

IN THE COURT OF THE ADDITIONAL SUB JUDGE-I, OF THRISSUR

Present:- Rajeevan Vachal, Additional Sub Judge -I

Thursday, the 30th day of November, 2023/ 9th Agrahaya, 1945 SE.

OS 146/2017

Plaintiff:-

Prasad.M.K., Alias @ Prasad Amore, aged 47 years,

By Advs.K.D.Babu & Sarath Babu Kottakkal

Defendant:-

Sherin.V.George,

By Adv.Smitha.K.S

The suit is coming on for hearing today, the court delivered the following :-

J U D G M E N T

The suit is for compensation for defamation.

2. **The plaintiff's case, in brief, is as follows:-** The plaintiff is a licensed Rehabilitation Psychologist by profession who works as a Rehabilitation Psychologist at Lakshmi Hospital, Alappuzha. Plaintiff got his Degree of Master of Science in Psychology from the University of Madras in 2012. The plaintiff was awarded Hypnotherapy Practitioner NCFE, UK in 2012. The plaintiff got his P.G. diploma in Rehabilitation Psychology from Maharshi Dayanand Universit, Rohtak in 2015. The

plaintiff also got a license to practice rehabilitation psychology from the Rehabilitation Council of India, a Statutory Body in 2016.

3. The defendant also works in the psychology field. Due to his professional jealousy towards the plaintiff, with an intention to tarnish the reputation of the plaintiff among his colleagues and clients and also to cause mental agony and trauma to the plaintiff, the defendant published a defamatory statement and posted the same on Facebook for circulation. The plaintiff and his friends read the said Facebook post which is highly defamatory and false. The plaintiff reproduced the entire Facebook post published in Malayalam vernacular in the plaint. The plaintiff falsely stated that the plaintiff had no required qualification to practice as a Clinical Psychologist and that the Master's Degree in Psychology and Post-Graduation degree the plaintiff had were not duly issued by the concerned Universities.

4. The defendant further alleged that the Universities from where the plaintiff claims that he had obtained the graduation and post-graduation diploma were not conducting the course in the name as claimed by the plaintiff. The defendant further alleged that the plaintiff managed to get an RCI certificate and the value of the RCI certificate itself was diminished by giving the RCI certificate to a fake psychologist.

5. The above-mentioned Facebook post was read by thousands

of people. Due to the publication of the above said false statement the reputation of the plaintiff among the public was lowered and it also affected the financial condition of the plaintiff. His professional income diminished after the publication of the false defamatory article. The friends of the plaintiff called him after reading this false statement and made an enquiry about his qualifications.

6. The defendant made an imputation to the effect that the plaintiff was a fraud and fake psychologist and the qualifying certificates of the plaintiff are all fake. The Facebook post was viral on social media. Hence, the plaintiff issued a notice dated 04.05.2017 through his lawyer to the defendant and demanded compensation for the loss of his reputation and also for the loss of professional income. Having admitted the publication of the defamatory statement against the plaintiff the defendant contended in his reply notice that he published the true facts and circulated it on Facebook in good faith relying on the factual data collected by him without any dishonest intention. The plaintiff claims that he had suffered a loss of Rs.10,00,000/- due to the publication of the defamation statement by the defendant. Hence, the plaintiff filed the above suit for compensation of Rs.10,00,000/- with future interest at the rate of 12% per annum besides Rs.1,000/- being the cost of the demand notice.

7. The defendant filed a written statement having admitted the posting of the article on Facebook against the plaintiff and admitted the fact that the plaintiff is a Rehabilitation Psychologist license holder, the defendant contended that the plaintiff obtained the said RCI license without complying with the rules of the same by playing tricks. The defendant denied the averments in the plaint that the plaintiff has a Master's Degree in Psychology from Madras University and P.G Diploma in Rehabilitation Psychology from Maharshi Dayanand University. The defendant denied the averments in the plaint that the plaintiff got an award in Hypnotherapy, from NCFE, UK. The defendant contended that the plaintiff is not an approved licensed Rehabilitation Psychologist. The defendant denied the averments in the plaint that the plaintiff is a Psychologist by profession. The defendant denied the allegation that the post put on Facebook affected the reputation of the plaintiff. The defendant atoned his statement on the Facebook post that the plaintiff was a fraud and a fake psychologist. The defendant denied the cause of action alleged in the plaint and contended that he is not liable to pay compensation of Rs.10,00,000/- as claimed by the plaintiff.

