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CrI.O.P.Nos.15123 & 15124 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.09.2021  
PRONOUNCED ON : 31.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.Nos.15123 & 15124 of 2021

and

CrI.M.P.Nos.8250, 8251, 8252 & 8253 of 2021

1.Edappadi K.Palanisamy ... Petitioner in CrI.O.P.No.15123 of 2021

2.O.Pannerselvam ... Petitioner in CrI.O.P.No.15124 of 2021

Versus

Va.Pugazhendi ... Respondents in both cases

COMMON PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.29 of 2021 on the file of Additional Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai for the alleged offence punishable under Section 499 and 500 of the Indian Penal Code and quash the same as against the petitioners.



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CrI.O.P.Nos.15123 & 15124 of 2021

For Petitioners : Mr.A.Natarajan, Senior Counsel for  
Mr.K.Gowthamkumar  
in CrI.O.P.No.15123 of 2021

Mr.Vijay Narayan, Senior Counsel for  
Mr.C.Thirumaran  
in CrI.O.P.No.15124 of 2021

For Respondent : Mr.N.G.R.Prasad  
for Mr.R.Thirumoorthy

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### COMMON ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.29 of 2021, on the file of the Additional Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai.

2.The gist of the case is that the respondent is a businessman, social worker, who was associated with All India Anna Dravida Muneetra Kazhagam [AIADMK] political party. The respondent contested in the State Assembly Elections and he is staunch follower of Thanthai Periyar, Aringnar Anna and M.G.R. He was also one of the close aid of Former General



CrI.O.P.Nos.15123 & 15124 of 2021

Secretary of AIADMK Party and Former Chief Minister of Tamil Nadu late

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Selvi.J.Jayalalitha. The respondent earned good reputation over several decades in the said party, by relentlessly and sincerely carrying out the reasonable dictates of the party high command. Considering his sincerity and dedication in the growth of AIADMK Party, the respondent was made the State Secretary of Karnataka State for many years. He was appointed as incharge and coordinator for Hosur Assembly Constituency during the year 2001-2006, Srirangam Assembly Constituency of the year 2011 and Puducherry Assembly Elections of the year 2016, he was involved in drafting of the Election, Manifesto. He was also incharge of Krishnagiri Parliamentary Constituency during the year 2004, 2009 and 2014 and Dharmapuri Parliamentary Constituency during the year 2014. After the demise of Former AIADMK General Secretary and Former Chief Minister of Tamil Nadu Selvi.J.Jayalalitha in December 2016, the AIADMK party was split in two groups. The respondent supported the group led by TTV Dinakaran. During this period, AIADMK party abolished the General Secretary Post, instead created new posts Coordinator and Joint Coordinator, wherein the 2<sup>nd</sup> petitioner made as Coordinator and the 1<sup>st</sup> petitioner as Joint



Coordinator.

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CrI.O.P.Nos.15123 & 15124 of 2021

3. On 07.12.2020, the petitioners, Coordinator and Joint Coordinator admitted the respondent as Member of AIADMK Party and appointed him as Official Spokesperson of the AIADMK party. As per by-laws, the Spokesperson would automatically become a member of General and Executive Council. The respondent as Spokesperson addressed several public meetings all over Tamil Nadu including Election Public Meetings and attracted huge public crowd by his impressive and eloquent speech. As an official spokesperson, he was discharging his duties with appreciation. He took part in several TV channel debates, and defended his AIADMK party by giving proper and relevant answers and replies to the various types of questions raised by the opponent parties. He also participated in several press meet both in print and visual media. In appreciation of the respondent's sincerity and hardwork, the petitioners made him as Joint Secretary of AIADMK party's Puratchi Thalaivi Amma Peravai on 13.02.2021. He was a Star Campaigner for the AIADMK Party and he campaigned all over Tamil Nadu. During elections he campaigned for the 2<sup>nd</sup>



CrI.O.P.Nos.15123 & 15124 of 2021

petitioner, in Bodinayakanur Constituency. As a Executive and General

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Meeting held on 28.09.2020. On 09.01.2021, again he participated in the

AIADMK party's Executive and General Council meeting held at

Vanagaram, Chennai. On 14.06.2021, a meeting was convened at the

party's headquarters for electing the opposition leader and other office bearers

for the Legislative Assembly.

