

**IN THE COURT OF MS. RAVINDER BEDI  
ADJ-02 (SHAHDARA), KARKARDOOMA COURTS,  
DELHI**

CS No. 1150/2016

CNR No. DLSH01-000910-2014

Sh. Atma Ram

S/o Sh. Mahendra Singh,

T-9/702, Parsvnath Regalia,

149 G.T. Road, Sahibabad, Ghaziabad, UP

.....Plaintiff

Versus

The Editor

Tahirpur Times,

At: 303, Tahirpur Village,

Shahdara, Delhi-110095.

Also at: U-136, Satyam Building,

Shakarpur, Delhi-110092.

.....Defendant

Date of institution of suit : 13.11.2014

Date of Judgment : 03.05.2023

Appearance :

Counsel Mr. Vijay Kumar Rana for Plaintiff.

Defendant in person.

## **JUDGMENT**

1. Present suit is filed by Plaintiff seeking relief of damages of Rs.19,50,000/- against defamation and mental torture caused by Defendant.

2(a). It is necessary to take note, albeit briefly, of the background facts as mentioned in the plaint. Plaintiff states that he was working as a Superintendent Engineer in Delhi Development Authority. Defendant was the Editor of a fortnightly newspaper named “TAHIRPUR TIMES”. Defendant published a false and frivolous news item/report titled as “*Garg ka tabadala rukwane mein adhikshan abhiyanta Atma Ram ka haath*” in its fortnightly Edition of 16<sup>th</sup> August to 31<sup>st</sup> August, 2014 wherein false and defamatory imputations were levelled against Plaintiff without any proof or verification of truth of facts. Defendant in the said news item, falsely alleged that Plaintiff had purchased various properties i.e. hundreds of bighas of agricultural land at District Baghpat besides several plots and flats in Vasundhara, Vaishali and Ramprasth, Ghaziabad (UP) with bribed money. Defendant in the said News item also alleged that Plaintiff was involved in taking bribes along with one Sh. K.K. Garg (also an employee of DDA) for alleged purposes.

(b) Plaintiff was never involved in any illegal activity

throughout his service career and the allegations were only an offspring of mischievous mind of Defendant just to harass and blackmail Plaintiff to extort money from him. Defendant had published the aforesaid news to disrepute and defame Plaintiff in society. Plaintiff suffered a great humiliation in the eyes of his colleagues, friends and relatives and in societal circle on account of the aforesaid defamatory publication in Newspaper.

3(a). The Defendant, Editor of newspaper filed his written statement wherein he took certain preliminary objections *inter-alia* that the news item was published against the Plaintiff on basis of information from reliable sources (i.e. Contractor and officials of DDA, who were still working with DDA/ had worked earlier); that the news item was published in good faith in accordance with rules and provisions of Press Council Act, 1978 (hereinafter referred as '*the PC Act*') and Defendant was unable to disclose the said information or to name the informers in view of the protection under Section 15 (2) of the Act.

(b). It was contended that this Court had no jurisdiction to entertain the present suit in view of Section 23(2) of the Act as per which, no suit or the proceedings could lie against any Newspaper in respect of publication of any matter therein under the authority of the Council; that being part of social electronic/print media, Defendant had a moral responsibility to

publish the news in the interest of public at large and against any unsocial activities, which adversely affected society.

(c). It was contended by Defendant that Plaintiff had not filed a detailed affidavit in support of the pleadings; that the suit was liable to be dismissed for mis-joinder and non-joinder of necessary parties; that Plaintiff disclosed no cause of action against Defendant; that Plaintiff had failed to produce a single document, reason or the motive attributable to Defendant for alleged false publication; that Defendant reserved his rights to take appropriate action against Plaintiff.

(d). Defendant who was running his newspaper since the year 2010 was never involved in such type of activities as alleged. Defendant denied that the news item published in its Edition of 16<sup>th</sup> August to 31<sup>st</sup> August, 2014 was false or unverified. It was denied that Plaintiff had experienced any mental trauma after reading news item and the allegations of defamation on account of such publication were also denied as false.

4. Replication was filed by the plaintiff to the written statement of defendant wherein Plaintiff reiterated the contents of the plaint and denied those made in written statement. By

Order dated 26.05.2015, following issues were framed by Ld. Predecessor:-

(1) Whether the suit of plaintiff is barred under Section 23 of The Press Council Act, 1978?OPD

(2) Whether the suit is bad for non-joinder of necessary parties?OPD

(3)Whether the plaintiff has no cause of action to file the suit against defendant and therefore, same is liable to be rejected under Order 7 Rule 11 CPC?OPD

(4) Whether defendant defamed plaintiff by publishing news item heading as ‘garg ka tabadala rukvane main adhikshan abhiyanta Atmaram ka haath’ in ‘Tahirpur Times’ dated 16/08/2014 to 31/08/2014? OPP

(5) If issue no.4 is decided in favour of plaintiff, what amount of compensation to be awarded to the plaintiff? OPP

(6) Relief.

