reputation of Plaintiff- Para 8 Malicious and defamatory-Para 12	The Hindu dated 14.05.2016- Chennai's richest candidate has his own set of issues-Pg 1-2
That in video of interview on		The Times of India dated



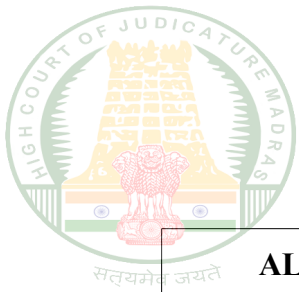
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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>Youtube dated 22.08.2022 the Defendant has suggested that the Plaintiff has received funds through illegal means - Para 11</p> <p>That the Defendant said that Founder cum MD of Plaintiff did not have even Rs 20 lakhs and that now he runs an entity worth Rs 2000) crores-Para 12</p> <p>One Sabarisan had funded the Plaintiff - Para 12</p> <p>Defendant asks has GSquare grown through hard work like that of Ratan Tata. Who is Ramajayam? - Para 13</p> <p>Defendant says "I will not allow these companies to happily conduct business". Para 13</p> <p>Tweet dated 27.08.2022- humongous growth of G Square</p>	<p>Made with intention to oust the customers of Plaintiff - Para 12</p> <p>Personal animosity and callous attitude evident. - Para 13</p> <p>Oblique motive, no evidence.- Para 16</p>	<p>08.02.2019- Taxmen dig up graveyard - Pg 3-4</p> <p>The Hindu dated 02.04.2021-IT searches at premises of Stalin's daughter and Senthil Balaji- Pg5-8</p> <p>The Week dated 02.04.2021-IT sleuths raid DMK Chief Stalin's son-in- law residence-Pg9 10</p> <p>Times of India dated 03.04.2021- CM sees plot by PM as IT raids son-in-law and daughter- Pg 11-13</p> <p>Bharat Voice dated 10.05.2022- Stalin's Development Model</p> <p>Family Enrichment -P17-20</p> <p>Affidavit filed by Mr.. Kevin in CrLOP No. of 2022 dated</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
in lightning speed is al case study for London School of Economics Para 15+ Page 5 of Plaintiff TS.		30.01.2023-Pg 36-47 Business Standard dated 07.02.2023-G Square Housing strengthening its presence with rapid expansion-Pg 48-50 The Times of India- Plotting success for a bright future-Pg 52 National Election Watch/Association for Democratic Reforms-About 82% of MP's in Lok Sabha 2019 are crorepatis- Pg 53-61 TNRERA-Registered Projects TN in 2017, 2018, 2019 and 2020-Pg 62-81 Zauba Corp- Director Profile of Shruti Karthik-Pg 82-83 Zauba Corp- Director Profile of Geetha Mohan-Pg 84-85



