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SA No. 324 of 2



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 17.11.2025**

**PRONOUNCED ON: 27.03.2026**

**CORAM**

**THE HON'BLE DR.JUSTICE A.D.MARIA CLETE**

**SA No. 324 of 2014**

1. Dhandapani (died)  
S/o S.P.Venugopal,  
47/8, Sathasiva Choudhri Street,  
Thiruppapuliyur, Cuddalore -2.
2. D.Kasturi  
W/o.Dhandapani,
3. D.Ganesan  
S/o.Dhandapani,
4. D.Ravishankar  
S/o.Dhandapani,  
All are residing at  
23, Prasanthi Nagar, 1st Kuruku Theru,  
Tirupapuliyur, Cuddalore District.

[Appellants 2 to 4 brought on records as LRs of the deceased sole appellant viz., Dhandapani vide Court order dated 28/09/2021 made in CMP.No.15472 of 2021 in SA 324 OF 2014]

..Defendants/  
Appellants/Appellants

Vs

Balaji  
S/o Ramalingam,  
No. 2 Andi Street,Kurinjipadi,  
Cuddalore Tk

.Plaintiff/Respondent/  
Respondent



**WEB PRAYER:** This Second Appeal filed under Section 100 C.P.C., against the judgment and decree dated 22.10.2013 passed in A.S.No.89 of 2011 before the Principal District Judge, Cuddalore, confirming the judgment and decree dated 27.09.2011 passed in O.S.No.149 of 2010 before the Principal Subordinate Judge, Cuddalore.

For Appellants: Mrs. R. Meenal  
For Respondent: Mr.P.Mani

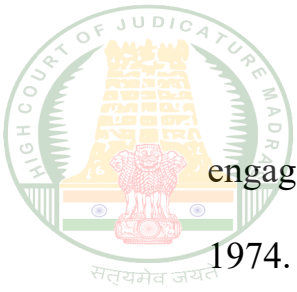
### **JUDGMENT**

The second appeal is against the judgment and decree dated 22.10.2013 in A.S. No.89 of 2011 passed by the Principal District Judge, Cuddalore, by which the judgment and decree dated 27.09.2011 in O.S. No.149 of 2010 passed by the Principal Subordinate Judge, Cuddalore, were confirmed.

2.For the sake of convenience, the parties are referred to as they were described in the suit.

3. The suit in O.S. No.149 of 2010 was filed by the respondent/plaintiff claiming Rs.2,00,000/- as damages on the ground that the appellant/defendant had defamed him.

4.The plaintiff's case, in brief, is that he is an Advocate practising at Cuddalore for about ten years and enjoying a good reputation. The defendant



engaged him in the final decree proceedings arising out of O.S. No.300 of 1974. According to the plaintiff, since the defendant did not cooperate with him, the final decree application in I.A. No.889 of 2005 came to be dismissed for default. He would further state that he thereafter appeared for the defendant in A.S. Nos.1 and 2 of 2005 and conducted those appeals successfully.

5.It is further stated that, on 05.01.2006, the entire case bundle was returned to the defendant and he was informed that the original judgment and decree of the Hon'ble Supreme Court relating to O.S.No. 300 of 1974 had already been filed before the Court. In spite of this, the defendant gave a complaint dated 18.03.2010 accusing the plaintiff of misconduct. That complaint was later enquired into by the Legal Services Authority and was ultimately closed on the finding that the documents were available in the Court records.

6.According to the plaintiff, the complaint was false, malicious and defamatory, causing injury to his professional reputation. On that basis, he sought damages.

7.The defendant contested the suit by stating, among other things, that the complaint had been given in good faith only for getting back the documents



and not with any intention to defame the plaintiff. He also stated that he was not well versed in English and that, although he had given the complaint in Tamil, it had been translated by others. According to him, there was no publication in the eye of law, the complaint was a privileged communication addressed to the competent authority, and the plaintiff had not proved any actual damage to his reputation.

