

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1161/2007 & IAs 10647, 13220 & 8848/2007

DR. K.A. PAUL

..... Plaintiff

Through Dr. Surat Singh with
Ms. Pratibha Chopra &
Mr. Sudhanshu Palo, Advocates.

versus

K. NATWAR SINGH & ORS.

..... Defendants

Through Mr. Arvind K. Nigam, Sr. Advocate
with Mr. Samrat K. Nigam and
Mr. Sanjeev Mahajan, Advocates for D-1.
Mr. D. Ramakrishna Reddy, Advocate for D-2.
Mr. A.S. Chandhiok, Addl. Solicitor General of
India with Ms. Sweta Kakkad and
Mr. Varun Pathak, Advocate for D-3.

CORAM:

HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether reporters of the local newspapers

be allowed to see the judgment? Yes

2. To be referred to the Reporter or not ? Yes

3. Whether the judgment should be reported in the
Digest ? Yes

JUDGMENT

12.08.2009

IA Nos. 10647/2007, 13220/2007 & 8848/2007

1. These applications in Civil Suit, CS(OS) No.1161 of 2007 are by the Defendants. Defendants 1 and 3 have filed IA Nos. 10647 of 2007 and 13220 of 2007 respectively under Order VII Rule 11 CPC. Defendant No.2 has filed IA No.8848 of 2007 under Order I Rule 10(2) CPC. The prayer in the applications under Order VII Rule 11 CPC is for dismissal of the plaint. The prayer in the application IA 8848 of 2007 under Order I Rule 10(2) CPC is for discharging the summons issued to Defendant No.2.

2. The prayer in the suit is for the issuance of summons to the Defendants for defaming the Plaintiff and awarding exemplary compensation of not less than Rs.1 crore for the loss of reputation caused to the Plaintiff and the Plaintiff's charitable organizations.

3. According to the Plaintiff, he is a global peacemaker. In May 2005 he organised a global peace summit espoused the cause of India to be a permanent member of the U.N. Security Council. He claims that he launched a Global Peace Initiative and arranged to go on a global peace tour to five countries along with the former Prime Minister Mr. Deve Gowda. According to the Plaintiff, arrangements were made for the tour using the Plaintiff's own private aircraft. It is stated that on 3rd July 2005, Defendant No.1, Mr. K. Natwar Singh who was then the Union Minister of External Affairs, telephoned the former Prime Minister and made the following defamatory remarks about the Plaintiff thus lowering the Plaintiff's prestige and esteem in the eyes of not only the former Prime Minister but the leaders of five other countries:-

“What an honourable person like you is doing with this evangelist who in the name of Global Peace Mission is using you for his own interest. Please do not dishonour yourself by associating yourself with him”.

4. According to the Plaintiff, the Defendant No.1 again called the former Prime Minister on 4th July 2005 advising him not to associate himself with the peace mission and repeated his low opinion of the Plaintiff. The Plaintiff claims that the defamatory remarks not only caused a loss of reputation to him in the leaders of the five countries but also a financial

loss.

5. In para 8 of the Plaintiff it is stated that the peace mission of five countries was to take place between 5th and 15th July 2005. Those leaders of the countries thereafter did not show any willingness to meet the Plaintiff when he visited their countries later. He came to know that that this was on account of the intervention by the External Affairs Ministry which made calls to the leaders of the five countries on 3rd and 4th July 2005 persuading them not to entertain the peace delegation. The alleged monetary loss suffered by the Plaintiff and his organization as a result of the above calls are set out in para 9 of the plaint.

6. The Plaintiff then states that he had planned the inaugural of a center named – Gandhi – Martin King – Paul Center in Hyderabad on 26th and 27th May 2007. This was to be dedicated to the promotion of peace and non-violence. An invitation was sent to Mr. Y. Rajasekhara Reddy, the Chief Minister of Andhra Pradesh, Defendant No.2. It is stated that a copy of the invitation was also sent to Mrs. Sonia Gandhi and Mr. Hugo Chavez, the President of Venezuela. According to the Plaintiff, when these facts came to the notice of the Defendant No.3 Mr. Pranab Mukharjee he is supposed to have called Defendant No.2 and reprimanded him thus:-

“How come you are inviting President of a country without prior permission of foreign country? Are you doing the job of a Chief Minister or Prime Minister? And who is this joker Dr. Paul who is inviting President of this country and that country? Disassociate yourself from Dr. Paul if you want to have good

relationship with the top leadership. Remember George Bush is our friend and this joker is against Bush. Stop all your support to this fellow. I am advising you in your own interest”.

