



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.01.2021

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THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

SA(MD)No.215 of 2015

M.Muthumuniandi .. Appellant/Respondent/Plaintiff

Vs.

1.CITU Labour Union,
Rep. Through its Convener
M.Sakthivel

2.M.Sakthivel

3.R.Muthumari

4.P.Shanthi

5.S.Janaki

6.K.Janaki

7.Govindhammal

8.R.Rajalatchumi .. Respondents/Appellants/Defendants

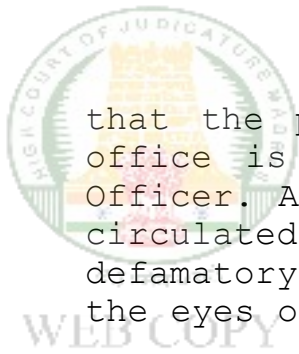
PRAYER:- Second Appeal filed under Section 100 of Civil Procedure Code against the Judgment and Decree dated 2.4.2013 in A.S.No.37 of 2012, on the file of the Sub Court, Virudhunagar, reversing the judgment and decree in O.S.No.183 of 2010 dated 6.10.2012 on the file of the District Munsif Court, Virudhunagar.

For Appellant : Mr.F.X.Eugene
For R3 to R8 : Mr.A.Hajamohideen
RR1 & RR2 : Dismissed for default
vide court order dated 18.02.2020

J U D G M E N T

The plaintiff in O.S.No.183 of 2010, who had succeeded in convincing the trial court to grant a decree for damages for defamation, upon the said decree being reversed by the appellate court in A.S.No.37 of 2012 has come up with this Second Appeal.

2. The case of the plaintiff was that the defendants, who belong to a rival labour union, made certain publications alleging certain irregularities on the part of the Child Development Service Committee of the Government of Mrs.S.Karpagam. While doing so, they had claimed



that the plaintiff who is working as a Junior Assistant in the office is also in collusion with the Child Development Project Officer. According to the plaintiff, a bit notice, which has been circulated in and around office, had resulted in publication of a defamatory allegations against him and lowering of his image in the eyes of the general public.

3. The suit was resisted by the defendants contending that there was no publication of the material said to be defamatory. According to the defendants, all that was circulated is an invitation to the members of CITU to participate in a protest being held against the activities of the Child Development Project Officer and the plaintiff who was a Junior Assistant in the said office. It is also contended that all the allegations were found to be true in an enquiry. The defendants submitted that the plaintiff has not made out that his image was lowered in the eyes of the general public because of the circulation of the bit notices and therefore, he is not entitled to a decree for damages.

4. At trial, the plaintiff was examined as P.W.1 one Subburaj, who is the owner of the printing press was examined as P.W.2 and one Rajendra Cholan, who was the Superintendent in the office of Melavaippar drainage scheme was examined as P.W.3. Exts.A1 to A6 were marked. The second defendant was examined as D.W.1 and one Alaguselvi and Govindammal were examined as D.Ws 2 and 3. Exts.B1 and B.2 were marked. The copies of the complaints and proceedings taken by the Department on such complaints were marked as Exts.X.1 to X12.

5. The trial court, upon consideration of the materials on record, concluded that the plaintiff has made out a case for defamation and decreed the suit. Aggrieved, the defendants preferred an appeal in A.S.No.37 of 2012. The appellate court however disagreed with the findings of the trial court and held that the plaintiff has not made out a case of defamation. On the said finding, the appellate court allowed the appeal and dismissed the suit. Hence, this Second Appeal.

6. The following questions of law were framed by this Court at the time of admission :

i) Whether the first Appellate Court is correct in giving a finding that the absence of specific denial under Order 8 Rule 5 C.P.C would not amount to admission of the pleadings in plaint?

ii) Whether the first Appellate Court is correct in saying that the plaintiff did not prove the facts when they are specifically admitted by the defendants in the pleadings as well as the evidence?



iii) Whether the first appellate court is correct in dismissing the suit, when the publications of defendants' statement, reached the third parties, by defaming the reputation of plaintiff?