4. On 14.06.2021, the petitioners announced that the respondent was expelled from all of his post and also from the primary membership of AIADMK party. A letter was circulated to all media about respondent's expulsion. This circulation was made by one P.Mahalingam/A3, Manager of AIADMK office. The respondent was taken by surprise, since the expulsion letter, levelled vague and baseless allegations against him. The respondent not committed any misconduct, caused any disrupt and defamation to the party in any manner and he has not acted in contravention of the rules and regulations of the party. Adding insult to the injury, in the said expulsion letter, the petitioners directed none of the AIADMK cadres should be in



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touch or should have any contact with the respondent in any manner. The petitioners as Coordinator and Joint Coordinator neither issued any show cause notice nor held any enquiry to substantiate and prove the so-called charges against the respondent as per the rules and regulations of the party. The said expulsion news was a breaking news in all the TV channels, YouTube channels, Online channels, given wide publicity published in all daily newspapers. His expulsion news reached all over India and abroad, especially reached, every nook and corner of the State of Tamil Nadu.

5.The petitioners hand in glove with each other, with criminal intent tarnished the image of the respondent. Consequent to his expulsion and spreading of news, the respondent started receiving several query and enquiries from his relatives, friends, party cadres and others. The expulsion letter damaged the reputation of the respondent extensively. Consequent to this act, the respondent's name and fame gone down in esteem of 1 ½ crores party members of AIADMK, amongst his friends, relatives and acquaintances. The accused persons in a calculated and malicious manner, tarnished the image of the respondent. The respondent filed a private



CrI.O.P.Nos.15123 & 15124 of 2021

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complaint before the Trial Court. The Trial Court on examination of respondent and one Loganathan, finding grounds to proceed against petitioner took case on file, issued summons. Thus, the petitioner/A1 & A2, A3 committed the offence under Sections 499 and 500 IPC.

6.The submissions of the learned senior counsel appearing for the petitioner in CrI.O.P.NO.15123 of 2021 is that the petitioner is the former Chief Minister of State of Tamil Nadu and the Joint Coordinator of AIADMK, a political party registered under Section 29A of the Representation of People's Act, 1951. The petitioner is a member of the said Party since 1972, held several positions in the party rose from the grass root level. Presently, he is the leader of opposition in the Tamil Nadu Legislative Assembly. The AIADMK party is governed by its rules and regulations, has its own bye-laws. As per Rule 5, whoever accepts the aims, objectives, rules and regulations of the Party, they are eligible to become the member of the party. As per the bye-law, the petitioner as Joint Coordinator along with Coordinator is vested with several responsibilities for the overall administration of the party. Rule 20-A gives the power to the Coordinator



CrI.O.P.Nos.15123 & 15124 of 2021

and Joint Coordinator. Rule 35(xii) empowers them to take immediate

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disciplinary action to remove or suspend any primary member or office

bearers of the party. Thus, as per the rules and regulations, it is evident that

the petitioner along with the Coordinator vested with responsibilities to run

the party with discipline. The respondent who was earlier member of the

party split away from the party and joined hands with another political party

in the year 2017, at that time the respondent was removed from the party by

issuing a similar worded notice dated 25.12.2017. In the year 2020, the

respondent claimed that he broken-off his ties with other political outfit,

joined back the AIADMK party and he was admitted to the party on

06.01.2020. On his admission to the party, the respondent was nominated

as official spokesperson of AIADMK party and the party cadres were asked

to cooperate with him. After the recently concluded election to the State

Legislative Assembly, the AIADMK party lost power, thereafter the conduct

and attitude of the respondent towards the party, its office bearers, its

members completely changed and several complaints received from the

office bearers regarding the manner in which the respondent acting against

the interest of the party. The respondent gone against the views of the party





and was making statements that do not reflect the party ideology, its principle and political stance. His change in representation in public by the respondent caused damage to the name of the party, in view of the same left with no other option the Coordinator and Joint Coordinator exercised their responsibilities as per the bye-laws and removed the respondent from the party for his anti-party activities.

