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Misuse of Criminal Defamation Law: Madras HC

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Why in News

Recently, the **Madras High Court** has held that public servants and constitutional functionaries cannot be allowed to **misuse the law of criminal defamation** by using the State as a tool to initiate defamation proceedings against adversaries.

Key Points

- **Quashed Cases:**
 - The HC **quashed criminal defamation proceedings** launched by the **Madras state government against a host of media houses and journalists**, during Jayalalithaa's tenure as Chief Minister in 2012 and 2013.
 - It was cleared out that the publications in the newspapers were **factual news** and the **quoted statements** of the politicians.
 - There was **no criminal defamation** in the case as the newspapers had not made any personal imputation against anyone.
 - However, some media houses **can be prosecuted** by the aggrieved, in their **individual capacity**, before a **Judicial Magistrate** under **Section 199 (6) of Code of Criminal Procedure** but **not before a Sessions Court** since no defamation against the State had been made out.

- **Observations of the Judgement:**

- **For States:**

- They cannot use criminal defamation cases to throttle democracy.
- Public servants and constitutional functionaries **must be able to face criticism** since they owed a solemn duty to the people.
- States should **act as a parent of all its citizens** when it comes to the invocation of the law of defamation and **laws cannot be misused by using the State as a tool** to settle personal adversaries.
- An individual or a public servant/constitutional functionary can be impulsive but not the **State which will have to show utmost restraint and maturity** in filing criminal defamation cases.

- **For Public Prosecutors:**

- They should **apply their mind independently** before filing criminal defamation cases on behalf of the State and launching prosecutions.
- They should **not exhibit blind eagerness to grasp a conviction** and should conduct a case with utmost fairness.

- **For Trial Courts:**

They should **rely on materials available on record** and issue summons to the accused only if they were satisfied that the ingredients required for taking cognisance of a criminal defamation complaint against the State had been made out.

- **For Newspapers and Media Houses:**

- The role of a newspaper is **only to publish news as it had happened**.
- If political personalities or constitutional functionaries disagree with the information provided, they **can refute** the allegations by a counter-press statement.

Defamation

- In India, **defamation** can both be a **civil wrong** and a **criminal offence**.
 - The **difference** between the two lies in the **objects they seek to achieve**.
 - A civil wrong tends to provide for a **redressal of wrongs by awarding compensation** and a criminal law seeks to **punish a wrongdoer and send a message** to others not to commit such acts.
- In Indian laws, **criminal defamation** has been specifically defined as an offence under the **section 499 of the Indian Penal Code** (IPC) whereas the **civil defamation is based on tort law** (an area of law which does not rely on statutes to define wrongs but takes from ever-increasing body of case laws to define what would constitute a wrong).

- Section 499 states defamation could be **through words**, spoken or intended to be read, **through signs**, and also **through visible representations**.
These can either be published or spoken about a person with the intention of damaging the reputation of that person, or with the knowledge or reason to believe that the imputation will harm his reputation.
- **Section 499 also cites exceptions.** These include **“imputation of truth”** which is required for the “public good” and thus has to be published, on the public conduct of government officials, the conduct of any person touching any public question and merits of the public performance.
- **Section 500 of IPC**, which is on **punishment for defamation**, reads, “Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”
- Moreover, in a **criminal case**, defamation has to be **established beyond reasonable doubt** but in a **civil defamation suit**, damages can be awarded **based on probabilities**.
- The **Supreme Court of India**, in the ***Subramanian Swamy vs Union of India, 2014***, **upheld the constitutional validity** of the criminal defamation law.

Source: TH