



A STUDY ON THE ROLE OF DEFAMATION IN TAMIL NADU POLITICS

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ABSTRACT

This paper explores the study on the role defamation in Tamil Nadu politics. The term defamation is arrived from Latin word 'Diffamare'. Linguistics or Etymology of the Latin word 'Diffamare' provides that it means that 'Spreading evil report regarding someone'. Section 499 and 500 of Indian penal code talks about defamation and its punishments. Basically defamation plays vital role in our country by narrow down to the defamation in Tamil Nadu politics. Frightened by the line of criminal slander cases released on political rivals of Tamil Nadu former Chief Minister Jayalalithaa through the State apparatus, the Supreme Court was defied with the ramifications of its own May 2016 judgment maintaining the penalisations. Dr.J.Jayalalithaa filed defamation cases against her rival parties. And this about history of defamation, legal provisions for defamation, need for reform of defamation laws and Defamation in Tamil Nadu Politics

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INTRODUCTION

The term "defamation" is an all-surrounding term that covers any statement that damage one's character. If the declaration is made in writing and publicised, it is called as "libel." If the distressing affirmation is spoken, it is called as "slander." The government cannot incarcerate someone for making a defamatory declaration since it is not a crime. Alternatively, defamation is considered to be a civil wrong, or a tort. A person who has been a victim of defamatory declarations may have the right to sue offender. Defamation can be known as a crime as well as a civil tort. And this paper shows and explores wide areas in criminal defamation and with its legal provisions.

Every man is entitled to possess his eminence. Jurist Blackstones has additionally to this proposition and indited that "Every man is entitled to possess his eminence preserved inviolate". A man's eminence is his property. Relying upon perception of that man, eminence is additional valuable to him than the other property. Eminence is that the state of being control in high esteem and honour or the overall estimation that the general public has for an individual. Eminence depends on opinion, and opinion is that the main basis of communication of thoughts and source amongst humans. In easier words, eminence is nothing however enjoyment of excellent opinion on the part of others. So, the proper to possess eminence involves right to possess eminence inviolate or intact.

The term defamation is arrived from Latin word 'Diffamare'. Linguistics or Etymology of the Latin word 'Diffamare' provides that it means that 'Spreading evil report regarding someone'. Thus, defamation is nothing however inflicting injury to repute of another. Therefore the question of defamation is primarily connected up with one's eminence. However the conception is not anywhere exclaimed in books of laws. Although several definitions are tried to circumscribe this word 'defamation', none has been found comprehensive.

There are two types of defamation, they are civil and criminal defamation. In Civil defamation, a malafide intention to defame is not always necessary while a Criminal defamation must contain some deliberate malice or malafide intention, to cause damage to reputation of someone. And section 499 and 500 of Indian penal code talks about defamation and its punishments. Basically defamation plays vital role in our country by narrow down to the defamation in Tamil Nadu politics. Frightened by the line of criminal slander cases released on political rivals of Tamil Nadu former Chief Minister Jayalalithaa through the State apparatus, the Supreme Court was defied with the ramifications of its own May 2016 judgment maintaining the penalisation of maligning.

History of Defamation

Formerly 1300s, actions for the precursor of defamation were obscure and strictly among the jurisdiction of the Church courts, it had been not till abundant later that the King's courts allowed an action for calumnious words. The customarily physically-based nature of the common law wasn't in favour of making an offence that refreshed on mere

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words. It had been far more involved with the tangible actions and results of, for instance, assault, stealing and murder.

It took till the 1500s before a standard law action for defamation appeared. May be the key reason for this delay, as silhouette higher than, is that the proven fact that pre-1500, defamation was seen as a strictly non secular matter and was so addressed by the Church courts. The Church courts tried Defamation as a criminal offence and will solely sentence the delinquent to penance, Certainly completely light-weight penalization. This early distinction between the Church and customary law jurisdictions are going to be examined.

However, before now, there have been occasional actions that touched upon problems with defamation and also the tarnishing of someone's character or name. As an example, within the fourteenth Century, there have been actions brought by nobles which had been slandered within the King's open courts. A magistrate in 1358 recovered a large total of cash for being referred to as a traitor at court. Moreover, some actions were brought concerning false statements regarding men having second marriages, a awfully damaging accusation that might ruin their reputations.

By the same time, the 1378 enactment of *scandalum magnatum* enabled influential judges and Church officials to bring an operation if they had been discredited or defamed. The first customary law calumny suit on record was introduced in 1507, where the monarch's Court changed its sense regarding trifling words and determined they could effect of honour of a man as much, or even more so, than physical assault. At the time, three types of Defamation prevailed: (1) Words offending someone of a criminality; (2) Words offending someone of being incompetent at their job and (3) Words offending someone of having a particular disease (such as the French pox).

Human complexion being as it is, this led to a flash flood of actions and various types of vilification became the bread-and-butter work of the monarch's court, becoming its most dealt with action by the mid-to-late 16th Century. In cases of 1557 and 1565, several magistrates made strives to frontier the number of actions by (1) exhorting on the claimant proving special and real damage to their esteem; (2) words said as jokingly or in anger were not actionable and (3) by interpreting ambiguous words as less defamatory than they could potentially be. This did serve to limit the actions slightly but they were still extremely common. Certain rules were also designed, such as a man being able to conduct an action even if he already possessed a poor esteem.