8. The defendant claims that he is a magician and a Lecturer by profession having M. Sc., M. Phil., PHD. degree in Psychology. The plaintiff even though he has no experience in the psychology field,

formed an association of psychologists and became the leader of the psychologist. Hence, due to enthusiasm the defendant made an enquiry about the qualification of the plaintiff and realized the real facts and published the facts realised by him on social media in good faith. The plaintiff used to appear on social media and professional websites as Dr. Prasad Amore even though he had no educational qualification to use the word Doctor before his name. After the Facebook post plaintiff substituted the 'Dr.' abbreviation with 'Mr.' abbreviation before his name and also deleted the false educational qualification from his profile details in one of the leading social media plat forms. The plaintiff obtained his M.Sc. Psychology from Madrass University by registering a distant education scheme. Even then he joined the Association for Professor Psychologists by suppressing the fact that he obtained his master's degree in Psychology through a distant education scheme. The plaintiff even published a book in the year 2003 on psychology subject without having sufficient qualifications. The defendant having put the post on social media about the plaintiff, contacted the plaintiff and sought his opinion about the writing and also requested him to correct any factual mistake if any crept in the post. Instead of informing the factual mistake in the post, the plaintiff held out a threat against the defendant. The plaintiff is a person who commits impersonation and

criminal conspiracy. The plaintiff got a membership at the Association for Professional Psychologists under his false name 'Navaneeth' with the help of his friends Abhinadh and C.V.S. Panikkar. Hence, the plaintiff is not entitled to any amount as compensation from the defendant for publishing and circulating the statement, reproduced in the plaint, on Facebook, a social media platform.

9. Having heard the counsel for the plaintiff and defendant, and perusing the pleading and document my predecessor in Office framed the following issues for trial:

1. Did the Facebook post published by the defendant on 26.04.2017 cause defamation to the plaintiff as alleged?
2. Is the plaintiff entitled to realise Rs.10,00,000/- (Rupees Ten lakhs only) towards damages from the defendant?
3. What is the rate of interest entitled to by the plaintiff?
4. What is the order as to costs?

10. When the case was posted for evidence after pre-trial steps the plaintiff was mounted in the witness box and got examined as PW1. PW2 and PW3 were also examined on the side of the plaintiff. Exts.A1 to A11 were marked on the side of the plaintiff. Exts.B1 to B5 were confronted to the plaintiff's witness and got marked on the side of the defendants. After the plaintiff's evidence, the defendant was mounted in

the witness box and got examined as DW1. Exts.B6 to B13 marked on the side of the defendant through DW1.

11. Heard the counsel for the plaintiff and defendant. Both counsels filed argument notes after their oral submissions

12. **Issue Nos.1 to 4:-** All these issues are considered together for brevity and convenience. Admittedly, the Ext.A1 article was posted by the defendant on his Facebook account and the same was circulated among the psychologist and the friends of the plaintiff. The contentions of the defendant are that the same was not a defamatory article and the Ext.A1 is not a complete document. Since the Ext.A1 is an incomplete post the plaintiff cannot rely upon the same to sue the defendant for defamation. The counsel for the defendant objected to the marking of the Ext.A1 computer printout, a duly certified U/s.65 (B) of the Indian Evidence Act, by stating that it is an incomplete document. During the cross-examination, DW1 conceded that Ext.A1 is the printout of a Facebook post put by him and further conceded that Ext.A1 is a complete document. DW1 further stated that he had put two more posts before and after the Ext.A1 post with respect to the same subject matter. Hence, the contention of the defendant's counsel that, Ext.A1 is an incomplete document and cannot be relied on, is not sustainable.