7. It is stated that thereafter Defendant No.2 disassociated himself from the Center. According to the Plaintiff, the defamatory remarks made by Defendant No.3 to Defendant No.2 on 16th March 2007 also resulted in the loss of the reputation and income to the Plaintiff. In America alone, donations to the tune of US\$ 100 million did not materialize. According to the Plaintiff, this in turn resulted in thousands of widows and orphans suffering because the charitable institutions run by the Plaintiff were deprived of funds.

8. The cause of action set out in the plaint reads as under:-

“That the cause of action for filing the present suit arose on 3rd – 4th July, 2005 when defendant No.1 called the Former Prime Minister of India with Mr. Deve Gowda and made defamatory remarks about the plaintiff and made defamatory remarks about the plaintiff and persuaded Mr.Deve Gowda not to associate with the plaintiff or his organization. The cause of action further arose in the month of July 2005 when top leaders of five countries of the world where plaintiff earlier received red carpet welcome was not welcomed at all and the very leaders who were so warm and cordial to him started shunning and avoiding him. The cause of action also arose on 18th July 2005 when US Administrations ordered the grounding of plaintiff’s aircraft causing grave loss to the plaintiff. The cause of action further arose when on 02.02.2007 when defendant No.1 confessed, in presence of several respected leaders

including Former US Presidential Candidate and Member of the US Congress Mr. Walter Fauntroy, that the defendant No.1 cancelled the global peace mission on the instructions of his senior party leaders. The cause of action further arose on 16th March 2007 when defendant No.3 made defamatory remarks about plaintiff to defendant No.2. It further arose on 26th May 2007 when the inauguration of Mahatma Gandhi – Martin Luther King – Paul Center could not be inaugurated because of defamatory actions and remarks of defendants 2 & 3.”

9. The submissions of Dr. Surat Singh, the learned counsel appearing for the Plaintiff, Mr. Arvind K. Nigam, the learned Senior Counsel, appearing for Defendant No.1, Mr. D. Rama Krishna Reddy, the learned Counsel appearing for Defendant No.2 and Mr. A.S. Chandhiok, the Additional Solicitor General of India appearing for Defendant No.3, have been considered. Dr. Surat Singh has also submitted a written note of his submissions.

10. Mr. Nigam submits that the allegation by the Plaintiff as far as Defendant No.1 is concerned, is that he made the defamatory remarks to the former Prime Minister on 3rd July 2005. The suit was filed only on 22nd June 2007. In terms of Article 76 of the Schedule I to the Limitation Act, 1963 (‘Act’), a suit claiming damages for slander had to be filed within one year of the event. He submits that present suit is accordingly barred by limitation.

11. Mr. Nigam further points out that the suit is bad for mis-joinder of

parties. The suit is based on two sets of allegedly defamatory remarks. The first made on 3rd July 2005 by the Defendant No.1 and the second made on 16th March 2007 by the Defendant No.3 to Defendant No.2. It is submitted that these constitute separate causes of action and are not part of the same act or transaction or series of acts. Therefore neither can the Defendant No.1 on the one hand and Defendants 2 and 3 on the other, be made parties to the same suit, but even the separate causes of action cannot be combined in one suit.

12. Supplementing the above submissions, Mr. Chandhiok, the learned ASG points out that thus as far as Defendants 2 and 3 are concerned, they were holders of public offices at the time the suit was filed. Defendant No.2 was at that time and continues to be the Chief Minister of Andhra Pradesh. Defendant No.3 was and is a Minister in the Union Cabinet. No suit could have been instituted against either of them until the expiration of two months after a notice in writing was delivered or left at the office of these Defendants in terms of Section 80(1) CPC. Relying on the decision in *State of Andhra Pradesh v. Pioneer Builders, A.P. AIR 2007 SC 113*, it is submitted that the suit vis-à-vis the Defendants 2 and 3 must fail. Mr. Reddy, appearing for the Defendant No.2, adopts the above submissions.

13. In reply Dr. Surat Singh refers to para 16 of the plaint and submits that the Plaintiff first came to know about the alleged defamatory remarks made on 3rd July 2005 only on 2nd February 2007 when Defendant No.1 himself volunteered information about his having made such defamatory remarks against the Plaintiff. He therefore submits that the period of limitation

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would begin to run only from that date. As regards the mis-joinder of parties, it is submitted that even if separate suits were brought against Defendants 2 and 3 that would in any event give rise to common questions of law or facts. Therefore, in terms of Order II Rule 3(1), the present suit is maintainable as such. It is submitted that in any event the alleged mis-joinder of causes of action cannot constitute a ground for rejection of plaint under Order VII Rule 11 CPC. As regards the prior notice under Section 80(1) CPC, it is submitted that the plaintiff had along with his plaint also filed an application, IA No. 7147 of 2007 seeking exemption from serving notice under Section 80(1) CPC on account of urgency. Inasmuch as the said application was pending, the suit should not be dismissed against the Defendants 2 and 3.

