

## BATTING FOR FREE SPEECH: ON FILING OF DEFAMATION CASES AGAINST PRESS

**Reckless filing of criminal defamation cases against the press must end**

A feature of public life in Tamil Nadu in the last three decades has been the indiscriminate institution of criminal defamation proceedings against Opposition leaders and the media. It is no surprise, then, that the most comprehensive judgment on the limits of the State's power to prosecute members of the press for defamation should come from the Madras High Court. The verdict of Justice Abdul Quddhose, quashing a series of defamation complaints filed since 2011-12, is remarkable for applying a set of principles that would firmly deter the hasty and ill-advised resort to State-funded prosecution on behalf of public servants. The first principle is that the State should not impulsively invoke provisions in the CrPC to get its public prosecutor to file defamation complaints in response to every report that contains criticism. The court deems such impulsive actions as amounting to throttling democracy. It advises the government to have a higher threshold for invoking defamation provisions. It notes that each time a public servant feels defamed by a press report, it does not automatically give rise to a cause for asking the public prosecutor to initiate proceedings on her behalf. The statutory distinction between defaming a public servant as a person and as the State itself being defamed has to be maintained.

Justice Quddhose goes on to fault the government for according sanction to the initiation of cases through the prosecutors without explaining how the State has been defamed. He cautions prosecutors against acting like a post office, noting that their role is to scrutinise the material independently to see if the offence has been made out, and if so, whether it relates to a public servant's conduct in the course of discharging official functions or not before filing a complaint. So, the court finds that many were cases in which public servants ought to have filed individual cases. An earlier Madras High Court ruling noted that an essential ingredient of criminal defamation must be that an imputation was actuated by malice, or with reckless disregard for the truth. A recent judgment by Justice G.R. Swaminathan enunciated what is known in the United States as the 'Sullivan' rule of 'actual malice'. While quashing a private complaint against a journalist and a newspaper, the judge said two of the exceptions to defamation given in Section 499 pertained to 'public conduct of public servants' and 'conduct of any person on any public question'. This implied that the legislature itself believed that unless it is demonstrated that reporting on a public servant's conduct or on a public question was vitiated by malice, the question of defamation does not arise and that even inaccuracies in reporting need not occasion a prosecution for defamation. Within a matter of days, the HC has struck two blows for free speech and press freedom.