13. The plaintiff's case is that Ext.A1 is a defamatory face-book

post put by the defendant and circulated among the general public and friends circle of the plaintiff. The plaintiff contents that Ext.A1 post affected his reputation among his clients circle and friends circle. The further case is that the defendant willfully with an intention to harm the reputation of the plaintiff and lower the intellectual character of the plaintiff in the estimation of the others published Ext.A1 post. The plaintiff examined PW2 and PW3 to prove that the publication of the Ext.A1 post lowered his reputation.

14. The defendant has no case that the Ext.A1 post was not circulated among the client circle and well-wishers of PW1. The case of the defendant is that what is stated in Ext.A1 is true and the defendant published the same with a *bona fide* intention for the public good to enlighten the general public that the plaintiff had no required qualification to practice in Psychology as Clinical Psychologist and to alert the members of the Psychologist's group on face-book as well as 'what's-app' group of the psychologist's that plaintiff is a fraud and having no qualification as claimed by him. During the cross-examination DW1 deposed that he was not responsible for the mental agony and emotional trauma caused to the plaintiff by Ext.A1 post since what is stated in the Ext.A1 post is true and correct and the plaintiff has to suffer the consequence of his actions.

15. The case of the plaintiff is that he is a licensed Rehabilitation Psychologist by profession and has been practicing as Rehabilitation Psychologist at Lakshmi Hospital, Aroor having obtained the degree of Master of Science in Psychology from the University of Madras, P.G Diploma in Rehabilitation Psychology from Maharshi Dayanand University, Rohtak. He further deposed that he was awarded Hypnotherapy Practitioner NCFE, UK in 2012 and got RCI license to practice as a Rehabilitation Psychologist from the Rehabilitation Council of India (RCI), a statutory body of the Government of India.

16. The defendant imputed in Ext.A1 Facebook post that the plaintiff has no degree or P.G Diploma in Psychology as claimed by him. He further attributed that the Universities in which the plaintiff had obtained his degree and P.G Diploma had not been conducting such courses to issue those certificates to the plaintiff. The further allegation in Ext.A1 post, is that the value of the RCI certificate was diminished when the same was given to the plaintiff, a fake Psychologist. The case of the defendant is that all the imputations in Ext.A1 post against the plaintiff are true and correct and the intention of the Ext.A1 publication was to inform the general public that the plaintiff has been practicing as a psychologist without required qualification for public good. Hence, the defence of the defendant is the justification by truth.

17. The plaintiff produced his educational certificates and got them marked as Exts.A5 to A10 and A12. Ext.A12 is the certificate of the Degree of Master of Science in Psychology given by the University of Madras in the year 2012 to the plaintiff. Ext.A5 is the consolidated statement of marks of the PW1 with respect to Ext.A12 degree. Ext.A7 is the provisional P.G. Diploma certificate in Rehabilitation Psychology given to the plaintiff in 2015 by Maharshi Dayanand University of Rohtak. Ext.A10 series are the result-cum-detailed marks card of Ext.A5, P.G Diploma. Ext.A6 and A7 are the recognition to the plaintiff by NSFE, UK . The Ext.A6 and A7 would prove that the plaintiff was awarded a Hypnotherapy Practitioner Diploma in the year 2012. Ext.A9 is the registration certificate issued by the Rehabilitation Council of India to the plaintiff U/s.19 of the Rehabilitation Council of India Act, 1992 in the year 2016. Ext.A9 empowers the plaintiff to practice as a Rehabilitation Professional and Rehabilitation Psychologist for 5 years from the date of issue of said certificate. Hence, the plaintiff was a registered Psychologist during the period 2016 to 2021. The Ext.A5 to A10 and A12 would prove the educational qualification of the plaintiff to practice as a registered Rehabilitation Psychologist. Even though the defendant claimed in the Ext.A1 post as well as in the written statement that Madrass University from where the plaintiff obtained his degree of

Master of Science in Psychology and Maharshi Dayanand University, Rohtak where he obtained the P.G. Diploma in Rehabilitation Psychology, are not conducting any course in Psychology to award such degree and diploma to the plaintiff. Hence all the educational certificates the plaintiff had are fake certificates. The defendant didn't take any steps to prove Ext.A12 degree and Ext.A8 P.G. certificates are fake and not duly issued by the respective universities. Even though the defendant asserted in the Ext.A1 post as well as in the written statement that the above-mentioned Universities have not been awarding degree in Psychology as well as P.G. in Rehabilitation Psychology as claimed by the plaintiff, the defendant didn't take any steps to prove the same. A mere oral testimony of DW1 that the certificates and qualifications obtained by the plaintiff are all fake is insufficient to prove the imputation made in Ext.A1 publication is true and correct and to defend the claim of the plaintiff that the above imputation was false and defamatory.