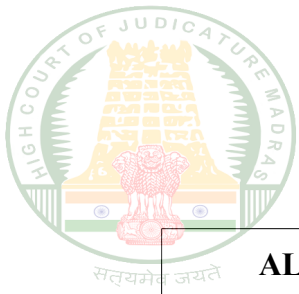
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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
		<p>Zauba Corp-List of Companies Harrington Road-Pg 86-99</p> <p>Revised Affidavit filed by M.K.Mohanalong with nomination papers Pg 100-115</p> <p>Independent Auditor's Report of G Square P 116- 143</p> <p>Zauba Corp Sai Venkat Keerthi LLP company details-P 144-150</p> <p>Zauba Corp Mannur Land Developers Private Limited company details Pg 151-156</p> <p>Zauba Corp Mann Whitefield Creators Private Limited company details-Pg 157-162</p> <p>Bank statement of Mannur Whitefield Creators Private</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
		Limited - Plaintiff Document No. 6
<p>VELLALORE BUS STAND ISSUE</p> <p>That in video of interview on Youtube dated 24.08.2022) Defendant has said that wherever G Square has its business, the government would introduce welfare schemes in the said locality- Para 9</p> <p>Government has proposed to change location of Coimbatore bus stand from Vellalore to L&T Bypass road since there was a project of G Square in Lel bypass road- Para 9</p> <p>Tweet dated 21.08.2022 about the shifting of the bus stand. -Para 9+ Pg 1 of Plaintiff's TS</p>	<p>Highly inconceivable and blatantly false since all plots were sold in March 2022, whereas the announcement by government was made only in August 2022- Para 9</p>	<p>Written statement – Analysis of videos-Paras 17(b), 17(d), 19 (a), 19(b)</p> <p>The Print dated 27.01.2022- GSquare launches 400 acres Industrial park in Arakkonam-Fg 16</p> <p>The Hindu dated 22.08.2022- Started and stalled Vellalore bus terminus-Pg 25- 28</p> <p>The Times of India dated 22.08.2022- New place for bus terminal in Coimbatore - 29- 30</p> <p>The Hindu dated 23.08.2022 EPS urges government not to shift site of Coimbatore bus terminus Pg 31</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>That in video of interview on Youtube dated 22.08.2022 the Defendant said that the government had shifted the location of bus stand to help the Plaintiff.-Para 11</p> <p>Tweet that G Square is going to be the Achilles heel of CM and shifting of the bus stand speaks of the influence of the Plaintiff - Para 11 + Pg 3 of Plaintiff's TS.</p>		<p>The Times of India, dated 23.08.2022- CM to inaugurate projects in Coimbatore Pg 32- 33</p> <p>Thw Tweet dated 21.08.2022 shown on Pg 1 of Plaintiff's Typed Set 1 has no reference to plaintiff</p>
<p>ACHIPATTY ECHANARI DISTRICT AND POLLACHI</p> <p>That in video of interview on Youtube dated 24.08.2022 the Defendant has said that the Plaintiff is finalizing two projects in Achipatty and Echanari, Pollachi district. where the government has conducted a function in the same place.- Para 10</p>	<p>Plaintiff does not have any project in the said places. - Para 10</p> <p>Without verifying facts, knowing that it would harm Plaintiff's reputation, gross and demeaning insinuations-Para 10</p>	<p>Written Statement- Paras 18, 17(c), 20</p> <p>The Hindu dated 08.08.2022- CM to visit Erode-Pg 23-24</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>Tweet dated 23.08.2022 that government projects would be introduced to boost value of Plaintiff's real estate. Para 10</p> <p>Tweet dated 25.08.2022 that CM has participated in a government event at Erode, that the venue chosen originally belonged to Sakthi Infratex Group: that Plaintiff approached the Sakthi Infratex Group and asked them to sell the land; that if agreed, CM would come for the meeting in the venue for increasing the value of land: that CM is the brand ambassador for the Plaintiff. - Para 14</p>		
ALLEGATIONS IN CONTEMPT APPLICATION		
<p>Tweet that the Plaintiff has occupied land in civil dispute and erected name board.</p>	<p>Per se defamatory- Para 7</p> <p>No specific reason given</p>	<p>Dina Malar dated 09.09.2022- Notice issued by S.B. Pannier Selvan. Advocate-Pg 34- Notice at Pg 34 is attached to tweet at</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>Advertisement put up by litigants in Coimbatore Dinamalar.- Para 6(1)+Pg9) of Plaintiff's Contempt TS</p>		<p>Pg. 9</p> <p>Dina Malar dated 14.09.2022- Notice issued by S.B. Pannier Selvan, Advocate-Pg 35</p> <p>Notice by K.Velmurugan Advocate, Coimbatore - Pg 51</p>
<p>Tweet that there was a hoarding at the disputed site and that the owners of the property had issued warning to remove it. - Para 6(ii) Pg 8 of Plaintiff's Contempt TS</p>	<p>Per se defamatory- Para 7</p> <p>No specific reason given</p>	<p>Pg 34 & 35 of Defendant's TS+Pg 12 of Plaintiff's ContemptTS</p> <p>Pg 8 of Plaintiff's Contempt TS shows hoarding</p>
<p>Retweet of a political commentator's tweet with: notice attached. Tweet that the plaintiff do not want anyone to talk about this and that's why they use courts Para 6(i) Pg 11 of Plaintiff's Contempt TS</p>	<p>Per se defamatory- Para 7</p> <p>No specific reason given</p>	
<p>Tweet that the Chennai City</p>	<p>Per se defamatory- Para 7</p>	<p>The News Minute dated</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>Police had become the brand ambassador of the Plaintiff and that the Police had registered false case complaint of plaintiff against Vikatan MD, its employees, Maridass & the Defendant which was withdrawn after huge backlash. - Para 6 (iv) + Pg 10 of Plaintiff's Contempt TS</p>	<p>No specific reason given</p>	<p>(13.06.2022-GSquare case-Pg 21-22</p>
<p>Tweet that two top executives of the Plaintiff company, Sreejith and Purushothaman, had resigned. - Para 6(v) + Pg 13 of Plaintiff's Contempt TS</p>	<p>Per se defamatory- Para 7 No specific reason given</p>	<p>Independent Auditor's Report of G Square-Pg 139. shows Mr. K. Sreejith's name as a relative of the Directors</p> <p>Affidavit filed by Mr. Kevin in Cri.O.P No. of 2022 dated 30.01.2023- Pg 42 shows Mr. Purushotham as Chief Compliance Officer of Plaintiff company</p> <p>Counter Affidavit-Para 10 Andhrajothi dated 05.03.2023-</p>