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iv) Whether the Government servants/defendants could be in the Labour Union, affiliated to political parties and formed the union is against civil service code of Government servants?

7. I have heard Mr.F.X.Eugene, learned counsel appearing for the appellants. Mr.A.Hajamohideen Learned counsel appearing for the respondents 3 to 8.

8. As could be seen from the cause list, the first respondent is a Labour Union represented by its Convener Mr.M.Sakthivel. Mr.M.Sakthivel has been shown as the second respondent. It is stated at the bar that the second respondent is no more. Therefore, the appeal against the second respondent has abated. Being the suit for defamation, there is no question of legal representatives being brought on record.

9. Mr.F.X.Eugene, learned counsel appearing for the appellant elaborating on the questions of law would contend that the defendants had admitted the fact that they had made those publications and therefore, the appellate court was not right in concluding that the plaintiff has not proved the case of defamation. He would also submit that unless there is a specific denial of claim made in the plaint, it is deemed to have been admitted under Order 8 Rule 4 C.P.C. He would further submit that once an enquiry has been launched based on the complaint made by the defendants and others, it is automatic that the reputation of the plaintiff is lowered in the eyes of public.

10. Contending contra, Mr.A.Hajamohideen, learned counsel appearing for the respondents 3 to 8 submitted that in order to entail the plaintiff to damages for defamation the plaintiff must prove that there was publication of defamatory material and as a result of such publication, the image of the plaintiff or the reputation of the plaintiff is lowered in the eyes of the third parties/general public. Pointing out that there is total absence of evidence as the second limb i.e damage suffered by the plaintiff because of such publication, the appellate court was right in dismissing the suit.

11. I have considered the submissions of the learned counsel on either side.



12. As far as the first question of law is concerned, it is based on a principle of law that unless there is a clear and specific denial, the allegations in the plaint are deemed to be admitted. All that is admitted in the present case is that they had made certain complaints against the plaintiff to the concerned officers and they had arranged for a protest meeting in order to attract the attention of the officers to their grievances. There is no admission of the claim of the plaintiff that the publication itself has resulted severe damage to his reputation among the general public. Even assuming that the defendants had not denied the publication, in the absence of evidence as to loss of reputation there cannot be a decree for damages on the ground of defamation. Hence, the first question of law is answered against the appellant.

13. The second question of law will also have to be answered against the appellant as it also requires proof. As already pointed out, there is no evidence on the side of the plaintiff to the effect that the image of the plaintiff was lowered on the eyes of the public because of the publication made. The learned counsel for the appellant attempted to contend that the requirements of law is satisfied because of Ex.X.1 to X.12. Exts.X1 to X.12 are various complaints made against the plaintiff and the other officer who was in-charge of the Child Development Project Office at Rajapalayam. There are also certain proceedings of the superiors of the plaintiff on the action taken against the plaintiff on those complaints. The complaints to the Superiors and action being taken by the Superior Officer cannot be a ground for grant of damages for defamation. It is also claimed that some of those complaints are not made by the defendants but by others.

14. The third question of law are the requirements of proof of damage to reputation. As I already pointed out, mere publication cannot give cause of action for the person to sue for defamation. It should be proved that publication caused damage to the reputation of the plaintiff. Unless such evidence is available, the plaintiff cannot be stated to have satisfied the requirements of law entailing him for damages that too for defamation.

15. Fourth question of law does not arise at all on the given facts and circumstances of the case. It relates to the practice of the labour unions being affiliated to political parties. That question never arose in the present case. I am of the considered view that the fourth question of law is not germane and it does not arise in this appeal.



16. In view of the answers to the questions of law 1 to 3, this appeal is dismissed. No costs.

Sd/-

Assistant Registrar(AD-II)

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Sub Assistant Registrar(CS)

CM

To:

- 1.The Sub Court, Virudhunagar,
- 2.The District Munsif Court, Virudhunagar.
- 3.The Section Officer VR Section,
Madurai Bench of Madras High Court,
Madurai(2 copies).

+1 CC to M/s.F.X.EUGENE, Advocate (SR-2218[F] dated 27/01/2021)

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25.01.2021

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