14. The above submissions have been considered. As regards the limitation for filing a suit claiming damages on account of the alleged defamatory statement made by the Defendant No.1 on 3rd July 2005, a reading of the plaint shows that the Plaintiff knew of the said defamatory statement around the time it was made. In para 8 of the plaint, it is stated that “On enquiry, plaintiff came to know that such cold and indifferent response of these leaders was because of intervention by foreign ministry of India where on July 3rd & 4th, 2005 foreign ministry office made calls to the leaders of these five countries to persuade them not to receive and entertain the peace delegation, comprising 25 members of parliament from all major political parties of India led by Former Prime Minister of India Mr. Deve Gowda and the plaintiff”. Thereafter in para 9, the Plaintiff has set out about the events that transpired soon thereafter, which according to him got cancelled

and resulted in the lowering of his prestige. These events are of 6th and 7th July 2005 and 18th July 2005. Then in para 19, it is stated “Being a peace loving person, the plaintiff took the above behavior of the defendant No.1 and even the resultant loss to his reputation and income in a serene manner and continued strenuously to work towards the promotion of global peace in general and promoting India’s moral leadership in the world in particular”.

15. What is significant is that the Plaintiff nowhere states that he came to know of the alleged defamatory statement made by the Defendant No.1 only on 2nd July 2007. Even in the cause of action paragraph extracted hereinbefore he only states that “cause of action **further** arose when on 02.02.2007 when defendant No.1 confessed, in presence of several respected leaders.....” Even here the Plaintiff does not state that he knew of the making of the alleged defamatory statement of 3rd July 2005 for the first time only on 2nd July 2007. A collective reading of all the above paragraphs belies the contention of the Plaintiff that he had no knowledge of the defamatory statement of 3rd July 2005 prior to 2nd July 2007. This appears to be a desperate attempt to somehow save limitation for making a claim against Defendant No. 1. This attempt should fail. This Court is therefore satisfied that as far as the Defendant No. 1 is concerned, the suit is barred by limitation, since it has not been filed within one year of the date of making of the alleged defamatory statement by Defendant No.1 in terms of Article 76 of Schedule I of the Act.

16. A reading of the plaint also shows that the incident of 16th March 2007

when the Defendant No.3 is alleged to have made defamatory remarks about the Plaintiff to Defendant No.2 indeed constitutes a separate cause of action. The attempt at joining two separate causes of action in one suit must fail in terms of Order II Rule 3 CPC. Under Order I Rule 3 CPC the Defendant No.1 and Defendants 2 to 3 can be joined in the same suit only if the relief is in respect of the same act or transaction or series of acts of transactions. In the considered view of the Court, the alleged defamatory statement made by the Defendant No.1 on 3rd July 2005 and the alleged defamatory statement made by Defendant No.3 to Defendant No.2 on 16th March 2007 did not arise out of the same act of transactions or series of acts of transactions. Consequently the suit is also bad for mis-joinder of Defendants 2 and 3 in the suit against Defendant No.1.

17. The suit against Defendants 2 and 3 should fail for yet another reason. Section 80(1) CPC makes it mandatory for prior notice to be issued before instituting a suit against any holder of a public office in his official capacity. Both Defendants 2 and 3 were at the relevant point of time holders of public offices. They continued to hold public offices at the time of filing the suit. Defendant No.2 is the Chief Minister of Andhra Pradesh and Defendant No.3 is the Minister in the Union Cabinet. Therefore, in terms of Section 80(1) CPC, prior notice was mandatory. The attempt by the Plaintiff by way of IA No.7147 of 2007 to overcome this by pleading urgency must fail. The grounds set out in the said application are entirely without merit. (see *State of Andhra Pradesh v. Pioneer Builders, A.P. AIR 2007 SC 113*)

18. For all of the aforementioned reasons, the suit also is not maintainable against Defendants 2 and 3.

19. Consequently the two applications, IA Nos. 10647 and 13220 of 2007 are accordingly allowed. For the aforementioned reasons, the summons issued to Defendant No. 2 stands discharged. IA No. 8848 of 2007 is accordingly allowed.

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20. In view of the orders passed in I.A. Nos. 10647, 13220 and 8848 of 2007, the suit is dismissed with costs. The other pending applications stand dismissed.

S. MURALIDHAR, J.

AUGUST 12, 2009
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