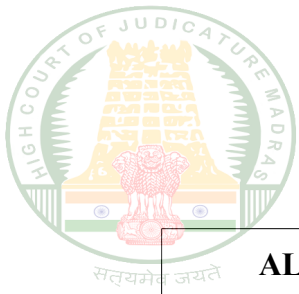
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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
		GSquare Epitome Ventures on Vijayawada Highway- Pg 23-24 Andhrajothi dated 06.03.2023-Pg 21-23
Tweet that the employees of Plaintiff company were asked to shift to either Bangalore office Hyderabad office and that the jacket ads of the Plaintiff company had been missing for the past two weeks-Para 6(vii)+ Pg 15 of Plaintiff's Contempt TS	Per se defamatory- Para 7 No specific reason given	
GENERAL ALLEGATIONS		
PLAINTIFF CLAIMS LOSS Customers have cancelled and Plaintiff had to refund.- Para 18 Plaintiff has never faced such a financial crunch over the last 10 years-Para 18		“.....The applicant has attempted to spread a rumour as 18 the applicant Company is in a crisis and got into- trouble, which are far from the truth. The fact remains that the applicant Company has achieved a turnover of more than Rs 1600 crores during the last 3 months alone



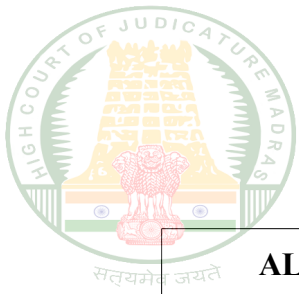
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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>28 cancellations from May 2022 more than Rs. 15 crores- Para 18</p> <p>Plaintiff had to refund about Rs. 77 lakhs - Para 18</p>		<p>and has created more than 450 fresh employment opportunities during the said period of time”- Para 9 of Plaintiff's Affidavit in Application No. 688 of 2023</p>
<p>DEFENDANT IS A BAD MAN</p> <p>Defendant had no respect for rule of law. Defendant believes in creating chaos. - Para 19</p> <p>Madurai Bench initiated suo. motto contempt against Defendant. - Para 19</p>		<p>Written Statement- Paras 22, 23, 10, 11.13. 14</p>
<p>PLAINTIFF'S CLAIM FOR REPUTATION</p> <p>Plaintiff has been carrying on business as G Square Group Paintiff has earned impeccable</p>		<p>Written Statement- Paras 22,23</p>



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
<p>reputation over the last 10 years- Para 3</p> <p>Plaintiff got awards Plaintiff has got esteemed</p> <p>clientele-has delivered over 1000 acres of land to reputed business enterprises-Para 4</p> <p>Plaintiff's business is spread across Chennai Bengaluru Hyderabad. Coimbatore, Trichy, Hosur, Mysore and Bellary-Para 4</p> <p>Plaintiff is considered as South India's number one real estate developer-Para 4</p> <p>Plaintiff undertakes CSR and organizes environmental developmental and programs.</p> <p>Plaintiff - Para 4</p> <p>Plaintiff has 645 direct</p>		



