

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: January 22, 2009

Date of Order: March 02, 2009

IA No.10367/2007 in CS(OS) 569/2006 02.03.2009

Prof. Imtiaz Ahmad ...Plaintiff

Through: Mr. Abhay N. Da, Advocate

Versus

Durdana Zamir ...Defendant

Through: Mr. Bahar U. Burai with Mr. Hanif Mohammad, Advocates

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

ORDER

IA No.10367/2007

1. This suit has been filed by the plaintiff for damages on account of defamation and for permanent injunction on the ground that defendant filed a complaint before the Crime Against Women (CAW) Cell allegedly making defamatory allegations against him. The plaintiff claimed damages to the tune of Rs.20 lac from the defendant.

2. The excerpts of the complaint, which, according to the plaintiff amounted to his defamation and entitled him to damages, are as follows:

"(i) On the issue of dowry, my husband's mother Jamila Begum, Nand (husband's sister Rakahanda), Second Nand (Rafia), my husband's Khala Hasina and second Khala Sabina and Khaloo Imtiaz Ahmad raised considerable noise (Hangama) and they were calm down by efforts of my relatives.

(ii) In my in-laws' house, my husband's Khala (Aunt) and Khaloo(uncle), who lives in JNU, Prof. Imtiaz Ahmad and his wife Sabina has considerable influence (dakhal).

(iii) You are requested to help me to see that there is no interference in my family affairs of my husband's aunt and uncle who live in JNU".

3. It is contended by the plaintiff that plaintiff was a highly reputed person. He was a professor of Sociology at JNU. He was internationally known and was visiting professor in number of universities in USA, Canada, Italy and UK. He was a man of international academic standards and had taken part in number of national and international conferences and was a familiar voice on AIR, BBC, NDTV, ETV etc. He stated that he had no contact with the defendants family or with the family of her husband except that he had attended the marriage. At one point of time, the relations between defendant and her husband became estranged and she had come to his house accompanied by her father, mother and brother and asked him to interfere in the matter. However, since he was not willing to take any interest or intervene in the matter, he refused. He stated that on the basis of the complaint made by the defendant, an FIR No.611 under Sections 406,498A and 34 Indian Penal Code was registered by the police and he had to obtain anticipatory bail.

4. It is submitted by plaintiff that in the complaint made by defendant, he has been portrayed as a perpetrator of dowry demand and in his name Ansari CS (OS)569.06 Prof. Imtiaz Ahmad vs. Durdana Zamir has been deliberately added since Ansaris belong to lower community viz Julaha. He claimed that he was renowned social psychologist and because of the assertions made by the defendant in her complaint to CAW Cell and other authorities, his reputation received severe dent in academic circles and among his colleagues and also towards the mammoth work that he has done for the betterment of the society in general.

5. Defendant has made the instant application under Order 7 Rule 11 of CPC stating therein that the plaint does not disclose any cause of action and was liable to be dismissed. The claim of the plaintiff was based upon the facts stated in a complaint made by the defendant to lawful authorities regarding her grievance against her in-laws. The FIR lodged by her was under investigation and it has not been held by any Court that the allegations made by the complainant (defendant herein) were false.

6. During arguments, it was also submitted that even if the allegations are taken per se correct, no case for defamation of the plaintiff was made out from the averments made in the complaint. Learned counsel for the plaintiff, however, denied that the plaint does not disclose any cause of action and submitted that the allegations made in the complaint by the defendant has lowered the image of the plaintiff in the eyes of society.