7.Since the respondent was representing in public as official spokesperson of the AIADMK party, the decision to remove him from the party necessitated to be informed to the general public as well as to the party cadres. The procedure followed in removal of the respondent is the procedure which is followed throughout. After announcement of removal from the AIADMK party, the respondent made comments against the party, its leadership and its members. On going through the entire complaint, it is apparent that the complaint does not disclose any prima facie case, with essential ingredients of Sections 499 and 500 IPC. In the complaint, it is alleged that the procedures contemplated under the rules and regulations of AIADMK party in expelling the respondent is not followed. As stated



above, under the rules and regulations of the party, the petitioner/joint

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coordinator along with coordinator has the authority to remove the respondent for his anti-party activities. On a demurer, if it is stated that there was any infraction in following the Rules that does not give right to the respondent to file a case of defamation. The respondent filed the defamation case based on the letter dated 14.06.2021, by which, he was expelled from the party. The expulsion notice was merely a communication to the party members informing the removal of the respondent. When the respondent was re-admitted to the party earlier, instruction was given to the cadres to co-operate with the respondent when he was appointed to the post of spokesperson, likewise, when he was removed from the primary membership of the party, the cadres were informed not to associate with the respondent and there is nothing more. The respondent indulged in making despairing statement in the public that do no reflect the party's ideology and going against the party's official political stand and caused damage to the party. Any grievance in relation to his removal can be agitated by the respondent in the manner known to law and the same cannot be the subject matter of criminal complaint for defamation. The respondent not disputed



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the legitimacy of the petitioner/joint coordinator and the coordinator. On an earlier occasion when the respondent was expelled from the party for his anti-party activities, the language used for his expulsion and in the communication are one and the same. At that time, there was no complaint questioning the expulsion notice as defamatory. The Lower Court failed to consider the fact that only if there is any personal allegation or defamatory slander or libellous allegation made against the complainant, the question of Section 499 IPC would get attracted, not otherwise.

8. Merely narrating the reason for the expulsion of the respondent cannot be construed as an offence of defamation. The Apex Court in a catena of decision held that criminal law cannot be set in motion in a mechanical and cavalier manner, summoning anyone as accused is a serious matter affecting the dignity, self-respect and image in the Society by invoking Section 204 Cr.P.C. and issuing summons. Further, the summoning order must reflect application of mind on the facts of the case. In the instant case, the Trial Judge has merely stated that judicial enquiry required in the complaint made by the respondent and it cannot be dismissed



at the threshold. Thus, the Trial Judge apparently made clear that only further enquiry would show that whether prima facie case is made out or not. The Apex Court further held that the process of criminal court shall not be made as a weapon of harassment. The removal notice issued by the Coordinator and the Joint Coordinator of AIADMK party was in their official capacity but the complaint is proceeded against them in their personal capacity. Further, the sworn statement of the respondent and one Loganathan are contradictory to each other. Hence, in any event the case against the petitioner to be quashed.

9.The petitioner in Crl.O.P.No.15124 of 2021 submitted that the petitioner is the Coordinator of AIADMK political party, which is registered under the Representation of People's Act. The petitioner is a member of the party for a long time, held several positions in the party, raised from the grass root level, he is the treasurer of the party and presently holding the position of Deputy Leader of the Opposition party in the Tamil Nadu Legislative Assembly. In addition to the submissions of the Joint Coordinator, it is submitted that as per the bye law of the Party, the



CrI.O.P.Nos.15123 & 15124 of 2021

petitioner as Coordinator along with Joint Coordinator, is empowered to take

disciplinary action against the office bearers, members of the party who are

acting against the interest of the party and detrimental to the party. The

expulsion notice issued to the petitioner is a routine one, which is followed

throughout. In the notice, the cadres and members of the party were asked

not to get associated with the respondent since the respondent was removed

from the primary membership of the party. This communication is

necessitated to run the party in a disciplined manner. The party is a cadre

based party and hence, the cadres of the party have to be informed about the

functioning and the actions taken. The respondent has not questioned the

authority of the petitioner in acting as per rules and regulations, the

respondent made comments against the party, its interest, its leadership and

its members. Thus, making such statements in public necessitated the party

to take such disciplinary action. The respondent merely make a sweeping

allegation that the rules and regulations of the party was not followed when

he was expelled. When the respondent was earlier expelled, similar notice

with same language and tenor was issued, at that time there was no such

complaint of defamation. On going through the complaint it appears that the



respondent is questioning his expulsion for which filing of defamation case

is not the answer.