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ALLEGATION	REASON THEY GIVE FOR THINKING IT IS DEFAMATORY	MATERIAL PRODUCED BY THE DEFENDANT
employees-para 5 Plaintiff has created indirect employment opportunities to more than 1500 persons.- Para 5 Through Plaintiff's work more than Rs. 125 crores paid as stamp duty over the years and more than Rs. 100 crores paid as taxes. - Para 5		

25.From the defence claimed by the applicant, it could be seen that some of the statements have been made based on the information available in the public domain. As regards to the statement regarding Vellalore bus stand issue and Achipatty Echanari issue, the claim of the respondent is that the statements made by the applicant are without any material basis. As regards to the statements of the applicant that the Government had proposed shifting of Vellalore bus stand only to benefit the respondent according to the respondent is wholly baseless. According



to the respondent, the Government had declared the Vellalore bus stand project

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only during August 2022. In respect of the project near the proposed Vellalore bus stand, the respondent company has already sold the lands as early as in March 2022. The applicant would support the statements by relying upon various statements that were published in the newspapers as regards to the shifting of bus stand to Vellalore. He had also in his written statement sought to substantiate his claim.

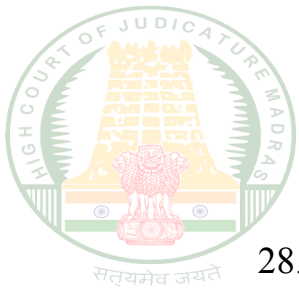
26.A perusal of the written statement would show that the applicant had not claimed to have made any verification of the statement made by him as to the nexus of the respondent project with the shifting of Vellalore bus stand. Nor has he produced any evidence to state that the respondent's claim that they have sold all the lands as early as in the year March 2022 is false. Further allegation is that the function attended by the Hon'ble Chief Minister of Tamil Nadu at Pollachi had been made only to the benefit the respondent was also refuted by the respondent stating that they did not have any project in the places as alleged by the applicant.



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In support of his claim, the applicant had relied upon a statement by a political leader. The applicant had not made any averment either in the written statement or in the application that he had caused any prior verification, or that there is a project of the respondent as claimed by him.

27.It is the case of the applicant that he is a journalist and a political analyst and that he verifies the statements that had been made by him through his known sources. As regards to the aforesaid two statements, the applicant had not produced any details of his verification nor he had not substantiated that the claim made by the respondent with regard to the two statements are false. In such a view, I am prima facie satisfied that the statements made by the applicant atleast with regard to the aforesaid two instances have been made without verification of facts. Before making the statements, he had also not attempted to call upon the respondent to verify as to whether they are true.



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28. This Court in a recent order made in O.A.No.731 of 2022 & A.Nos.5161 to 5164 and 5913 of 2022 in C.S.No.244 of 2022 dated 12.04.2023, on analyzation of various judgments on the issue that is dwelling before this Court had laid down principle as regards to the grant of pretrial injunction. For better appreciation, the relevant paragraphs are extracted hereunder:

18.As noticed earlier, the actual malice standard was adopted by the Supreme Court in Auto Shankar and, thereafter, cited with approval by the Division Bench of this Court in Rajagopal and by the Delhi High Court in Greenpeace International. Hence, the said standard clearly applies in the Indian context. In Garrison, in order to draw a conclusion of -reckless disregard-, the US Supreme Court held that false statements should be made with a high degree of awareness of probable falsity. In ST.Amant, it was held that there should be sufficient evidence to permit the conclusion that the defendant entertained serious doubts as to the truth of his publications. These benchmarks are not binding in the Indian context. The expression -reckless disregard- is defined as follows in the Black-s Law Dictionary, 10th Edition:

1.Conscious indifference to the consequences of an act.



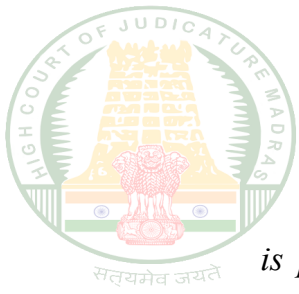
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2. *Defamation. Serious indifference to truth or accuracy of a publication. Reckless disregard for the truth is the standard in proving the defendant-s actual malice toward the plaintiff in a libel action.*

3. *The intentional commission of a harmful act or failure to do a required act when the actor knows or has reason to know of facts that would lead a reasonable person to realize that the actor-s conduct both creates an unreasonable risk of harm to someone and involves a high degree of probability that substantial harm will result.*

Auto Shankar throws light on the meaning and content of the expression -reckless disregard for the truth- by holding, in relevant part, as under:

3. *There is yet another exception to the Rule in (1) above~ indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right of privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication*

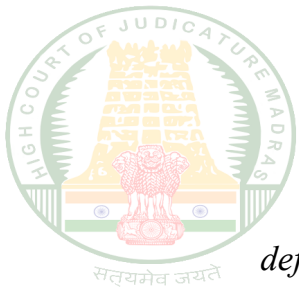


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is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages.... (emphasis added).