8.The trial Court, after considering the oral and documentary evidence, partly decreed the suit and awarded a sum of Rs.75,000/- as damages to the plaintiff. The first appellate Court, on appeal, confirmed that judgment and decree.

9.Aggrieved by the concurrent judgments of the Courts below, the sole defendant filed the present second appeal. During the pendency of the second appeal, the sole appellant/defendant died, and his legal representatives were brought on record.

10.At the time of admitting the second appeal, this Court framed the following substantial questions of law:

- a) Whether the principle of actio personalis moritur cum persona will apply since the defendant/appellant died during the pendency of this Second Appeal and the suit itself was filed by the respondent/plaintiff



on the ground of the defamatory statement made by the defendant/appellant against the plaintiff?

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b) Whether the subsequent event that has taken place during the pendency of this Second Appeal will bring to an end the very cause of action based on which the suit was filed since the nature of allegation will confine itself only to the defendant/appellant and its consequences cannot spill over to his legal representatives ?

c) Whether the findings of both the Courts below suffers from perversity due to improper appreciation of oral and documentary evidence available on record ?

**11. Substantial Questions of Law Nos.1 and 2:** The primary issue that arises for consideration is whether the present second appeal can continue after the death of the sole appellant/defendant.

12. A cause of action for defamation is a personal action and is governed by the principle *actio personalis moritur cum persona*. Under Section 306 of the Indian Succession Act, 1925, a cause of action for defamation does not survive after the death of the person concerned, since the relief claimed is personal in nature and becomes nugatory upon death. The legal position is therefore as follows:

**If the plaintiff dies before a decree is passed,** the right to sue for defamation does not survive, and the suit or appeal will abate.



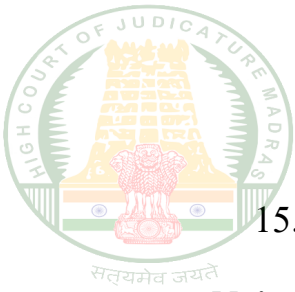
**If the plaintiff dies after a decree is passed**, the original cause of action merges with the decree. The decree then becomes part of the estate of the deceased plaintiff and can be enforced by his legal representatives.

**If the defendant, namely the alleged tortfeasor, dies before a decree is passed**, the cause of action does not survive against his legal representatives, and the suit will abate.

**If the defendant dies after a decree is passed**, the decree, having become a monetary liability, can be executed against the estate of the deceased defendant in the hands of his legal representatives, though not against them personally.

13. Order XXII Rules 3 and 4 CPC permit the legal representatives of a deceased party to be brought on record only where the cause of action survives. Under Order XXII Rule 11 CPC, the same principle applies equally to appeals.

14. It is well settled under Section 306 of the Indian Succession Act, 1925 that all causes of action survive to or against the legal representatives of a deceased person, except those which are purely personal in nature, such as defamation, assault and other personal injuries not resulting in death. This provision embodies the maxim *actio personalis moritur cum persona*, subject to the important exception that causes of action which affect the estate of the deceased do survive.

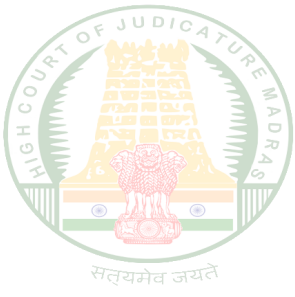


15. In *Melepurath Sankunni Ezhuthassan v. Thekittil Geopalankutty Nair*, [(1986) 1 SCC 118], the Hon'ble Supreme Court held that an action for defamation is essentially personal in nature. Therefore, if the plaintiff dies while the proceedings are pending, the right to sue does not survive and the matter abates. The decision makes it clear that, where the relief sought is only for personal vindication, the cause of action perishes with the person.