18. Even though PW2 failed to depose that the reputation of the plaintiff was lowered in his estimation by reading Ext.A1 publication, PW3 deposed that by reading Ext.A2 publication his estimation of the reputation of the plaintiff was diminished a lot and it adversely affected the professional income of the plaintiff. The learned counsel for the defendant even did not challenge the oral testimony of PW3 that he held

the plaintiff in high reputation and having read the Ext.A1 publication the same was lowered until he got clarification from the plaintiff himself. Hence, this court finds that the plaintiff succeeded in proving that the defendant recklessly without taking due care and caution made a false imputation challenging the professional qualification of the plaintiff and the said imputation affected the reputation of the plaintiff among his client circle as well as friend circle and consequently affected his professional income.

19. The counsel for the defendant contended that Exts.B1 to B5 computer printouts would suggest that the plaintiff had been using a title 'Dr.' along with his name even though he had no PHD. in Psychology. The counsel further contended that as per the new code, the National Commission for Allied and Health Care, Act, 2020 a person who obtains a Master's Degree in Psychology in a Distant Education Scheme cannot practice as a Psychologist. Hence, the plaintiff who obtained a Master's Degree in psychology in a d Distant Education Scheme cannot practice as a Psychologist even though he got an R.C.I certificate by defrauding the Rehabilitation Council of India Authorities. The counsel further contended that even though the plaintiff had no M.Phil in Psychology he falsely made a declaration at his F.B page in 2017 that he had M.Phil in Psychology to practice in Psychology as a Doctor. The counsel further

contended that as per the bylaws of the Association of Professional Psychologists, the psychologist who obtained his master's degree in Psychology on a regular basis can alone be a member of the above-said Association. However, the counsel contended that by defrauding the association the plaintiff got a membership in the said Association by suppressing the fact that he got a Master's Degree in psychology on a Distant Education Scheme from Madras University and later became an office bearer of the said Association. The counsel further contended that the plaintiff at his 19 years age before acquiring any qualification in Psychology published a book with respect to psychology in the year 2003. The counsel further contended that in the said book titled "Indrajaalam"(marked in evidence as Ext.B1) the plaintiff claimed that he was the Managing Director of an institution named "Mind Relax" at the age of 19. Hence, the plaintiff is a fake and has no reputation in the general public to claim any compensation for diminishing reputation.

20. The National Commission for Allied and Health care Act 2020 was not in force in 2016 – 2017. Hence the provisions in the said act were not applicable to the Ext. B12, RCI certificate issued to the plaintiff by the Rehabilitation Council of India in 2016

21. Ext. B2 is a screenshot of a Facebook post dated 15.01.2019 confronted the PW1, in which the plaintiff was referred to as Dr.Prasad

Amore. PW1 disputed the same and claimed that it was not his Facebook post. The counsel for the plaintiff challenged the authenticity of the print which was produced by the defendant's counsel only at the time of examination of the witness, not along with the written statement. The defendant attached a certificate along with Ext.B2. In the said certificate the defendant certified that the same was the screenshot of a Facebook post dated 26.04.2017 and it was downloaded in his Redmi phone Sl.No.849065. It is pertinent to note that the Facebook post dated 26.04.2017 is the Ext.A1-Facebook post put by the defendant in his Facebook account. It is pertinent to note that the date shown in the Ext.B2 screenshot is 15.01.2019. The certificate attached with the Ext.B2 screenshot is not a duly authenticated certificate as contemplated by section 65(B) of the Indian Evidence Act. Hon'ble supreme Court of India in *Arjun Panditrao Khotkar v. Kailsh Kushanrao Gorantyal and others (2020 (4) KHC 101)* held that a certification U/s.65(B) of the Indian Evidence Act is mandatory to admit a computer print out as evidence. Hence, Ext.B2 cannot be admitted in evidence for want of certificate as contemplated U/s.65(B) of the Indian Evidence Act.