### Meanings of Difficult Words :

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| <ul style="list-style-type: none"> <li>❖ <b>bat</b> (verb) – support.</li> <li>❖ <b>defamation</b> (noun) – character assassination, libel, misrepresentation, scandal mongering, malicious gossip.</li> <li>❖ <b>reckless</b> (adjective) – careless, thoughtless, irresponsible, ill-advised.</li> <li>❖ <b>feature</b> (adjective) – quality, aspect, factor.</li> <li>❖ <b>decade</b> (noun) – a period of ten years.</li> <li>❖ <b>indiscriminate</b> (adjective) – thoughtless, careless, unmethodical.</li> </ul> | <ul style="list-style-type: none"> <li>❖ <b>institution</b> (noun) – initiation, commencement, starting/beginning; procedure, practice, phenomenon, habit.</li> <li>❖ <b>proceedings</b> (noun) – legal action, prosecution.</li> <li>❖ <b>it is no surprise</b> (phrase) – as expected, as anticipated, as predicted.</li> <li>❖ <b>comprehensive</b> (adjective) – all-inclusive, complete, thorough &amp; detailed.</li> <li>❖ <b>prosecute</b> (verb) – institute legal action against, charge with, sue, accuse of.</li> <li>❖ <b>quash</b> (verb) – cancel, reverse, repeal.</li> </ul> |
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- ❖ **remarkable** (adjective) – phenomenal, exceptional, extraordinary.
- ❖ **deter** (verb) – prevent, stop, obstruct; discourage.
- ❖ **hasty** (adjective) – rash, reckless, impulsive.
- ❖ **ill-advised** (adjective) – ill-considered, ill-judged, misguided, badly planned.
- ❖ **resort** (noun) – recourse to, turning to, the use of, utilizing.
- ❖ **state-funded** (adjective) – (of money) provided by the government.
- ❖ **impulsively** (adverb) – emotionally, spontaneously, suddenly, rashly/recklessly.
- ❖ **invoke** (verb) – cite, refer to, adduce.
- ❖ **provision** (noun) – term, clause, requirement/condition.
- ❖ **Code of Criminal Procedure (crPC)** (noun) – The Code of Criminal Procedure (in India). The main legislation on procedure for administration of substantive criminal law in India.
- ❖ **prosecutor** (noun) – a lawyer who presents the government's case against someone accused of a crime.
- ❖ **deem** (verb) – regard as, consider; view as.
- ❖ **amount to** (verb) – be regarded as, be equivalent to, be tantamount to.
- ❖ **throttle** (verb) – suppress, control/restrict, stifle.
- ❖ **threshold** (noun) – lower limit, starting point, the level (to react to something).
- ❖ **defame** (verb) – discredit, tarnish, insult.
- ❖ **give rise to** (phrase) – cause, bring about, result in.
- ❖ **cause** (noun) – reason, grounds, basis, motive.
- ❖ **statutory** (adjective) – legitimate, acceptable, permissible/admissible.
- ❖ **distinction** (noun) – difference, variation, contrast, dissimilarity.
- ❖ **go on** (phrasal verb) – talk at length, carry on talking (angrily).
- ❖ **fault** (verb) – find fault with, criticize, attack, complain about.
- ❖ **accord** (verb) – give, grant, confer on.
- ❖ **sanction** (noun) – permission, approval, consent (official).
- ❖ **scrutinise** (verb) – examine carefully, inspect; investigate.
- ❖ **offence** (noun) – an illegal act, crime, misconduct/wrongdoing.
- ❖ **make out** (phrasal verb) – devise, frame, formulate, prepare.
- ❖ **conduct** (noun) – performance.
- ❖ **in the course of** (phrase) – during (the particular period/activity).
- ❖ **discharge** (verb) – carry out, perform, conduct (a duty).
- ❖ **ought to** (modal verb) – must, should.
- ❖ **ingredient** (noun) – element, part, component.
- ❖ **imputation** (noun) – accusation, allegation, insinuation, charge.
- ❖ **actuate** (verb) – motivate, prompt, initiate, trigger.
- ❖ **malice** (noun) – ill will, hostility, hatred, evil intentions.
- ❖ **disregard** (noun) – indifference, neglect, negligence, lack of attention.
- ❖ **enunciate** (verb) – pronounce, articulate; express/state.
- ❖ **Sullivan rule** (noun) – 1964 landmark freedom of the press case *New York Times v. Sullivan*. The Court held that the First Amendment (of the U.S. Constitution) protects newspapers even when they print false statements, as long as the newspapers did not act with “actual malice.” In a unanimous decision, the United States Supreme Court ruled in favour of the *New York Times*. In order to prove libel (defamation), a “public official” must show that the newspaper acted “with ‘actual malice’—that is, with knowledge that it was false or with reckless disregard” for truth.
- ❖ **pertain to** (verb) – concern, relate to, be connected with.
- ❖ **imply** (verb) – say indirectly, suggest, hint.
- ❖ **legislature** (noun) – legislative body, governing body, executive, government.
- ❖ **vitiate** (verb) – destroy, impair, eliminate, quash.
- ❖ **inaccuracy** (noun) – mistake, miscalculation, fault.
- ❖ **occasion** (verb) – cause, give rise to, bring about, result in.
- ❖ **strike a blow for** (phrase) – do something to support for.

# THE COMMON FACTOR: ON CHINA IN U.S. POLITICS

**China is now a dominant subject in U.S. politics as the election draws closer**

President Donald Trump is entering deeper into a political quagmire on three related fronts: America's death toll from COVID-19 is perilously close to the psychologically important mark of 100,000; the economy looks to be on the verge of slipping into a deep recession, if not outright depression, in the wake of the pandemic impact across sectors; and his management of both the crises is facing acerbic criticism from Democrats even as the 2020 U.S. presidential election draws closer. There is one factor that links all three political hazards he is facing — China. On the pandemic front, Mr. Trump has regularly tweeted to the effect that the novel coronavirus ought to be called the "China virus" and his top officials including Secretary of State Mike Pompeo have made unsubstantiated suggestions that the virus may have leaked out of a Wuhan laboratory. While Mr. Trump appeared relatively more mollified after a call with Chinese President Xi Jinping in late March, he reverted to name-calling a few weeks thereafter. Beijing meanwhile has concerted a campaign around the message that the virus — contrary to any publicly verified evidence — originated outside China. On the economic front, the savage trade war that roiled global markets through most of 2019 appeared to be near a resolution when Washington and Beijing inked the 'phase one' pact for lower tariffs and trade concessions this January. The pandemic appears to have set that process back considerably: neither side will be in the mood to make concessions given that tens of millions of jobs have been lost in the U.S. and China is far from an economic recovery.

It is however the third factor, the presidential poll in November, that could most significantly alter the landscape of conflict-ridden bilateral ties. Presumptive Democratic nominee and former Vice President Joe Biden has for several months launched scathing attacks on Mr. Trump's bungling in the early phases of viral transmission, including repeated messaging that the President was slow to respond to warning signs from Wuhan and reluctant to lock down the U.S. to enforce physical distancing. Pro-Trump campaign organisations have in turn taken to labelling Mr. Biden, "Beijing Biden", which gives Democrats the tough choice of either attacking or defending China. If Mr. Biden does either, he will open himself up to political attacks. There is, however, a third way. If he steps back from the brink of what some analysts are describing as the potential "New Cold War", based on the understanding that neither side would stand to gain from the cumulative tally of economic and geopolitical conflict, he may not only avert a torrid clash between the two nations, but in the process he might win over economically insecure, independent and undecided voters across the U.S., who are decisively important to secure an election victory. Not only the U.S. and China, but the world at large, might stand to gain if he did that.