16. A different situation arises when the proceedings have already ended in a decree which affects the estate of the deceased. In such a case, the liability becomes a definite monetary obligation attaching to the estate of the judgment-debtor. In *P. Murugesan v. C. Kadarkarai (Died)*, 2021 SCC OnLine Mad 8506, this Court recognised that even in matters arising out of personal causes of action, once a decree has been passed, it can be enforced against the estate of the deceased through his legal representatives. Therefore, on a harmonious reading of the above decisions, the legal position may be stated as follows:

(i) Where the lis is still at a stage in which the relief claimed is purely personal, the cause of action does not survive, and the proceedings will abate.

(ii) However, where the adjudication has ended in a decree, especially a decree involving pecuniary liability, the character of



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the claim changes. It then ceases to remain a purely personal cause of action and becomes an enforceable liability against the estate. To that limited extent, it survives for execution or for continuation of the proceedings insofar as the estate is concerned.

17.A decree in a defamation suit does not merely impose a monetary liability; it also contains a finding touching upon the character and reputation of the person concerned. Such a finding may continue to carry a stigma even after that person's death. In that situation, the legal representatives may have a genuine interest in removing that stigma and protecting the reputation of the deceased.

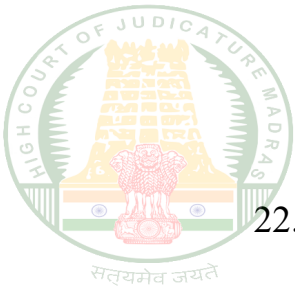
18.A useful comparison may be made with the proviso to Section 394 Code of Criminal Procedure, 1973 which allows the near relatives of a deceased accused to continue an appeal against conviction for the limited purpose of clearing the stigma attached to the conviction. Although criminal liability is personal and ordinarily comes to an end on death, the law recognises that an adverse finding may affect the dignity and reputation of the family. For that reason, it permits the proceedings to continue for vindication. By analogy, the same principle may also be applied in civil proceedings relating to defamation.



19. In the present case, the Courts below have already decreed the suit and awarded damages. As a result, the liability has taken the form of a debt payable out of the estate of the deceased defendant. Therefore, even though the original cause of action was personal in nature, the proceedings cannot be treated as having abated altogether. The legal representatives can be brought on record, but only for the limited purpose of representing the estate and either contesting the decree or satisfying it, as the case may be. Hence, the contention that the appeal has totally abated cannot be accepted. The appeal survives in a limited manner, only insofar as it relates to the liability of the estate of the deceased appellant. Accordingly, the second appeal is maintainable. The substantial questions of law are answered on the above lines.

20. **Substantial Question of Law No.3:** Since this Court has held that the second appeal is maintainable to the limited extent indicated above, it now proceeds to consider whether the findings recorded by the Courts below on the merits are correct.

21. At the outset, it must be kept in mind that, under Section 100 CPC, this Court is not expected to reassess the entire evidence as if it were hearing a regular appeal. Interference is justified only if the findings of the Courts below are shown to be perverse, unsupported by evidence, or based on an incorrect application of law.

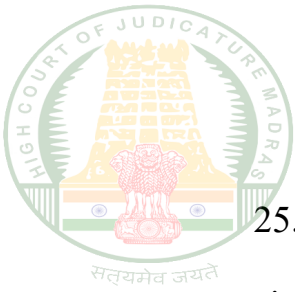


22.To succeed in a claim for defamation, the plaintiff has to prove the following:

- (i). that a defamatory statement or imputation was made;
- (ii). that the said imputation was communicated to a third person;
- (iii). that, because of it, the plaintiff's reputation was lowered in the eyes of others; and
- (iv). that the imputation was not protected by any lawful justification or privilege.

23.In the present case, the alleged defamation is based on a complaint given by the defendant to the competent authority, namely the District Judge / Legal Services Authority, accusing the plaintiff, who is an Advocate, of misconduct. It is not in dispute that the complaint was enquired into and was ultimately closed on the ground that the documents were available in the Court records. But the mere fact that the complaint was closed does not, by itself, show that the complaint was false or malicious so as to amount to defamation.