7. Under law of defamation, the test of defamatory nature of a statement is its tendency to incite an adverse opinion or feeling of other persons towards the Plaintiff. A statement is to be judged by the standard of the ordinary, right-thinking members of the society at the relevant time. The words must have resulted in the Plaintiff to be shunned or evaded or CS (OS) 569.06 Prof. Imtiaz Ahmad vs. Durdana Zamir regarded with the feeling of hatred, contempt, ridicule, fear, dislike or dis- esteem or to convey an imputation to him or disparaging him or his office, profession, calling, trade or business. The defamation is a wrong done by a person to another's reputation. Since, it is considered that a man's reputation, in a way, is his property and reputation may be considered to be more valuable than any other form of property. Reputation of a man primarily and basically is the opinion of friends, relatives, acquaintance or general public about a man. It is his esteem in the eyes of others. The reputation spread by communication of thought and information from one to another. Where a person alleges that his reputation has been damaged, it only means he has been lowered in the eyes of right thinking persons of the society or his friends/relatives. It is not enough for a person to sue for words, which merely injure his feeling or cause annoyance to him. Injury to feeling of a man cannot be made a basis for claiming of damages on the ground of defamation. Thus, the words must be such, which prejudice a man's reputation and are so offensive so as to lower a man's dignity in the eyes of others. Insult in itself is not a cause of action for damages on the ground of defamation.

8. Where the words are used without giving impression of an oblique meaning but the Plaintiff pleads an innuendo, asking the Court to read the words in a manner in which the Plaintiff himself understands it, the Plaintiff has to lead that the libel was understood by the readers with the knowledge of subject or extensive facts as was being understood by the Plaintiff.

9. The plaintiff's submissions that adding of caste "Ansari" against his name was per se defamatory is very strange. The plaintiff claims to be the professor of sociology working for the betterment of the society. If a professor CS (OS) 569.06 Prof. Imtiaz Ahmad vs. Durdana Zamir of sociology has a notion and thought that "Ansari" was a caste of lower class since it represents "Julaha" community, I can only take pity upon such highly respected and qualified professors. Julaha means weavers. If those who weave clothes so that men may dress themselves, are of lower caste than those who get dressed and are ungrateful must be of much lower caste, even if they are professors. The allegations of the plaintiff, who is a professor, are painful. The Constitution of India does not recognize that caste of any person confers any superiority or inferiority on him vis-a-vis others. The Constitution only recognizes deprived classes under which Scheduled Castes or Scheduled Tribes fall and mandates positive action only to bring them at par with the other members of the society so that they are not discriminated by so-called high caste people. If a professor of sociology in our country has this standard of social betterment, then God help this society.

10. The other imputations made to the defendant are also not defamatory in nature. It is not the case of the plaintiff that he was not present at the marriage. It is the case of the plaintiff himself that he attended the marriage of the defendant. If it is stated that a Hungama was created by many from in-laws of the defendant, including the plaintiff, that does not mean that the defendant made defamatory imputations against the plaintiff or the defendant made a statement to cause an adverse opinion or hatred feelings of other persons towards the plaintiff. As has already been observed above the statements to be judged by the standard of an ordinary person. The alleged words must have resulted in the plaintiff to be shunned or evaded or inculcated a feeling of hatred and condemn. The plaintiff continues to be the professor in JNU and he continues to be a known voice at different TV Channels. It is not the case that people have abandoned him or boycotted him because CS (OS) 569.06 Prof. Imtiaz Ahmad vs. Durdana Zamir of this imputation. The plaintiff has not named a single person who had changed his opinion after filing of the complaint by the defendant.

11. Moreover, the defendant had a right to make complaints of her grievances to the authorities. Whenever a person makes a complaint against someone to the lawful authorities and in that complaint he makes imputations against the person complained of, it cannot be considered that the person has publicized or publicly made defamatory averments against a person. If a prosecution is initiated against the person on the basis of such averments and the person is acquitted holding that the complaint was false, then only a cause of action arises against the complainant for launching a case for false prosecution or for damages on other grounds. Until and unless a competent court holds that complaint was false, no cause of action arises. Approaching a competent authority and praying that the authority should come to the rescue of the complainant and prevent interference of the plaintiff in the family

affairs of the defendant cannot amount to a defamatory imputation per se and even if it is published, it does not tend to show that the defendant had intended to lower the reputation of the plaintiff.

12. In view of the foregoing facts and circumstances, I consider that the plaint, even if taken to be true, does not disclose any cause of action against the plaintiff. The suit of the plaintiff is liable to be dismissed and is hereby dismissed.

March 02, 2009

SHIV NARAYAN DHINGRA J. rd

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