5. Plaintiff in support of his case examined himself as PW1 and filed his affidavit Ex. PW1/1 in evidence. PW-1 deposed on the lines of the averments made in the plaint and

proved documents viz. Electricity bill as Ex. PW1/A; Legal Notice dated 23.08.2014 as Ex. PW1/B, Newspaper Tahirpur times Edition 16 to 31 August 2014 as Ex. PW1/C; Prior intimation by Plaintiff to DDA dated 16.10.2014 as Ex. PW1/D; Office ID card as Ex. PW1/E and his election ID card as Mark A.

6. Defendant Mr. Mukesh Kumar examined himself as DW-1 and filed his affidavit Ex. DW1/A in evidence. Sh. Mukesh Madhur, Editor, Mahanagar Mail was examined as DW-2, who filed his affidavit Ex. DW2/A in evidence and proved Department Quality Control/DDA RTI application along with receipts as Ex. DW2/1 to Ex. DW2/22; Complaint dated 03.03.2015 as Ex. DW2/23, 8 replies dated 29.12.2014 as Ex. DW2/24 to Ex. DW2/31 and Reply dated 06.01.2015 as Ex. DW2/32.

Sh. Brij Bhushan & Sh. Harendra Pal were examined as DW-3 and DW-4 respectively. They filed their affidavits Ex. DW3/A and Ex. DW4/A respectively in evidence.

7. I have heard submissions of Ld. Counsel for Plaintiff, Defendant in person and have perused the entire record including written arguments in the light of relevant statutory

provisions of law. My issuewise findings are as below:-

**Issue no. 1 : Whether the suit of plaintiff is barred under Section 23 of The Press Council Act, 1978 ? OPD**

**and**

**Issue no. 2 : Whether the suit is bad for non-joinder of necessary parties?OPD**

8. Issue No. 1 and 2 are taken up together. The onus to prove these issues was upon Defendant, who examined himself as DW-1 and stated that the News in question against the Plaintiff was published in good faith under provision of Section 15 (2) of The PC Act, Defendant was not obliged to disclose the names/information of source. He stated that suit of Plaintiff was not maintainable as the same was also barred under the provisions of Section 23 (2) of the PC Act, as per which this Court had no jurisdiction to entertain the suit since the legal proceedings could not lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

9. Defendant however has not established as to how the suit was barred by the provisions of Section 15 (2) or Section 23 (2) of The PC Act. The Press Council of India is a quasi-judicial body constituted under the Press Council Act, 1978. The

object of the Council is to preserve the freedom of the press and to maintain and improve standard of the newspapers and news agencies in India. Section 14 of the Act empowers the Council to administer warning, admonition or censure to the newspapers/news agencies or to censure or disapprove the conduct of an editor or the concerned journalist, if the Council has reason to believe that the newspaper/ news agency has acted in breach of journalistic ethics or the Editor/Journalist have committed any professional misconduct.

10. Therefore a mechanism is provided to an aggrieved person to ventilate his grievance against a newspaper or publication which publishes a defamatory news item/article without compelling the aggrieved person to seek legal redress from the court of law. A civil action also lies for publication of any defamation statement which is false and a duty is cast upon the Newspaper which had published the defamatory statement to establish that it is true.

11. Besides this above mechanism, legal remedies are also available to aggrieved person by filing a suit for damages for defamation or a Criminal Complaint under Section 499/500 of IPC. As per PC Act, if any publication is not in accordance with the law and it is in contravention of the settled principles or guidelines issued by the Press Council, the person can file an



appropriate complaint at the Press Council. Apart from this, the petitioner can file a private complaint. Considering thus, Defendant has failed to prove as to how present suit is hit by Section 23 of PC Act. Mere self-serving *ipse dixit* of Defendant can't be held to be discharge of onus of proof (**Shri Saurav Jain & Anr. v. M/s A. B. P. Design & Anr** (DOD as 05.08.2021 by Hon'ble Apex Court). It cannot be said that there is any embargo of provisions of Section 15(2) or 23 (2) of the Act to the maintainability of present suit.

12. Further, Defendant has not established as to how the suit is bad for non-joinder of necessary parties. The written statement does not aver as to which are the necessary parties, required to be impleaded for the effectual adjudication of the matter. There is nothing in the pleadings or the evidence adduced by Defendant to even indicate as to how the suit is hit by mis-joinder or non-joinder of necessary parties. Therefore, the issues stand decided against the Defendant and in favour of Plaintiff.