10.The learned senior counsel appearing for the petitioner submitted that AIADMK political party is governed by its own bye laws. The precondition for admission of the member is that he who accepts the aim and objectives, follow rules and regulations of the party, alone would be made as members. Further, the bye law is an agreement between the members of the party. The decision of the Coordinator and the Joint Coordinator of the party is final and they are the authority with regard to the membership, conduct of the party and enforce discipline. Their duties and responsibilities are provided in Rule 20-A(v), the Coordinator and the Joint Coordinator of the party will be responsible for the entire administration of the party, they shall preside over the party conference, take all kind of disciplinary proceedings in accordance with party rules against the party units and its office bearers whoever violates the party rules, regulations or act against the party interest, party discipline, policies and programmes are subject to disciplinary proceedings and actions. The Coordinator and the



Joint Coordinator are the supreme authority to take a final decision in the disciplinary matter. As per Rule 35(xii), the disciplinary proceedings, actions would be taken by the Coordinator and the Joint Coordinator against the members or the office bearers of the party, they have power to remove or suspend any primary member or office bearer from the party and the decision of the Coordinator and the Joint Coordinator on the disciplinary action shall be final. The petitioners following the bye laws, taken action against the respondent who acted in detrimental to the interest of the party. The power of taking disciplinary action is very much necessary to have control and proper functioning of the party, otherwise there would be total anarchy. The party is a hierarchy based with codified functioning, if no action is taken against the erring members the party which has a huge following of more than 1½ Crores, Party cannot function properly. It is perfectly lawful for the petitioners to remove the respondent from the primary membership of the party as per the bye laws, the respondent has not so far questioned the expulsion of his primary membership, on the other hand filed a defamatory case as though the wordings found in the expulsion notice were defamatory. The expulsion notice is a regular format which is



issued by the authority even prior to the petitioners made as Coordinator and

Joint Coordinator. The former General Secretary of the Party issued such

expulsion notice in the same format and wordings which is continued and followed. Further, the petitioners referred to the expulsion notice issued in the year 2009, 2010, 2012 and 2015 by the Former Chief Minister and General Secretary of AIADMK party. The same format is now followed by the petitioners after they became the Coordinator and Joint Coordinator, all expulsion notices are identical and similarly worded. The petitioners are authorized person to take disciplinary action against the erring members of the Party, hence communicating the expulsion notice to the party cadres and members was in good faith for protecting party interest.

11.The learned Senior Counsel for the petitioners relied on the following citations:-

- Subramanian Swamy Versus Union of India, Ministry of Law and Others reported in (2016) 7 SCC 221.
- Grievances Redressal Officer, Economic Times Internet Limited and others Versus V.V.Minerals Private Limited reported in 2020 SCC OnLine Mad 978.
- Vijayadharani Versus The Public Prosecutor, Kanyakumari





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CrI.O.P.Nos.15123 & 15124 of 2021

District at Nagercoil in CrI.O.P(MD).No.17137 of 2016, dated 03.06.2021.

- Rajindra Nath Mahato Versus T.Ganguly reported in (1972) 1 SCC 450.
- Rajendra Kumar Sitaram Pande and others Versus Uttam and another reported in (1999) 3 SCC 134.
- L.Lakshmanan, Chairman and Managing Director and others Versus G.Jayapalan in CrI.O.P.Nos.30736 to 30744/2006.
- Sri.V.Kumar Subramaniam Versus S.Suchindranath Aiyer reported in (2014) SCC OnLine Mad 14221.
- S.Soundarapandian Versus R.Srinivasan reported in (2015) SCC OnLine Mad 14221.
- Karuna and 2 others Versus M.Jothisorupan in CrI.O.P(MD).No.13285 of 2013.
- Ramachandra Venkataraman Versus Shapoorji Pallanji & Company Limited and another reported in 2019 SCC OnLine Bom 524.
- Bettiah Lokesh Versus N.Ramesh in CrI.O.P.No.19676 of 2016.

