

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.10.2020

PRONOUNCED ON : 15.10.2020

CORAM:

THE HONOURABLE Mr.JUSTICE **P.N.PRAKASH**

CrI.O.P.Nos.23318 & 23319 of 2015

and

M.P.Nos.1 & 1 of 2015

R.Ramasubramanian,  
Reporter,  
"REDIFF.COM" India Limited,  
No.3, II Floor, Fagun Chamber,  
Ethiraj Salai, Egmore,  
Chennai – 600 008.

.. Petitioner/1<sup>st</sup> Accused  
in CrI.O.P.No.23318 of 2015

1.Ajith Balakrishnan  
Chief Executive Officer & Chairman,  
"REDIFF.COM" India Limited,  
No.3, II Floor, Fagun Chamber,  
Ethiraj Salai, Egmore,  
Chennai – 600 008.

2.Nikhil Lakshman,  
Editor-in-Chief,  
"REDIFF.COM" India Limited,  
No.3, II Floor, Fagun Chamber,  
Ethiraj Salai, Egmore,  
Chennai – 600 008.

3.Abishek Mande,  
Senior Associate Editor,  
“REDIFF.COM” India Limited,  
No.3, II Floor, Fagun Chamber,  
Ethiraj Salai, Egmore,  
Chennai – 600 008.

.. Petitioners/Accused 2 to 4  
in CrI.O.P.No.23319 of 2015

Vs.

City Public Prosecutor,  
City Civil Court Buildings,  
Chennai – 600 104.

.. Respondent/Complainant  
in both petitions

**Common Prayer:** Criminal Original Petitions filed under Section 482  
Cr.P.C. to call for the records in C.C.No.21 of 2015 on the file of the  
Principal District and Sessions Court, Chennai and quash the same.

For Petitioners

in both petitions : Mr.R.Shanmuga Sundaram  
Senior Counsel for  
Mr.Ganesh Rajan

For Respondent  
in both petitions

: Mr.A.Natarajan  
Public Prosecutor assisted by  
Mr.Mohammed Muzammil  
Government Advocate (CrI.Side)

**COMMON ORDER**

These criminal original petitions have been filed seeking to call for the records in C.C.No.21 of 2015 on the file of the Principal District Sessions Court, Chennai and quash the same.

2. Heard Mr.R.Shanmuga Sundaram, learned Senior Counsel representing Mr.Ganesh Rajan, learned counsel on record for the petitioners and Mr.A.Natarajan, learned Public Prosecutor assisted by Mr.Mohammed Muzammil, learned Government Advocate (CrI.Side) appearing for the respondent/State.

3. Challenging the prosecution lodged by the Government of Tamil Nadu in C.C.No.21 of 2015 before the Principal District and Sessions Court, Chennai, against the petitioners herein for the offence of defamation, this petition has been filed.

4. In the complaint filed by the Government, it is alleged that the petitioners published an article on 10.07.2015 in their online website “Rediff.com”, titled “CHENNAI MEDIA KNEW JAYA'S HEALTH WAS NOT FINE BUT KEPT MUM” and that article defamed the then Chief Minister Ms.J.Jayalalithaa in respect of conduct in the discharge of her public functions and therefore, the petitioners are liable to be punished under Section 499 r/w 500 IPC.

5. Excerpts from the impugned article have been extracted in the complaint and they are as under:

*“Jaya's health, which was all along being discussed in whispers, received some sort of a public attention in the first week of July when she skipped an Iftar party after announcing in a written statement that she was not able to attend the event due to her ill-health and deputed Finance Minister O.Paneerselvam, who stood in as CM during her disqualification, in her place.*

*Jayalalithaa's health has been a talking subject among political and media circles ever since she took office as Chief Minister for the fifth time on May 23 after being acquitted in the disproportionate assets case by the Karnataka High Court.*

*The way in which her oath-taking ceremony was conducted betrayed the fact that all was not well. The whole function lasted just 25 minutes, the national anthem was cut short and 28 Ministers took oath in two batches instead of doing so individually.*

*Since assuming office Jayalalithaa has visited the Secretariat a maximum of twice a week and each time she did not remain there for more than 30 minutes. In that brief window she would inaugurate a few welfare schemes by pressing the remote control after which she would return home to Poes Garden. There was a absolutely no interaction with the media. In fact, television crews and still photographers are not allowed to visually capture the Chief Minister.*

*Even the prestigious Chennai Metro inauguration was carried out from the Chief Minister's Chambers by pressing the remote control. Only the All India Anna DMK owned by Jaya TV and State Government photographers are allowed to cover her each and every function, while the rest of the media outlets have to make do with their visuals and still photographers. Surprisingly, there has not been even a murmur of protest from any of the media outlets for this nauseating development.*