Until 1660, the common law didn't draw a transparent distinction between defamation that was spoken or that that was in writing. However, calumnious words in writing were usually penalised with harsher sentences. The present distinction is between impermanent, usually spoken, statements (Slander) and permanent, usually written, statements (Libel).

The current law of Defamation is generally that an action may be brought within the high court by a applicant if a published statement would create an affordable person assume worse of them. The actions revolve round the Slander and Libel distinction mentioned instantly higher than. There are many defences to such a claim: (a) Justification (where the statement is true), (b) truthful Comment (where the statement

would be believed by an affordable person) and (c) Privilege (where the statement is privileged, as an example, one thing told within the houses of Parliament).

Defamation remains a awfully well known action and cases involving it are frequently headline news with a range of celebrities claiming their character has been blemished, usually by statements created in newspapers. This contemporary flood of actions led to the passing of the Defamation Act 2013, that came into force on the twenty fifth of Apr 2013. This Act is double-g geared towards hanging a brand new balance between the applicant and litigant, apparently creating claims tougher to prove by outlining a brand new needs of serious harm to the claimant's character and rising the strength of the assorted defences

Legal provisions of Defamation

Section 499 of Indian penal code

Defamation Whoever, by words either talked or planned to be perused, or by signs or by unmistakable portrayals, makes or distributes any attribution concerning any individual aiming to damage, or knowing or having motivation to trust that such ascription will hurt, the notoriety of such individual, is stated, with the exception of in the cases hereinafter expected, to malign that individual. Clarification 1.-It might add up to criticism to credit anything to a perished individual, if the attribution would hurt the notoriety of that individual if living, and is expected to be destructive to the sentiments of his family or other close relatives. Clarification 2.-It might add up to maligning to make an attribution concerning an organization or an affiliation or gathering of people in that capacity. Clarification 3.-An attribution as an option or communicated unexpectedly, may add up to slander. Clarification 4.-No attribution is said to hurt a man's reputation, unless that ascription specifically or by implication, in the estimation of others, brings down the good or scholarly character of that individual, or brings down the character of that individual in regard of his standing or of his calling, or brings down the credit of that individual, or makes it be trusted that the body of that individual is in an odious state, or in a state for the most part considered as disgraceful.

Section 500 of Indian penal code

Punishment-Whoever criticizes another should be rebuffed with basic detainment for a term which may stretch out to two years, or with fine, or with both.

The need for reform of defamation laws

While the privilege to notoriety might be secured by the Constitution, it ought not be at the cost of the right to speak freely. Free discourse is important on the grounds that, in addition to other things, it empowers the media to consider governments and people responsible. The right to speak freely ought to likewise secure the privilege to offend inside sensible points of confinement, i.e. to authentically scrutinize the rich and effective.

The Indian Penal Code (IPC), 1860 records maligning as a criminal offense, making it meriting fine or confinement or even both. There are many reasons why this is precarious. There is the shame of being captured and blamed for a wrongdoing. There is the way that it was made an offense in a period when dueling to ensure one's notoriety was normal. There is the way that the IPC does not perceive incongruity or

keep truth as a flat out barrier. There is the way that having both a common and criminal solution for similar damage forces an as of now overburdened legal to react to a similar issue twice.

In any case, on top of these is the way that criminalizing defamation is a totally unjustifiable limitation on free discourse when the worldwide standard is that a common suit for harms is adequate for ensuring notoriety. This enthusiastic confinement on free discourse falls flat the established test that such limitations be "sensible" and plainly needs to be struck down. The chilling impact that it has had on free discourse and popularity based responsibility is too high a cost to pay for the assurance of individual notorieties.

In any case, common suits for defamation are not an ideal story in India either. Fighting a case in Indian courts is by and large a dull and costly undertaking that lone gets settled after numerous years. It is this learning is misused by people and enterprises with profound pockets. Realizing that they can afford to manage the expenses of a trial, such sorts of individuals undermine their commentators with an extended defamation suit. These suits additionally by and large request extreme harms and are recorded in a remote court to expand travel costs.

Such suits have been named, to some degree suitably, as key lawsuits against open cooperation (or SLAPPs). Obviously, respondents to SLAPPs don't often have an indistinguishable assets from the complainants, and think that its difficult, fiscally and otherwise, to protect their cases. SLAPPs need not really finish in a court case, as some of the time various notification undermining numerous lawsuits in different purviews, each for a great many crores in harms, are adequate to purchase hush.

Reforms to defamation would best be done through the order of another statute. Such a law ought to decriminalize defamation and reform common defamation to make it more attractive and clearer in a way that shortcircuits the strategies of SLAPPs. Being a new enactment, it would be stupid if the law didn't consider the Internet and new media when choosing issues like who can be rebuffed for defamation and how.