22. Ext.B3 is a screenshot confronted to PW2 during the cross-examination. The defendant attached a copy of a certificate attached to the Ext.B2 screenshot along with Ext. B3 screenshot. It is pertinent to

note that the Ext.B3 screenshot is dated 29.10.2021 not 26.04.2017 as certified in the certificate. Hence, there is no proper certification U/s.65(B) of the Indian Evidence Act to admit the same in evidence.

23. Ext.B4 is another screenshot confronted to PW2. The defendant confronted the said document to PW2 to prove that PW2 threatened the defendant for publishing Ext.A1 post. It is pertinent to note that the defendant had not certified the same as contemplated U/s.65(B) of the Evidence Act. Instead of certifying the same, the defendant attached a copy of a certificate attached along with Ext.B2 and B3 screenshots. Hence, there is no proper certification U/s.65(B) of the Indian Evidence Act to admit the same in evidence.

24. Ext.A5 is not a copy of a Facebook post even then the defendant attached the same copy of the certificate produced along with Ext.B2 to B4 stating that it is a screenshot of a post dated 26.04.2017.

25. Ext.B6 is the screenshot of the post put by the defendant on 26.04.2017. Ext.B6 and Ext.A1 are the same. The defendant attached a certificate along with Ext.B6 stating that it is a copy taken down by him by using his mobile phone on 26.04.2017. During cross-examination, the defendant conceded that he had sent the Ext.B6 to his counsel through What's-App and his counsel had taken a printout of the same and produced it before the court. Hence, the certificate signed by the

defendant instead of his counsel who had taken out the printout attached to Ext.B6 is not an authenticated and acceptable one to admit the said document in evidence.

26. Ext.A8 is a photocopy of a printout. The defendant claims that he had taken the same from a social media platform to prove that the plaintiff used to claim that he got a Master's Degree in Clinical Psychology. Without attaching a certificate about the authenticity of the photocopy produced before the court as contemplated U/s.65(B) of the Evidence Act, the defendant attached a copy of a certificate produced along with Ext.B2 to B5 stating that the same was a screenshot of a facebook posted on 26.04.2017 by the defendant himself not by the plaintiff. Hence, the certificate attached to Ext.B8 is not a valid certificate to admit Ext.B8 in evidence.

27. The defendant contended that the plaintiff is an office bearer of APP (Association of Professional Psychologists). The defendant further contended that as per the bylaws of the Association, only the person who had obtained their degree by undergoing regular courses can become a member. The defendant didn't produce the bylaws of the Association to prove the provision in the bylaw and further prove that the plaintiff became the member and office bearer of the APP by violating the bylaws of the Association. Whether he is a member of the APP or not is an

irrelevant fact as far as this case is concerned. Instead of attaching a certificate as contemplated U/s.65(B) of the Evidence Act, the defendant attached a copy of the certificate along with Ext.B2 to Ext.B6 along with Ext. B9 computer printout. Hence, Ext.B9 cannot be admitted in evidence.

28. Ext.B10 is a printout of a What's-App chat of one Jithin. Even though it is a print of a What's-App the defendant attached the same certificate along with Ext.B10 stating that it was a face-book post dated 26.04.2017. Hence, there is no certificate as contemplated U/S.65(B) of the Indian Evidence Act to admit Ext.B10 print out in evidence.

29. Ext.B11 to B13 are the screenshots of posts on different websites. Instead of attaching a certificate about its authenticity, the plaintiff attached the same copy of the certificate, attached along with Ext.B1 to B6 in which it is stated that it is a screenshot of a Facebook post dated 26.04.2017. Hence, Ext.B11 to B13, cannot be admitted in evidence for want of certification under section 65(B) of the Indian Evidence Act.

30. On appreciating the evidence tendered by the defendant in the light of his pleading, I am of the view that the defendant failed to prove that what is stated by him in Ext.A1- post about the educational and professional qualification of the plaintiff is true and he published the

said article in the social media with a *bona fide* intention to caution the public and clients of the plaintiff. Hence, this court finds that the defendant failed to prove the exemption he claimed to defend the suit claim.

