

## 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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