**Issue No.3 : Whether the plaintiff has no cause of action to file the suit against defendant and therefore, same is liable to be rejected under Order 7 Rule 11 CPC? OPD**

13. The onus of proving this issue was upon Defendant.

Defendant argued that plaintiff disclosed no cause of action since Plaintiff had not come up with any material fact in order to succeed. On the other hand, Ld. Counsel for plaintiff argued that plaintiff disclosed a valid cause of action as the news snippet admitted to be published by Defendant – Editor of Newspaper was defamatory in nature and plaintiff disclosed valid cause of action.

14. Adverting to the averments set out in plaint, I observe that the plaint discloses cause of action against Defendants. In [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, 2004 \(9\) SCC 512](#), it was observed that whether a plaint discloses a cause of action or not is essentially a question of fact. In recent judgment of **Dahiben vs. Arvinbhai Kalyanji Bhanusali & Ors.** 2020 SCC OnLine SC 562 the pleas taken by Defendants in written statement are wholly irrelevant, and cannot be adverted to, or taken into consideration while looking into cause of action. In **Sopan Sukhdeo Sable v. Charity Commr.**, (2004) 3 SCC 137, it is observed that the test to see whether plaint discloses cause of action is as to whether averments made in the plaint, when taken in entirety, in conjunction with the documents relied upon, would result in a decree being passed. In yet another judgment of **Mansi Gupta v. Prem Amar & Anr** 2022 LiveLaw (Del) 304, it is held that the existence of the cause of action cannot be equated with the merits of the suit filed.

15. Defendant has not come up with anything to infer as to how the plaint is sans any cause of action. Even otherwise, considering the averments of the plaint and the claims sought by Plaintiff, which is for Compensation for defamation, I hold plaint discloses material facts, which Defendant had to traverse and discloses sufficient cause of action. As such the issues stand answered accordingly.

**Issue no. 4: Whether defendant defamed plaintiff by publishing news item heading as ‘garg ka tabadala rukvane main adhikshan abhiyanta Atmaram ka haath’ in ‘Tahirpur Times’ dated 16/08/2014 to 31/08/2014? OPP**

**And**

**Issue no. 5 : If issue no.4 is decided in favour of plaintiff, what amount of compensation to be awarded to the plaintiff? OPP**

16. Issues No. 4 and 5 being inter-related are hereby taken up together. The onus of proving these issues was upon the Plaintiff. Plaintiff examined himself as PW-1 and deposed that the news publication Ex.PW1/C in the fortnightly Edition dated 16.08.2014 to 31.08.2014 was based on false comments. PW1 deposed that the allegations of PW1 being involved in bribery and purchase of multiple properties in collusion with one K.K.Garg at DDA were leveled in the news snippet to blackmail and extort money from him. He deposed that Defendant by such

publication had caused disrepute and defamed PW1 in society, which led to lower the social status of PW1 in the eyes of his colleagues, friends and relatives for which Defendant was liable to compensate PW1 for damages.

17. In cross-examination of PW1, nothing contrary could be elicited. Defendant has not come up with any single defence to rebut that the news article was true or based on fair comments. Defendant admits that publication of the news article Ex. PW1/C in its fortnightly news edition of 16<sup>th</sup> August to 31<sup>st</sup> August, 2014. The only plea taken by him is that he could not disclose the source of reporting and stated that he got verified information from few Contractors and Engineers. Defendant in his cross examination feigned his ignorance as to the names of such Contractors and Engineers.

18. The well settled position is that a man publishes a defamatory statement at his peril and the intention or knowledge is immaterial. To be actionable, the defamatory statement must be false. The newspaper or the publication has a duty to objectively verify the facts and ascertain the version of the person, who is likely to be affected by the publication or against whom imputations, which are defamatory, are being published.

19. Every person has a right to reputation and if

reputation is harmed by wrongful publication, the person has legal remedies. Action against defamation is a choice available to every citizen to protect his reputation against defamatory publication by Newspaper. He can either sue for damages or prosecute defaming media persons. Hon'ble Supreme Court in the Judgment of **Sakal Papers (Pvt) Ltd. v. Union of India AIR 1962 SC 305** has observed that right to freedom of speech and expression carries with it the right to publish and circular one's ideas, information and views with complete freedom and by resorting to any available means of publication, subject to the restriction imposed under Article 19(2). One of the restrictions in the Article 19(2) of the Constitution is relating to defamation. Freedom of Press is a part and parcel of the freedom of speech and expression as guaranteed under Article 19(1) (g). However this freedom is not absolute, since no democracy affords absolute and unbridled freedom. It was further observed that Law of Defamation is an effective limitation on the freedom of Press.

20. In **Sakal Papers (supra)** it was further observed that with the advent of democracy and the reputation of importance of freedom of expression and the emphasis placed on the right of a the public to know the truth on certain matters, a check on the freedom of press gains more importance so that a proper balance between private interest and reputation and public right to information about the public matters is maintained.