24.Plausibility of the defendant's version: The plaintiff contends that, when the case bundle was returned, he had informed the defendant that the certified copy of the judgment of the Hon'ble Supreme Court had already been filed in the District Munsif Court. The defendant, however, claims that he was told that the documents were with the plaintiff and had not been returned.

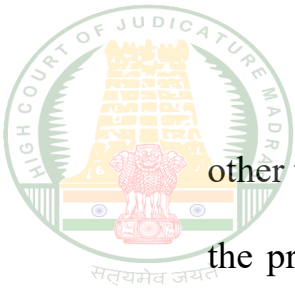


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25. Having regard to the circumstances of the case, the defendant's version appears to be probable. The defendant is a person with limited education and is not familiar with English. If he had in fact been clearly told that the certified copies were already available in Court, it is unlikely that he would have gone to the District Judge with a complaint. It must be noted that the defendant had ultimately succeeded before the Hon'ble Supreme Court after having failed before the Courts below. In that situation, if he was anxious about the whereabouts of his documents, it would not be unnatural for him to approach the authority concerned for redressal.

26. It is well settled that, when a person makes a complaint in good faith to the proper authority for redressal of a grievance, such communication is protected under the doctrine of qualified privilege. Therefore, a litigant who approaches a judicial or quasi-judicial authority with a complaint against an Advocate cannot, in the absence of malice, be made liable for defamation merely because the complaint was ultimately not accepted. In the present case, the complaint was made only to the competent authority and cannot be regarded as something intended for public circulation.

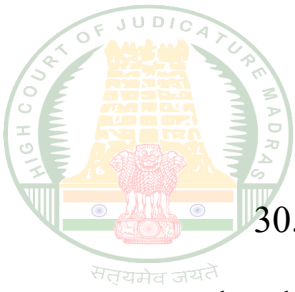
27. Absence of publication: Publication is an essential requirement in a claim for defamation. The imputation must be communicated to persons



other than the plaintiff in a manner that lowers his reputation in their eyes. In the present case, the complaint remained within official channels. There is no evidence to show that the defendant circulated the contents of the complaint to the public or to any third parties so as to harm the plaintiff's reputation in society. The Courts below have also not given any clear finding regarding publication in the legal sense, but appear to have proceeded on the assumption that the complaint, by itself, amounted to defamation.

28. Absence of malice: The defendant has consistently taken the stand that he made the complaint in good faith only to get back the documents. It has also come on record that the complaint was originally given in Tamil and was later translated into English. The Courts below did not properly consider whether the defendant had acted with malice, which is an essential requirement for denying the protection of qualified privilege.

29. On behalf of the plaintiff/respondent, reliance was placed on *W.B. Shanthi v. Arunachelam*, 2015 (1) MWN (Civil) 602, and *D.P. Choudhary and others v. Kumari Manjulata*, AIR 1977 (Raj) 170, to contend that, in a civil action for defamation, it is not necessary to prove intention or malice and that liability may arise even without proof of fault. There is no dispute about this proposition, as it is in line with the settled principles of common law.



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30. It is true that the defendant cannot escape liability merely by saying that he did not understand the exact meaning of the words used in the complaint or that he did not know English, if the statements are otherwise defamatory. However, the real question in the present case is not simply whether the statements are defamatory, but whether the communication is protected by the doctrine of qualified privilege.

31. The complaint in question was addressed to the learned District Judge, who was also the Chairman of the District Legal Services Authority, and therefore to a competent authority. The surrounding circumstances are also important. The materials on record show that the plaintiff had not informed the defendant that certified copies of the judgment and decree of the Supreme Court were available in the District Munsif Court, Cuddalore. It is also seen that, though the plaintiff had acted as counsel for the defendant, he had aligned himself with his mother-in-law, who is the defendant's own sister, and this material fact was not disclosed in the plaint. These circumstances make the defendant's conduct in approaching the proper authority with his grievance appear bona fide.