12.The learned counsel for the respondent submits that the petitioner made false and misleading averments in the petition as though the expulsion notice was not circulated in print and visual media. The expulsion notice



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removing the respondent from primary membership and directing the general public and members of AIADMK party, not to interact with the respondent was circulated by the petitioners to various newspapers, social media, official accounts of AIADMK in Twitter, Facebook. The respondent was made as the State Secretary of Karnataka State for many years by the Former Chief Minister and General Secretary of AIADMK party Selvi J.Jayalalitha. The respondent was nominated as party election incharge for several years both for State Assembly and Parliamentary elections for various constituencies. He further submitted that after the demise of the Former Chief Minister and General Secretary, Selvi.J.Jayalalitha, the AIADMK party was split into two groups, the respondent supported the group lead by Mr.T.T.V.Dhinakaran. He also filed impleading petition before the Election Commission in the matter relating to assignment of “Two Leaves” symbol in favour of the said Mr.T.T.V.Dhinakaran. Almost one year after he joined the group led by Mr.T.T.V.Dhinakaran, on 06.01.2020 the respondent was admitted as member of the AIADMK party and on his admission, he was made as AIADMK party's Headquarters speaker [Party spokesperson] by the Coordinator and the Joint Coordinator.



**WEB COPY** 13.He further submitted that on becoming the party spokesperson, the respondent became the member of party's General and Executive Council as per bye law. The respondent addressed several meetings all over Tamil Nadu and election meetings, he participated in the leading TV channel debates, both in English and Tamil language and defended the party in these forums. The respondent used to give appropriate and relevant replies keeping up the image and the credibility of the party. He was seen as the party's face by the party cadre and the public. By his appropriate and timely answers, his image got enhanced among one and all. During the debates, he used to explain about the views, ideology, schemes and welfare done to the public by the party and his contribution to the leaders as well as the party in general was enormous during 2021 Assembly elections. In appreciation of the respondent's hardwork, the Coordinator and the Joint Coordinator appointed him as Joint Secretary of AIADMK party's, Puratchi Thalaivi Amma Peravai on 13.02.2021. He was one of the star campaigner for the AIADMK party. The respondent took part in the party's Executive Committee Council meeting held on 28.09.2020 at its headquarters, further



Crl.O.P.Nos.15123 & 15124 of 2021

participated in the party's Executive and General Council Meeting held on 09.01.2021 at Vanagaram. The invitations for the meeting was sent to him by both the Coordinator and the Joint Coordinator. After the general election results on 14.06.2021, MLAs meeting was held at headquarters of the party wherein the opposition leader, Deputy opposition Leader and other office bearers for the Legislative Assembly was elected. It was a meeting for only MLAs and not a general or party executive meeting. Hence there was no scope for taking disciplinary action against any member in the said meeting, however after the closure of the said meeting, the petitioners herein being the Party's Coordinator and the Joint Coordinator suddenly announced that they expel the respondent from all postings and also from the primary membership of the party.

14.The learned counsel for the respondent further submitted that the expulsion notice contain baseless false allegations against the respondent, further directed the party cadre not to interact with the respondent with regard to any matter hereafter. The respondent was surprised to see in the expulsion notice that charges levelled were vague, baseless, further it was



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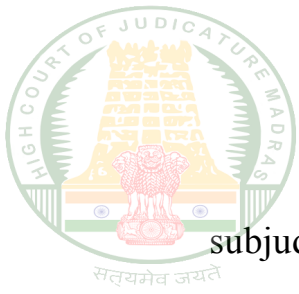
also with imputations spoiling the reputation and growth in the respondent's political career. In the letter there is nothing to show as to how and in what manner the respondent acted against the party and what are the incidents or actions, warranted extreme step of expelling the respondent. The respondent had not conducted any misconduct, disrepute and defamed the party in any manner and never acted against the rules and regulations of the party. The Coordinator and the Joint Coordinator has not sent any show cause notice, held any formal enquiry to prove the charges made against the respondent as required under Rule 35 of the bye laws. The news of the respondent's expulsion from the party reached all over India and abroad, it reached every nook and corner of the State of Tamil Nadu, thereby causing great damage to the respondent's reputation. The respondent received several phone calls from all over India, foreign countries including his relatives, friends, party cadres and public who witnessed the TV, media and newspapers ridiculing and disparaging the respondent's name in the public. The news of expulsion proliferated damage to the respondent's reputation extensively. Further the directives issued to the party cadres and publishing the same to the general public not to interact with him in any manner as though the respondent is a



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criminal or an untouchable person, shows the height of great insult a person can be put to. The 1½ Crores party members of the AIADMK, his friends, public, relatives, acquaintance in the State of Tamil Nadu and Southern States were shunning the respondent believing the version of the petitioners as true, thereby the petitioners succeeded in tarnishing his image. The expulsion notice is *per se* defamatory made with a malafide and criminal intention and thus the petitioners committed the offence under Sections 499 and 50 IPC. In the expulsion notice, there is no specific instance or allegation amounting to violation of policy, objectives or dignity of the party. The points raised by the petitioners are matter of facts.