## Meanings of Difficult Words :

- ❖ **dominant** (noun) – main, most important.
- ❖ **draw closer** (phrase) – approaching, nearing (in time).
- ❖ **quagmire** (noun) – unfortunate situation, muddle, mix-up.
- ❖ **front** (noun) – a particular situation.
- ❖ **perilously** (adverb) – dangerously, unsafely; precariously, insecurely.
- ❖ **on the verge of** (phrase) – on the brink of, on the edge of a situation; at a crucial or critical point.
- ❖ **recession** (noun) – economic decline, downturn, slump.
- ❖ **outright** (adjective) – complete, entire, total, full.
- ❖ **depression** (noun) – slump, decline, downturn.
- ❖ **in the wake of** (phrase) – as a result of, in the aftermath of, as a consequence of.
- ❖ **acerbic** (adjective) – sharp, harsh, severe, scathing, stinging.
- ❖ **hazard** (noun) – danger, threat, risk.
- ❖ **ought to** (modal verb) – must, should.
- ❖ **unsubstantiated** (adjective) – unverified, unconfirmed, unproven.
- ❖ **relatively** (adverb) – comparatively, to a certain extent, somewhat.

- ❖ **slip** (verb) – fall, drop, slide.
- ❖ **mollify** (verb) – calm down, pacify, appease/mitigate.
- ❖ **revert to** (verb) – return, go back, change back.
- ❖ **name-calling** (noun) – insults, curses, jibes, abusive language.
- ❖ **thereafter** (adverb) – after that, subsequently.
- ❖ **meanwhile** (adverb) – for now, for the present, meantime.
- ❖ **concertedly** (adverb) – vigorously, strongly, forcefully.
- ❖ **push around** (phrasal verb) – keep telling/saying something in an unfair way.
- ❖ **campaign** (noun) – a set of organized actions to achieve an ambition; drive/effort, movement.
- ❖ **contrary to** (phrase) – conflicting with.
- ❖ **savage** (adjective) – vicious, hostile; terrible, awful.
- ❖ **trade war/dispute** (noun) – a condition in which a country increase tariffs on foreign goods and impose quota restrictions to restrict other countries' trade.
- ❖ **roil** (verb) – disturb, upset, annoy, irritate.
- ❖ **ink** (verb) – sign (a deal, agreement, pact or contract).
- ❖ **set back** (phrasal verb) – delay, hold back, slow down, decelerate.
- ❖ **considerably** (adverb) – greatly, very much, significantly.
- ❖ **far from** (phrase) – not, not at all, nowhere near.
- ❖ **landscape** (noun) – the distinctive features of a field of activity.
- ❖ **conflict-ridden** (adjective) – dominated/divided by conflict.
- ❖ **bilateral** (adjective) – involving two groups or countries.
- ❖ **presumptive nominee** (noun) – In United States presidential elections, the presumptive nominee is a presidential candidate who is assumed to be their party's nominee, but has not yet been formally nominated or elected by their political party at the party's nominating convention.
- ❖ **scathing** (adjective) – scornful, severely critical, nasty/harsh, bitterly severe (in criticizing someone).
- ❖ **bungling** (noun) – mismanagement, mishandling, messing up, incompetency.
- ❖ **reluctant** (adjective) – unwilling, disinclined, unenthusiastic.
- ❖ **lockdown** (noun) – an emergency protocol implemented by the authorities that prevents people from leaving from a place; An extended state of confinement/encirclement/ isolation of a person by the authority.
- ❖ **social/physical distancing** (noun) – a term means actively avoiding crowded public places, is a key element in decreasing the rapid spread of COVID-19. This is an effort intended to limit exposure by reducing face-to-face contact and preventing spread among people in community settings.
- ❖ **take to** (phrasal verb) – resort to, turn to, have recourse to, start.
- ❖ **label** (verb) – nickname, call.
- ❖ **open (someone/oneself) up** (phrasal verb) – expose to, make vulnerable to.
- ❖ **step back** (phrasal verb) – withdraw, disengage, pull out/pull back.
- ❖ **brink** (noun) – edge/verge/end (of something).
- ❖ **Cold War** (noun) – The Cold War was a state of political and military tension after World War II between powers in the Western Bloc and powers in the Eastern Bloc.
- ❖ **stand to** (phrasal verb) – be in a position, be ready.
- ❖ **cumulative** (adjective) – collective, aggregate, accruing, total.
- ❖ **geopolitical** (adjective) – relating to (the study of) the effects of geography (human and physical) on politics and international relations.
- ❖ **avert** (verb) – prevent, stop, avoid.
- ❖ **torrid** (adjective) – intense, inflamed, fervent.
- ❖ **win over** (phrasal verb) – persuade, convince, induce, sway.
- ❖ **decisively** (adverb) – conclusively, categorically, definitely.
- ❖ **at large** (phrase) – as a whole, generally.