32. It is well settled that a communication made in good faith to a person who has lawful authority over the matter is protected by qualified privilege.



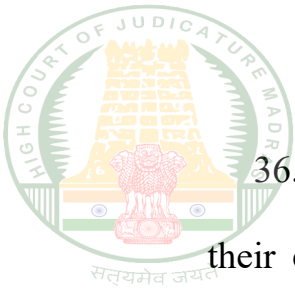
Once it is shown that the communication was made on such a privileged occasion, the burden shifts to the plaintiff to prove express malice.

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33.The decisions relied on by the plaintiff state the general rule that, in a civil defamation case, it is not necessary to prove intention or malice. But that principle applies to ordinary cases of defamation. Where the communication is protected by qualified privilege, the absence or presence of malice becomes decisive, and the plaintiff has to prove express malice. In the present case, no acceptable evidence has been placed to show that the defendant made the complaint with malice.

34.Accordingly, this Court holds that the communication complained of is protected by qualified privilege and that the plaintiff has failed to prove malice. Therefore, the decisions relied on by the plaintiff do not help him in the facts and circumstances of the present case.

35.Failure to prove damage to reputation: The plaintiff, who is an Advocate, has claimed that his reputation was harmed. However, no independent evidence has been produced to show that his professional standing suffered, that his practice was affected, or that his reputation was lowered in the eyes of others.



36. Though two Advocate colleagues were examined as P.W.3 and P.W.4, their evidence does not show that their opinion of the plaintiff had gone down because of the complaint. In the absence of evidence showing any actual or even probable harm to the plaintiff's reputation, the award of damages cannot be sustained.

37. A careful reading of the judgments of the Courts below shows the following:

- (i) defence of qualified privilege has not been properly considered;
- (ii) the essential requirement of publication has not been proved;
- (iii) the element of malice has not been examined; and
- (iv) damages have been awarded without any evidentiary basis.

38. The findings are therefore vitiated by an incorrect application of the legal principles governing defamation, and on that account, they have become perverse.

39. The third substantial question of law is answered in favour of the appellants by holding that the concurrent findings of the Courts below are perverse, as the evidence was not properly appreciated and the legal principles governing civil defamation were wrongly applied.

40. In view of the above discussion, this Court finds that the plaintiff has not proved the essential ingredients of defamation. As a result, the decree passed by the Courts below awarding Rs.75,000/- as damages cannot be sustained.



41. In the result, the second appeal is allowed. The judgment and decree dated 22.10.2013 in A.S. No.89 of 2011 and the judgment and decree dated 27.09.2011 in O.S. No.149 of 2010 are set aside. Consequently, the suit in O.S. No.149 of 2010 stands dismissed. Any connected civil miscellaneous petitions shall stand closed. In the circumstances of the case, and having regard to the close relationship between the parties, there shall be no order as to costs.

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Index: Yes/No

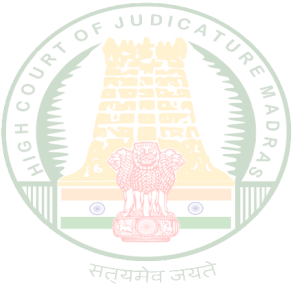
Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. Principal District Judge,  
Cuddalore,
2. Principal Subordinate Judge,  
Cuddalore.
3. The Section Officer,  
VR Section,  
High Court, Chennai.



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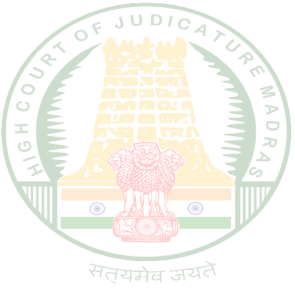


**DR.A.D.MARIA CLETE J.**

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**Pre-delivery judgment made in**  
**SA No. 324 of 2014**

**27.03.2026**



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