15.The earlier expulsion notice dated 25.12.2017 was almost one year after the respondent joining the other group and under such circumstances the respondent did not pursue the issue. The respondent was very much with the petitioner/Coordinator even before the MLA meeting on 14.06.2021 and there was no indication as to the proposed expulsion against the respondent. The power and right vested with the Coordinator and the Joint Coordinator by amending the bye laws of the party is challenged and it is



subjudged. The petitioners cannot blindly expel any member or office bearer from the primary membership of the party arbitrarily without affording an opportunity to know or get explanation on the allegations levelled against them. The principles of natural justice cannot be overlooked or controvert in any democratic society and in such circumstances, the exemptions provided under Section 499 IPC would not come to the rescue of the petitioners. The respondent was expelled in an undignified manner irrespective of whatever may be the reason.

16.The petitioners' contention that as per Rule 20-A the Coordinator and the Joint Coordinator of the party will be responsible for the entire administration of the party cannot escape from the responsibility in matter of circulating the expulsion letter with derogative remarks. The petitioners' contention that the grievance of the respondent in his removal from the party can be agitated only within the party and the same cannot be the subject matter of criminal complaint and the respondent projecting the civil dispute as criminal dispute is not acceptable on the above submissions. The petitioners cannot exercise their power and act whimsically and arbitrarily



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giving a go-by to the basic principles of natural justice. The letter of expulsion had a devastating effect on the respondent's reputation, for which the respondent approached the Trial Court by filing a complaint of defamation and the petitioners cannot blame the respondent for instituting the complaint of defamation in their personal capacity. The various contentions set out by the petitioners did not merit consideration. On the complaint filed by the respondent, the Trial Court after examining the respondent and yet another person, perused the materials, got satisfied and thereafter, taken the case on file against the petitioners. In fact the Trial Court analysed the evidence and thereafter, took the case on file against the petitioner, as regards another accused, A3/Mahalingam not inclined to issue summons. The respondent being a prospective candidate for contesting any general or other elections would suffer progression of his career and have a deep impact against him. The expulsion would spoil his political career. The petitioners' contention that in bonafideness and good faith the expulsion letter was issued are matter of facts which has to be decided during trial.

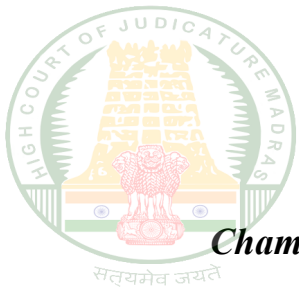
17.The learned counsel for the respondent further submitted that the petitioner was expelled from the party on 14.06.2021. On 19.07.2021, he





filed the complaint before the trial Court. The trial Court after recording the sworn statement of the petitioner and yet another witness K.Loganathan, considering the evidence and finding prima facie case is made out, had taken the case on file and issued summons to the petitioners. Though the complaint was filed against three persons, the trial Court on analyzing the materials and evidence, had taken cognizance only against two persons/petitioners, which would only reflect that the trial Court analyzed the evidence and applied its mind. The contention of the petitioners that the action of the petitioners would fall under exception (viii) of Section 499 IPC and they had taken action in good faith is a matter of fact which has to be decided during trial and not in a quash petition. Further, the petitioners ought to appear before the trial Court, follow the procedure under Section 251 Cr.P.C., and ought not to have filed quash petitions. The learned counsel for the respondent filed a typed set along with citations and counter in support of his submission.

18.The learned counsel for the respondent in support of his contentions relied upon the decision of the Apex Court in the case of



CrI.O.P.Nos.15123 & 15124 of 2021

***Chaman Lal vs. State of Punjab*** reported in ***1970 AIR 1372*** for the

proposition that once the publication of imputation is said to have been made for public good and claiming shield under the exceptions, the onus of proving the ingredients was on the person making such imputation which has to be necessarily considered during trial and not in a quash application.

