



Quashing Defamation Proceedings - Tamil Nadu Case

Why in news?

Multiple defamation proceedings initiated against media houses by the erstwhile Jayalalithaa government in TN were quashed by the Madras High Court.

What is the significance?

- Indiscriminate institution of criminal defamation proceedings against Opposition leaders and the media has become a feature of public life in Tamil Nadu in the last three decades.
- Justice Abdul Quddhose quashed a series of defamation complaints filed since 2011-12.
- It is a landmark judgement, also for applying a set of principles.
- These principles would firmly deter the hasty and ill-advised resort to State-funded prosecution on behalf of public servants.

What were the observations made?

- The State should not impulsively invoke CrPC provisions to get its public prosecutor to file defamation complaints in response to every report that contains criticism.
- Public servants and constitutional functionaries must be able to face criticism since they owed a solemn duty to the people.
- The State cannot use criminal defamation cases to throttle democracy.
- The Court advises the government to have a higher threshold for invoking defamation provisions.
- Each time a public servant feels defamed by a press report, it does not automatically give rise to a cause for the public prosecutor to initiate proceedings on her behalf.
- The court also found fault with the government for according sanction to the initiation of cases without explaining how the State has been defamed.
- The statutory distinction between defaming a public servant as a person and as the State itself being defamed has to be maintained.
- It cautioned prosecutors against acting like a post office, noting that their

role is to -

- a. scrutinise the material independently to see if the offence has been made out
 - b. if so, whether it relates to a public servant's conduct in the course of discharging official functions or not
- With this, the court found that many were cases in which public servants ought to have filed individual cases.

What are the other essential criteria?

- An accusation should have been actuated by malice, or with reckless disregard for the truth.
- This was noted as an essential ingredient of criminal defamation in an earlier Madras HC ruling.
- A recent judgment by Justice G.R. Swaminathan enunciated what is known in the U.S. as the 'Sullivan' rule of 'actual malice'.
- The Judge made this while quashing a private complaint against a journalist and a newspaper.
- It was noted that two of the exceptions to defamation given in Section 499 pertained to -
 - i. 'public conduct of public servants'
 - ii. 'conduct of any person on any public question'
- Thus, the legislature itself clarifies that it should have been demonstrated that reporting on the above two cases were vitiated by malice.
- Otherwise, the question of defamation does not arise.
- Also, even inaccuracies in reporting need not amount to a prosecution for defamation.

Source: The Hindu

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