By taking into account the overall constitutional and statutory context in India, Auto Shankar and the definition of -reckless disregard-, in my view, the contours of -reckless disregard for the truth- would encompass all defamatory statements made without being concerned as to whether such statements are true or false, such as where such statements were made without any verification. Indeed, in the UK, as would be evident from the extract from Reynolds, the responsible publication obligation is imposed. I am inclined to the view that imposing the obligation to verify the veracity of the statement before publication is not inconsistent with the fundamental right of freedom of speech and expression provided the verification bar is not set high and, more importantly, the defendant is not saddled with the obligation of proving the truth of the statements. The peculiar problems presented by interlocutory applications in the context of defamation and particularly actions for defamation by a public official are addressed next.

19. Actual malice, including by way of reckless disregard for the truth, cannot be definitively determined at the interlocutory stage. Yet, significant damage to the plaintiff-s reputation could be caused if the



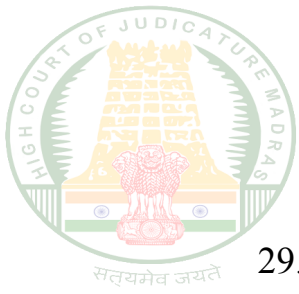
defendant is permitted to make defamatory statements until final disposal.

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*This problem is exacerbated in the context of social media because of the high frequency and interactive nature of these platforms, as recognized in Jack Monroe. With regard to the grant of interim injunctions in libel actions, in *Bonnard*, the Court held, in relevant part, as under:*

.... Until it is clear that an alleged libel is untrue, it is not clear that any right at all has been infringed; and the importance of free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions....

*In subsequent judgments, courts in the UK affirmed the rule in *Bonnard* but concluded that an exception may be made where the defamatory statement is clearly untrue (see *Holley v. Smyth* [1998] QB 726). In the context of a non-governmental organization involved in inter alia disseminating information to the public and seeking action in respect of corruption by public officials, in *Menaka*, this Court refused to grant an interim injunction by applying both *Bonnard* and the reckless disregard for the truth standard. These applications should be determined by bearing these aspects in mind.*



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29. The learned Judge had analysed various judgments and on facts of that case and applying the aforesaid principle had held that certain statements made by the applicant was per se defamatory since the same had been made without verification. In the present case, I have factually found from the admitted tabulated column submitted by the applicant, some of the facts have been made recklessly as the statements prima facie in my view have been made without proper verification.

30. The question now looms upon the Court is as to whether the applicant would be entitled to vacate the injunction.

31. In an application of this nature for injunction, the Court should take into consideration the status of the plaintiff as to whether the plaintiff is a Public or Private figure. This is imperative for the reasons that if the plaintiff is a Public figure i.e. the person by choice has invited the attention of the Public, achieved notoriety, prominence within the Society whether through achievement, luck,



action or through a purposeful action of their own, then the Court will have to see

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if such publication revolve on the public or the private life of the individual. If

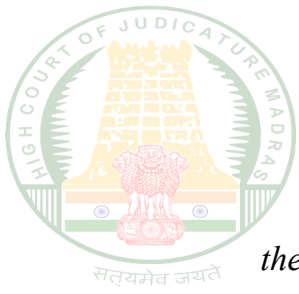
such statements relate to the public life then, I would be fortified by the

observations of the Hon'ble Apex Court in the case of ***Kartar Singh & Ors. Vs.***

State of Punjab reported in ***AIR 1956 SC 541*** to reject the injunction. The Hon'ble

Apex Court in the said judgment has held as follows:

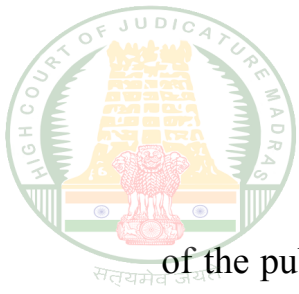
“These slogans were certainly defamatory of the Transport Minister and the Chief Minister of the Punjab Government but the redress of that grievance was personal to these individuals and the State authorities could not take the cudgels on their behalf by having recourse to Section 9 of the Act unless and until the defamation of these individuals was prejudicial to the security of the State or the maintenance of public order. So far as these individuals were concerned, they did not take any notice of these vulgar abuses and appeared to have considered the whole thing as beneath their notice. Their conduct in this behalf was consistent with the best traditions of democracy. “Those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public men which they know from



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the bottom of their hearts were undeserved and unjust; yet they must bear with them and submit to be misunderstood for a time” (Per Cock-burn, C.J. In Seymour v. Battenworth [(1862) 3 F & F 372, 376, 377 : 176 ER 166, 168, 169] and see the dicta of the Judges in R. v. Sir R. Carden [(1879) 5 QBD 1] . “Whoever fills a public position renders himself open thereto. He must accept an attack as a necessary, though unpleasant, appendage to his office” (Per Bramwell, B., in Kelly v. Sherlock [(1866) LR 1 QB 686, 689] . Public men in such positions may as well think it worth their while to ignore such vulgar criticisms and abuses hurled against them rather than give importance to the same by prosecuting the persons responsible for the same.”

32. In the present case, the respondent is a Private Limited Company carrying on Real Estate business. To promote their business, they have been making advertisements to attract public participation that by itself would not make them a public personality. If the respondent indulges in defrauding the public in course of its business and if the same on verification made by the concerned is found to be proved, then it is always open to him to make it known to the public for the benefit



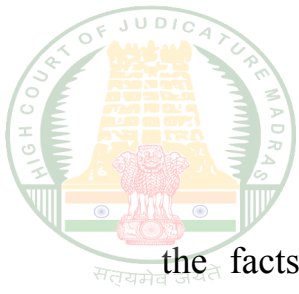
of the public. On the other hand in respect of other facts if a doubt is created as to

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veracity of truthfulness of such facts, then it would be imperative on the person who wants to make a statement, to issue a notice to the concerned calling upon their remarks and once such a remarks is received by such person, then on analyzation of the remarks, it may be open to him to make a statement of his opinion but while doing so, it would be proper for him to bring it to the notice of the public of the remarks of the clarification that was sought by the person and the remarks that was given to such clarification for the public to arrive at their opinion.

The aforesaid principle has already been enunciated by the Hon'ble Apex Court as well as the Division Bench of this Court in ***R.Rajagopal's*** case reported in **(1994) 6 SCC 632** and Division Bench of this Court reported in **(2006) 2 LW 377**.

33.In the present case, I have rendered a factual finding atleast two of the statements made by the applicant have been made without verification which is contrary to his own pleadings. Further since both the statements were contrary to



the facts, it could only be termed that such allegations, as per se reckless

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allegations, however subject to proof during the course of trial.

34.It is pertinent to consider the order of this Court made in O.A.No.871 of 2014 and A.No.6297 of 2015 in C.S.No.705 of 2014 dated 16.05.2018 wherein, a learned Judge of this Court after analyzing the judgments of the Hon'ble Apex Court particularly in the case of **Justice K.S.Puttuswamy's (Retd.)** reported in **(2017) 10 SCC 1, R.Rajagopal's case** reported in **1994 (6) SCC 632** and Division Bench judgment of this Court reported in **(2006) 2 LW 377** had come to the following conclusion:

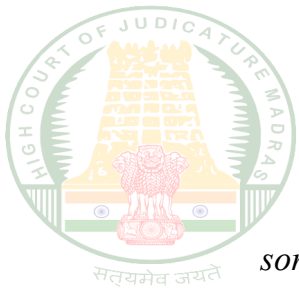
“40.The theory that there cannot be a prior restraint or a gag order upon the Press or Media stands diluted, after the judgment of the Hon#ble Supreme Court in Justice K.S.Puttaswamy's case. The observations of Hon'ble Mr.Justice Sanjay Kishan Kaul, extracted earlier would show that the Media cannot in the guise of public interest publish anything and everything, which may be interesting.