21. There is universal recognition to ethics of journalist writing, regarding the caution against defamatory writing. General norms need to be followed. Such norms may include that - (a) Press should not publish anything which is manifestly defamatory against any individual or institution, unless it is duly verified and there is sufficient reasons to believe that it is true and its publication will be for public good ; (b) Truth is no defence for publishing derogatory, scurrilous or defamatory material against a private citizen where no public interest is involved; (c) in the zest to expose, the press should not exceed the limit of ethical caution and fair comment; (d) as a custodian of public interest, the Press has a right to highlight cases of corruption and irregularities in public bodies. However, such material should be based on irrefutable evidence and published after due inquiry and verification from the concerned source and after obtaining the version of the person, authority being commented upon, etc.

22. Having observed thus, advertent to the evidence on record would establish that Defendant who is the Editor of Newspaper 'Tahirpur Times' has admitted the publication of news item. The news item runs as "*Garg ka tabadala rukwane mein adhikshan abhiyanta Atma Ram ka haath*". The said snippet/news item Ex. PW1/C is *per-se* defamatory in its contents. It mentions that another Executive Engineer Sh. K.K.Garg (Quality Control) has complete protection of Plaintiff

for his illegal actions of bribery. The news snippet further mentions as to how Plaintiff spent his entire service only in Quality Control Department, DDA at different units. It mentions that based upon corrupt tendencies, Plaintiff/Sh. Atma Ram and Sh. K. K. Garg were participants in all illegal work in the Quality Control department and with such ill gotten money obtained, Plaintiff purchased multiple properties from Delhi to Uttar Pradesh including various agricultural & residential areas mainly around Vasundhara, Vaishali and Ramprastha in Ghaziabad. The news article mentions that Plaintiff being a Superintendent Engineer in DDA was hand in gloves with Sh. K.K.Garg in corruption and bribery as also stopping his transfer from Quality Control Department. The said snippet is defamatory in nature, for which there is no reason forthcoming on behalf of Defendant.

23. Considering the evidence on record, what emerges is that the entire article, if read in totality, would indicate that its tenor is clearly to defame the Plaintiff by terming him as a 'corrupt person', who throughout has retained only one Department i.e. Quality Control department and who with ill gotten money obtained with corrupt means, had purchased multiple properties. The tenor of the language used in the Article clearly establishes that the imputations in the article are defamatory in nature.

24. It was upon the Defendant to establish that the

alleged statement was true or based on fair comment or was privileged. Truth is the best defence and the duty was upon Defendant that the statement was true in real sense. The Defendant had to rebut that presumption by leading evidence to substantiate his defence that the comments in news item were fair and reasonable, based on true information. Defendant however has utterly failed to prove so. Considering the same, Plaintiff has successfully established that Defendant has defamed him by publishing news item with heading as '*garg ka tabadala rukvane main adhikshan abhiyanta Atmaram ka haath*' in 'Tahirpur Times' dated 16/08/2014 to 31/08/2014.

25. Having established so, Plaintiff is entitled for Compensation for Damages. While assessing the appropriate damages for injury to reputation, most important factor is gravity of the libel/defamatory news item. The more closely it touches the Plaintiff's professional reputation, loyalty, integrity and core attributes of his personality, the more serious it is likely to be. Further, the extent of publication is very relevant since a libel published to millions has more potential to cause damage than published to a handful of people. Plaintiff has claimed an amount of Rs.19,50,000/- as general damages on the ground that the defamatory news item injured his credit and reputation in the eyes of society, friends and associates in his circle. However, Plaintiff has not adduced evidence of his friends or associates in circle to show to what extent he was shunned by them at the



relevant time nor has he shown the extent of diminution in the esteem, in which he was held. Except for his own evidence, there is nothing on record in support of the same i.e. both incommensurables, viz. diminution in esteem and extract of mental distress caused by publication are lacking for the purposes of evaluation. Considering the tenor of the news snippet which is grossly defamatory and recklessly published without any justification, the Plaintiff is entitled for general damages only and not aggravated damages as prayed. Both issues are answered in favour of Plaintiff and against Defendant.

### **RELIEF**

26. In view of my aforesaid findings, the suit of Plaintiff stands decreed in his favour against Defendant. Plaintiff is entitled for a decree of recovery of Rs. 1,00,000/- (Rupees One Lakh Only) from the date of filing of suit till its realization. Interest @ 8% p.a. is also awarded on the said amount.

Costs of the suit is also awarded.

Decree sheet be prepared accordingly and file be consigned to record room.

Announced in the open Court.

On 03.05.2023

(RAVINDER BEDI)

Additional District Judge-02,  
Shahdara, KKD Courts, Delhi

03.05.2023