31. The plaintiff tendered Ext.A11 the print of an account abstract maintained in the Soft-mind Lakshmi Hospital, Alappuzha, through PW3. PW3 claimed that he was the Administrator of the Soft-mind Lakshmi Hospital, Alappuzha where the plaintiff works as a Psychologist. PW3 deposed that after the Ext.A1 post the number of the clients of the plaintiff diminished and the number of clients in the year 2016 was 337 while the number of clients in the year 2017 is only 174. The oral testimony of the PW1 is supported by Ext.A11 account abstract. Ext.A11 account abstract further revealed that the number of clients of the plaintiff was diminished year by year and the number of clients in 2022 is only 82. The plaintiff has not adduced any other evidence to prove that his income was declined after the Ext.A1 post except his oral testimony. The plaintiff claimed Rs.10,00,000/- as compensation. It is a trite law that in deciding the quantum of compensation the court has to take into consideration the position of the plaintiff in his life and the impact of the imputation and absence of the apology or any retraction. Hence, the conduct of the defendant after the publication is vital in

determining the quantum of the damage. It is pertinent to note that even in his pleading having gone through the documents attached along with the plaint the defendant contended that the plaintiff is a person who committed impersonation and criminal conspiracy. The defendant repeated in his chief -examination that the plaintiff was a fake psychologist. There is no apology or retraction from the side of the plaintiff. Having admitted the damage caused to the profession as well as the public life of the plaintiff by his Ext.A1 post, the defendant deposed in cross-examination that the plaintiff and his actions are alone responsible for the damages since what is stated in the Ext. A1 post are all true and correct. The damages in terms of money cannot be easily assessed especially the damages affect the reputation and status of a professional. The plaintiff limited his damages as Rs.10,00,000/-. I don't find any material before the court to refuse the said amount to the plaintiff on going through the pleading, evidence and conduct of the defendant. Hence, this court can rightly come to a conclusion that the plaintiff is entitled to a compensation of Rs.10,00,000/-(Rupees Ten lakh only) with interest @ 6% per annum from the date of the plaint from the defendant. Of course, the plaintiff is also entitled to the costs of the suit from the defendant.

In the result, the suit is decreed directing the defendant to pay

Rs.10,00,000/- (Rupees Ten lakh only) to the plaintiff as compensation with 6% future interest from the date of the suit till the realization of the decree amount. The defendant is also directed to pay the costs of the suit to the plaintiff.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this 30th day of November, 2023)

Sd/-
RAJEEVAN VACHAL
ADDITIONAL SUB JUDGE-I

APPENDIX

Plaintiff's Exhibits:-

A1		True copy of face book post
A2	28.04.2018	True copy of Police complaint
A3		Copy of Lawyer notice
A4	16.05.2017	Reply notice sent by the defendant
A5	20.06.2013	The consolidate statement of marks
A6	18.04.2012	The Diploma certificate
A7	18.04.2012	The candidate unit summary
A8	08.03.2016	The provisional certificate
A9	20.06.2016	The certificate of RCI
A10		The marks cards from University
A11		Income details
A12	17.08.2013	Certificate issued from Madras University

Defendant's Exhibits:-

B1		Book by Prasad Amore
B2		Screenshot of face book post

B3		Screenshot of face book post
B4		Screenshot of face book post
B5		Screenshot of face book post
B6	26.04.2017	Post in face book
B7	16.05.2017	Copy of reply notice
B8		Screenshot with certification
B9	10.04.2017	Screenshot from face book
B10		Screenshot of chatting
B11		Screenshot from linked in awfloats website
B12		Screenshot with certificate from Sehat website
B13		Screenshot with certificate from Sehat website

Plaintiff's Witness:-

PW1	20.10.2023	Prasad.M.K
PW2	01.11.2023	Sibi.S.Panicker
PW3	02.11.2023	Abhilash.K

Defendant's Witness:-

DW1		Sherin.V.George
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Id/-
ADDITIONAL SUB JUDGE-I

JUDGMENT IN
O.S.No.146/2017
Dated: 30.11.2023