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41. *As opposed to the plea of the respondents in R.Rajagopal @ R.R.Gopal @ Nakkheeran Gopal and others v. J.Jayalitha's case, cited supra, that the defence of truth is conspicuously absent in the pleadings of the respondents in the case on hand, all that is stated in the counter affidavit is that, the articles are being published based on information provided by reliable sources, including persons belonging to the very close family of the applicant. The source of that information has not been disclosed, therefore, the respondents in this case have not specifically taken the defence of truth. Of course, truth may be a defence to action for defamation, but whether publication of all truth about an individual particularly relating to his/her personal life is in public interest or not is a larger question that may arise.*

42. *In balancing the two rights viz. the Right to Privacy and the Right to Freedom of Speech, the element of public interest is always based as a touch stone. The fact, as to whether, the former husband of the applicant is or was the owner of an estate near the location, where the fire accident happened recently may be of some interest to the public, but definitely cannot be said to be in public interest. Similarly, there are several other articles published by the respondents, which suggest strained relationship between her and her brother (who also happens to be a prominent politician), some talk of her relationship between her and a Police Officer,*



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some attributing certain motives in her meeting with a Union Minister and certain cartoons and caricatures, which refer to the detention of the applicant etc. Of course, the veracity of those statements made in those articles or the question as to whether they are defamatory in nature or not will have to be decided only after trial, but at the same time the respondents, in my considered opinion, cannot be allowed to go on publishing articles, which do not relate to the public life of the applicant, as a member of the parliament or as a leader of the political party or as a daughter of the former Chief Minister or as a sister of the former Deputy Chief Minister.”

35. Having arrived at such a conclusion, the learned Judge had opined as follows:

“43. Therefore, in my considered opinion, in the light of the law laid down by the Hon'ble Supreme Court in Justice K.S. Puttaswamy's case, relating to the Right to Privacy, I am constrained to conclude that though there cannot be a blanket injunction as rightly contended by Mr. Sathish Parasaran, at the same time, there cannot be an order in favour of the respondents enabling them to publish anything and everything in the guise of public interest. I am therefore, of the opinion that the order of injunction



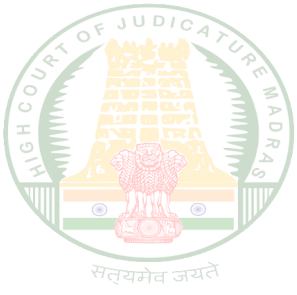
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granted of 05.01.2014 and modified by the order dated 25.04.2016 is to be made absolute, subject to the following conditions.

(i) The respondents shall not publish anything regarding the private life of the applicant, viz., her family, her marriage, procreation, motherhood, child-bearing and education, without the consent of the applicant.

(ii) Whenever, the respondents propose to publish any article relating to the private life of the applicant, claiming that it is in public interest, the respondents shall forward their queries/gist or the full article to the applicant to her email ID (to be furnished) and await for her response. If any response is received within 48 hours, the response shall also be published with the same prominence of the article. If no response is received within the 48 hours, the respondents will be at liberty to go ahead and published the article.”

36. In view of the reasonings & findings I have arrived at, I do not propose to take a different view, than the one taken by the learned Judge in the judgment stated supra. In such a view the order of injunction granted in O.A.No.588 of 2022 in C.S.No.189 of 2022 on 08.09.2022 shall be modified on the following conditions:



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(a)The applicant shall not publish any statements on any social media or public platforms regarding the activities of the respondent without causing a notice on the respondent of the queries or gist of the articles to the email I.D. of the respondent, for a response from the respondent. If any response is received within 72 hours, then the applicant may make a statement and in doing so he shall also publish the response received by him with prominence. If no such response is received within the aforesaid period, he shall proceed to publish the article.

(b)If such statements are based upon public records including the Court records, then the applicant is at liberty to make a fair comment/criticism only on the materials available in the public domain.

37.In view of the modification of the aforesaid order, the Application No.1009 of 2023 seeking to vacate the order dated 08.09.2022 is disposed of.



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K.KUMARESH BABU, J.

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Pre-delivery order in
A.No.1009 of 2023
in C.S.No.189 of 2022

26.06.2023

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