*It's been more than three months since the assembly was*

*adjourned but there is no sign when it will be reconvened. Already the DMK legislature party leader M.K.Stalin has demanded that the Government convene the sessions immediately to discuss various public issues. To which there has only been a stoic silence from the ruling party.*

*Jayalalithaa's short stay in the secretariat and her ever dwindling public appearances and interactions with officials are taking a huge toll on the administration, say sources privy to the Government's functions. "At least there a Government when Paneerselvam was the Chief Minister (from September 29, 2014 to May 22, 2015). Though it was dummy Government, files at least moved and there was some governance. Today files are piling up, and absolute paralysis of governance is staring at us. We are keeping our fingers crossed, as the stakes are too high and the state will have to pay dearly for it. I fear we may be heading towards total collapse of Government functioning if it continues for a couple of months more," senior IAS Officer told Rediff.com on condition of anonymity.*

*In fact, eyebrows were raised when the Tamil bi weekly Nakkeeran published a cover story three weeks ago that Jayalalithaa will be shortly travelling to the United States for medical treatment. While everyone expected her to sue the magazine, as was her habit for years, there was absolutely no*

*response from the Government. Seasoned opinion suggests that this may have been due to the fact that a legal challenge may call for proof about her health, which the Government was not keen to do.*

*Incidentally, Friday marks seven days since Jayalalithaa stepped out of her home in Chennai after visiting the Secretariat on July 4 to be sworn in as MLA. Since then she has venture out of her home once. Even by her own standards, this is unusual as she used to visit her office twice a week.*

*Meanwhile, rumours are gaining momentum that she may leave Chennai any time for treatment. Another strong rumour since Thursday afternoon is that a team of foreign Doctors are already in Chennai to assess, supervise and coordinate her health and journey. Of course, these are all rumours and there has been absolutely no confirmation either from the State Government or from the AIADMK.”*

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6. The above article has been addressed to the Chennai press and a question has been posed to them, as to why, they are not properly reporting about the health of the Chief Minister. The fact that, the Chief Minister was not well, was so obvious, when on May 23, 2015, twenty eight

Ministers took oath in two batches at a stretch, which was unprecedented. The article does not refer to any particular ailment of the Chief Minister or make any disparaging remark about her health. The article states that the Chief Minister did not even attend the Iftar party in the first week of July and that she issued a written statement saying that she was unwell, and so, she is deputing Mr.O.Paneerselvam to attend the party.

7. In the complaint, except making general denial in paragraph no.6, there is no specific repudiation of these facts, because, none can hide a pumpkin in a morsel of food. The whole world saw the swearing in ceremony of the ministers on 23<sup>rd</sup> May and the ceremony lasted for not more than 30 minutes.

8. Mr.A.Natarajan, learned Public Prosecutor appearing for the respondent/State drew the attention of this Court to a few lines of the article and submitted that they are insinuations, which are untrue and defamatory in nature. For example, he quoted the following sentences from the article:

*“ Jayalalithaa's short stay in the secretariat and her ever dwindling public appearances and interactions with officials are taking a huge toll on the administration, say sources privy to the Government's functions. “At least there a Government when Paneerselvam was the Chief Minister (from September 29, 2014 to May 22, 2015). Though it was dummy Government, files at least moved and there was some governance. Today files are piling up, and absolute paralysis of governance is starring at us.”*

He further submitted that the article does not contain any statistics to justify the averments.

9. This Court is unable to persuade itself to the submissions of Mr.A.Natarajan, inasmuch as, an allegedly defamatory article should be read as a whole and not in bits and pieces. A genuine assessment of the state of affairs of the administration at a given point of time cannot amount to defamation. “Right to free speech and expression” guaranteed under Article 19(1)(a) of the Constitution of India, is so sacrosanct, though, it can be restricted on the grounds set out in Article 19(2) of the Constitution of

India. The press has a duty to keep the public informed about the happenings in the administration of the State. If this freedom is stifled, rumours and gossips will masquerade as truth.

10. In such view of the matter, this Court does not find the impugned article to be defamatory of the then Chief Minister Ms.J.Jayalithaa in respect of her conduct in the discharge of her public functions warranting the prosecution of the petitioners for the offence under Section 499 r/w 500 IPC.

In the result, these criminal original petitions are allowed and the prosecution against the petitioners in C.C.No.21 of 2015 pending on the file of the Principal District and Sessions Court, Chennai, is hereby quashed. Connected M.Ps. are closed.

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15.10.2020

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To

1.The Principal District and Sessions Judge,  
Chennai.

2.The City Public Prosecutor,  
City Civil Court Buildings,  
Chennai – 600 104.

3.The Public Prosecutor,  
Madras High Court,  
Chennai - 600 104.



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**P.N.PRAKASH, J.**

nsd



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