19.Considering the rival submissions made and on perusal of the materials placed before this Court, it is not in dispute that the petitioners are the Coordinator and the Joint Coordinator, by the amendment to the party's bye law and insertion of Rule 20-A, the responsibility and authority of the Coordinator and the Joint Coordinator is enumerated. Further, under Rule 35(xii) they are empowered to take disciplinary action against the office bearers, members or any primary member of the party. The admission of member into the party is subject to Rule 5, wherein the members accept the aims and objectives, rules and regulations of the party and once they become the primary member and office bearer of the party, they are bound by the bye laws of the party. The petitioners have taken action against the respondent following the bye laws of the party. The decision taken



following the bye laws was communicated by way of expulsion letter signed

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by the petitioners as Coordinator and Joint Coordinator of the AIADMK

party. This expulsion letter was circulated both in print and visual media.

According to the respondent it was with imputation causing defamation, due

to which the respondent was called, questioned by his friends, relatives,

public and others from various places. Further, in the expulsion notice the

petitioners directed the party cadres and others not to have contact with the

respondent caused defamation. On perusal of the expulsion letter produced,

it is seen that the Former General Secretary and the Then Chief Minister

Selvi J.Jayalalitha when she was in the helm of affairs in the party, similar

format and similar wordings used while expelling the errant members and

office bearers of the party. Few notices of the year 2009, 2010, 2012 and

2015 were produced, perused all are identical. The expulsion letter of the

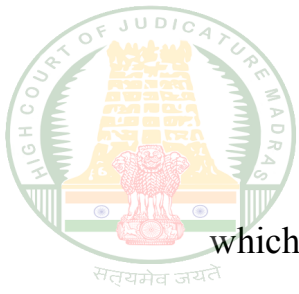
respondent dated 14.06.2021 are verbatim the same except for the name of

the General Secretary, it is issued in the name of the Coordinator and the

Joint Coordinator. It is also to be seen that earlier when the respondent was

expelled on 25.12.2017, the expulsion notice were with the identical

wordings. If the respondent got any grievance with regard to the manner in



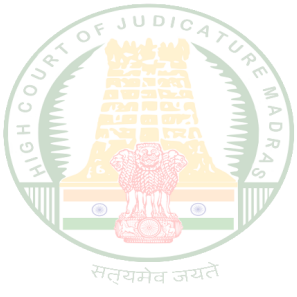
which he was expelled, his remedy lies elsewhere and not by filing the  
defamation case.

20. On perusal of the complaint, sworn statement of the respondent and one Loganathan, it is seen that the respondent emphasizes his long association with the party and he being entrusted with various responsibilities in the party, got split up and later joined the parent party. According to the respondent, the expulsion letter dated 14.06.2021, defamed him and he lost his name and respect in the eye of others. He states that his relatives are not in contact with him as before after circulation of expulsion letter, but there are no details, who are the relatives and for what reason why they are not in contact with the respondent, nothing to substantiate the same. It is contended by the respondent and he inferred that he was targeted, in a planned manner he was defamed, further the respondent did not commit any mistake, acted against the party's ideology, rules and regulations. He seems to be more hurt on directions issued to the party cadres not to have contact with him. These wordings are format words found in the earlier notices, not specific to the expulsion letter of the respondent. The statement of the said



Loganathan is that he knows the respondent for the past 20 years and he had respect and reverence for the respondent. On 14.06.2021, he watched the TV at that time he came to know about the expulsion of the respondent, immediately he called the respondent and confirmed the same. Since the said Loganathan was in touch with the respondent, Loganathan felt that he was defamed. The Trial Court reproduced the averments in the complaint while taking the case on file in which the letter of expulsion, is discussed at paragraph 13, as follows:

“13.However, after the announcement of the General Elections, the AIADMK called its MLAs Meeting at its Head Quarters on 14.06.2021, for electing the Opposition Office bearers of Tamil Nadu Assembly were announced. Simultaneously, the AIADMK Party's Coordinator Mr.O.Panneerselvam, the 2<sup>nd</sup> accused and the Joint Coordinator Mr.K.Palanisamy, the 1<sup>st</sup> accused herein, suddenly announced that the Complainant was expelled from the Posting and also from the Primary Membership of the AIADMK Party and circulated a letter, expelling him and the same had been spared to the Media and Public, at the instance of the 3<sup>rd</sup> accused. The operative portion of the said Letter of expulsion, in verbatim, is reproduced below:



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CrI.O.P.Nos.15123 & 15124 of 2021

“கழகத்தின் கொள்கை குறிக்கோள்களுக்கும், கோட்பாடுகளுக்கும் முரணான வகையில் செயல்பட்டதாலும் கழகத்தின் கண்ணியத்திற்கு மாசு ஏற்படும் வகையில் நடந்து கொண்டதாலும் கழக கட்டுபாட்டை மீறி கழகத்திற்கு களங்கமும், அவப்பெயரும் உண்டாகும் விதத்தில் செயல்பட்ட காரணத்தினாலும் திரு.வா.புகழேந்தி (கழக செய்தி தொடர்பாளர், கழக புரட்சித்தலைவி அம்மா பேரவை இணைச் செயலாளர்) இன்று முதல் கழகத்தின் அடிப்படை உறுப்பினர் பொறுப்பு உட்பட அனைத்து பொறுப்புகளில் இருந்தும் நீக்கி வைக்கப்படுகிறார். கழக உடன் பிறப்புகள் யாரும் இவருடன் எந்த தொடர்பும் வைத்துக்கொள்ள கூடாது என கேட்டுக்கொள்கிறோம்.....”

21.The Trial Court further held that in order to find out whether the imputation attract the penal provision of Section 499 IPC, judicial enquiry is necessary and the allegations cannot be discarded at the threshold. Further observed that the complaint and sworn statement does not make out any case to proceed against A3 and took the case on file only against the petitioners. The Trial Court is not sure and hence, observed judicial enquiry is necessary to find out whether imputation attract penal provision under



CrI.O.P.Nos.15123 & 15124 of 2021

Section 499 IPC. Thus even before coming to satisfaction, summons issued.

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22.Thus, from the complaint, sworn statement and the materials produced, this Court finds that the wordings in the expulsion notice is a routine one which is verbatim repeated for years except, earlier expulsion notice was in the name of General Secretary, after amendments in the bye laws of the Party, presently the expulsion notice issued in the name of Coordinator and Joint Coordinator, with the name of the noticee, the errant party member, in all other aspects they are identical one and the same. Even the respondent on an earlier occasion when he was expelled on 25.12.2017, similar notice was issued. The respondent's primary grievance appears to be that the petitioners not followed the rules and regulations of the party, not issued any show cause notice calling for explanation, failed to follow the principles of natural justice and expelled the respondent from the primary membership of the party without any valid reason, for this grievance his remedy and answer lies elsewhere and not by filing a defamation case. The other grievance seems to be directing the party cadres not to have any contact with the respondent which had greatly affected his reputation and he



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had been defamed. The expulsion letter does not contain any imputation of such nature. Further as per Explanation (4) of Section 499 IPC, the imputation must directly or indirectly in estimation of others should lower the moral or intellectual character of that person or lower the credit of that person. In this case, there is no material to show in the complaint or in the sworn statement that who are the others who questioned the respondent and thereby, he was defamed. The petitioners being Coordinator and Joint Coordinator have lawful authority to take disciplinary action against all in the AIADMK party. The disciplinary action taken informed to its members through the media is a usual practice. The wordings in the expulsion letter are identical and same, which was issued earlier and the same is followed with regard to the respondent. Thus, looking the case in any angle, this Court finds that there is no material or reason to proceed against the petitioners, further continuation of proceeding is nothing but abuse of process of law.

23.In view of the above, the proceedings in C.C.No.29 of 2021 pending against the petitioners on the file of Additional Special Court for





Crl.O.P.Nos.15123 & 15124 of 2021

Trial of Criminal Cases related to Elected Members of Parliament and

Members of Legislative Assembly of Tamil Nadu, Chennai is hereby

quashed. The petitions are allowed, accordingly. Consequently, the

connected miscellaneous petitions are closed.

31.03.2022

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

*vv2/cse*

To

The Additional Special Court for Trial of Criminal Cases  
related to Elected Members of Parliament and Members of Legislative  
Assembly of Tamil Nadu,  
Chennai.



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CrI.O.P.Nos.15123 & 15124 of 2021

M.NIRMAL KUMAR, J.  
vv2/cse

PRE-DELIVERY ORDER IN  
CrI.O.P.Nos.15123 & 15124 of 2021

31.03.2022