Points of confinement ought to likewise be set around common defamation—not exclusively should the misfortune to notoriety be not kidding, the proof should likewise be considerable. The complainant must show that material damage was caused to their notoriety for being an immediate aftereffect of the charged proclamation. Truth, feeling and sensible induction ought to likewise be made reasonable guards in defamation suits. At long last, courts ought to be engaged to force excellent expenses on negligible suits that waste their time.

To facilitate the weight of the legal, it is crucial that courts are required to just hear genuine defamation cases that haven't been agreeably settled. One such approach to guarantee this could be to make the lawful notification that complainants send before recording a suit necessary. These notification ought to likewise set up precisely how the asserted proclamation was false with a specific end goal to avert baseless allegations. The notice must determine where the suit will be documented and what harms will be requested. On the off chance that a complainant doesn't record the defamation suit inside a recommended time, they should pay the

individual debilitated in the notice a fourth of the harms asked for in the notice. This will ensure that defamation claims and the harms asked for are kept legit and sensible.

Lawful reforms can likewise be supplemented by measures tending to the lopsidedness of assets, for example, reimbursement statements in contracts for writers and a form of defamation protection. It is to be trusted that the good natured desire of Satpathy will demonstrate fruitful. At last, some sort of reform is sans fundamental discourse is inane without the privilege to sensibly offend. In the event that the capacity to genuinely scrutinize is not ensured, voices tossing light on vital issues will keep on being hushed by the rich and effective. What's more, without those voices, the Indian state could be drastically adjusted or bargained while Indians are kept oblivious.

Defamation in Tamil Nadu Politics

The Supreme Court asked the Tamil Nadu government to jaw up and confront feedback of its arrangements. No other State in the nation appeared to have recorded such a large number of criminal criticism cases, that too utilizing the state apparatus and people in general prosecutor's office, in the current past, the court watched.

A Bench, drove by Justice Dipak Misra, examined the historical backdrop of slander cases recorded in the previous five years and said criminal maligning cases were documented notwithstanding for reports about the Chief Minister's wellbeing condition.

"This is not the way... this is not the indication of a sound popular government. This demonstrates State's control over the endorsing specialist and prosecutor's office in recording maligning bodies of evidence against adversaries, media and political opponents," Justice Misra watched orally.

"In the event that someone censures the arrangement of the administration, if the individual scrutinized is an open figure, he needs to confront it as opposed to utilizing the state apparatus to stifle feedback," the Bench said.

The court issued new notice to the State government and the experts and guided them to document their reactions on the issue inside three weeks. The court at that point posted a hearing following five weeks.

On August 17, the administration gave the Supreme Court >a rundown of maligning cases recorded by the State through general society prosecutor in the previous five years.

The rundown demonstrates a range of bodies of evidence recorded against the DMK, the DMDK, the Congress, the media and BJP pioneer Subramanian Swamy.

The 70-page list, in an unthinkable shape, is titled the "rundown of slander cases recorded by the Government of Tamil Nadu for defamatory discourses made against Honorable Chief Minister from May 16, 2011 to July 28, 2016".

An expansive tally of the rundown demonstrates that an aggregate of 213 criminal criticism cases have been documented by the State. Of this, 85 were enlisted against the DMK, 48 against the DMDK, 55 against media individuals, seven against the Congress and five against Dr. Swamy.

The accommodation of the rundown depended on a July 28 arrange by the court, which was frightened by the line of criminal slander cases released on political adversaries of Ms. Jayalalithaa through the state hardware.

This was scarcely 10 days after the >apex court looked for an individual clarification from Ms. Jayalalithaa about the arrangement of criminal slander bodies of evidence being held up against political adversaries.

The Bench was hearing a criminal slander body of evidence documented against DMDK pioneer Vijayakanth through the nearby open prosecutor on the administration's endorse against his comments at an open occasion in Tirupur locale on November 6, 2015.

Amid a prior hearing on a comparative criticism argument against Mr. Vijayakanth for comments made in Dharmapuri region, Justice Misra had orally watched that an "open prosecutor is not a postman" to settle political scores.

CONCLUSION

To finish up this area it is fundamentally vital to not that slander really goes up against two unique structures. The two distinct structures are criticism and defamation. These two structures are very extraordinary. Criticism identifies with the composed distributed word and defamation will be slander in a transient frame, for example, the talked word. Defamation is noteworthy fundamentally and is a wrongdoing and additionally a tort. Criticism, which might be liable to certain constrained exemptions, has the necessity that the inquirer must give verification of extraordinary harm. Extraordinary harm is harm which is harm that is qualifiable in money related terms. Defamation can be noteworthy as such yet just in excellent cases. A case of the outstanding cases concerned are those in which the inquirer is ascribed to have carried out a criminal offense culpable with detainment.

The last piece of this area that must be considered before the examination of the effect and impact of the execution of the European Convention on Human Rights and the Human Rights 1998 on the law of slander can be talked about and broke down inside and out is the place the law of maligning found. The law and principles that control the law of maligning might be found in the Defamation Acts of 1952 and 1996. Defamation plays a vital role and integral part of our country. So it must be used in a wise manner. If it is used in a wise manner it would certainly create a better stable and standard in judiciary.

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