

D.P. Choudhary and Others Vs Kumari Manjulata

Court: Rajasthan High Court

Date of Decision: April 4, 1997

Citation: AIR 1997 Raj 170 : (1998) 1 RLW 231

Hon'ble Judges: Mohd. Yamin, J

Bench: Single Bench

Advocate: Bhandari, for the Appellant; R.M. Bhansali, for the Respondent

Final Decision: Dismissed

Judgement

Mohd. Yamin, J.

This is a civil appeal against the judgment and decree passed by Additional District Judge No. 2, Jodhpur on 6-9-80

whereby he decreed the suit No. 14/78 of defamation awarding Rs. 10,000/- as damages to the respondent.

2. Kumari Manjulata is the daughter of Mohan Singh. She was aged about 17 years and was living with her parents and brother. They are all

educated. Even the plaintiff was a student of B.A. and her mother was M.A. B.Ed. Her father Mohan Singh was M.A. M.Com. and M.Ed, and

employed as Senior Teacher. Her brother was a student of University. Thus the plaintiff respondent was a member of distinguished family. In

Jodhpur the community of Malis to which the plaintiff respondent belonged was an uneducated community, therefore, the family of the plaintiff

respondent was regarded very high being an educated family. Durga Prasad appellant (since deceased) was the principal Editor of Dainik Navjyoti

while appellant No. 2 Deen Bahdhu Choudhary was the Managing Editor and appellant No. 3 was the Printer and Publisher of Dainik Navjyoti.

They are, responsible for publication of false and defamatory news in the daily newspaper.

3. On 18-12-77, Dainik Navjyoti published a news regarding Manjulata with unfair comments and false imputations. The news item was basically

untrue and was published negligently with utter irresponsibility and maliciously which created hatred against Manjulata and she was ridiculed. The

news item was published in order to dishonour Manjulata and her family members. The news item read as follows :--

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^tks/kiqj 17 fnl- Å-Å½fulÅ-Å½ Lfkkuh; ukxkSjh xsV ds ikl dyky dkWyuh ds fuoklh eksgu flag ekyh dh yM+dh eatqyrk dks dy jkr 11 cts deys"k

uked ;qod Hkxkdj ys x;k A

?kVukuqlkj eatqyrk uked yM+dh tks fd ukbZV dkWyst esa i<+rh Fkh ?kj ls i<+us ds cgkus fudyh rFkk deys" k ds lkFk Hkkx xbzZ A

iqfyl nksuksa izsfe;ksa dh ljxehZ ls ryk" k dj jgha gS A**

4. By publication of this news item Manjulata was defamed. It created problems for arranging marriage of the plaintiff respondent. She was

shocked and was ridiculed by persons who knew her. She suffered from inferiority complex because of the publication of this news. Parents of

Manjulata also suffered disrespect in the society as the news item was defamatory. A notice was given to the defendant appellants but it was left

unheeded. A sum of Rs. 10,100/- was claimed as damages along with 12% interest.

5. Defendant appellants submitted their written statement alleging that they do not know the plaintiff personally and the news was collected by its

reporter. The news item was correct and was collected from reliable source. On 16-12-77 at police station City Division "A" a report was

recorded in Rojnanicha at No. 286. The news Was received by the reporter from that source. There was no intention to defame or harass the

plaintiff. It was also submitted that the details of the amount which was being claimed were not given in the plaint and the claim was vague. Notice

was denied. It was further averred in the written statement that at the time of presentation of the suit, Manjulata was major. She did not exercise

her option, therefore, the suit was not maintainable.

6. The trial Court framed the following issues :--

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iq=h eksgu flag th ekyh dk uke Nkirs gq, xyr vkSj fujk/kkj [kcj izdkf"kr dh \

2- D;k izfroknx.k us unfair comments djrs gq, >wBs vkjksi izdkf"kr djds dkekjh eatwyrk ds pfj= ij vlr; ykaNu yxkrs gq, xyr rkSj ls o

negligently vkSj maliciously [kcj Nkih ftlls eatwyrk vkSj mlds ekrk&firk dh dkQh csbTtrh lekt] fj"rsnkjh vkSj tku&ifgpku esa gqbZ \

3- D;k eatwyrk ds lac/k esa [kcj Nkhus ls mldh "kknh ds laca/k esa Hkkjh eqf"dykr dk lkeuk djuk iM+ jgk gS vkSj mlds vkpj.k] bTtr o

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4- D;k okfnuh eatwyrk crkSj gtkZuk 10]100@&:- izklr djus dh gdnkj gs \

5- vk;k bl U;k;ky; dks okn lquus dk {ks=kf/kdkj izklr gS \

6- vk;k izfroknhx.k fo"ks""k gtkZ ikus dk vf/kdkjh gS \

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8- vk;k nkok properly presented vkSj properly verified ugha gS vkSj xyr

9- vk;k okfnuh ds ekrk&firk dksbZ nknjlh vius fy, bl nkos esa ugha ik ldrs gSa \

10- vuqrks""k**

7. Plaintiff examined following witnesses :-- PW-1 Manjulata, PW-2 Nirmala Devi, PW-3 Gulab Singh, PW-4 Mohan Singh, PW-5 Kesuraj,

PW-6 Jai Kumar, PW-7 Chander Singh, PW-8 Mangilal while defendant appellants examined Deenbandhu Choudhary, DW-2 Narpal Chand,

DW-3 Shanbhu Lal, DW-4 Bajrang Singh Shekhawat, DW-5 Bhikam Parihar. Learned Additional District Judge heard both the parties in detail

and decreed the suit as stated above.

8. I have heard the learned counsel for both the parties and have gone through the record of the case.

9. For the purpose of disposal of this appeal issues Nos. 1, 2 and 3 are very important.

10. Learned counsel for the appellant submitted that the news item is based on correct facts and it is not false. He submitted that the correspondent

who is himself an advocate had not only received the information from the police station but had verified from the mother of the plaintiff. He

submitted that there was no mala fide on the part of the newspaper or the correspondent. Therefore, he has submitted that the trial Court

committed an error by decreeing the suit.

11. I have read the statement of Bajrang Singh Shekhawat DW-4 who has stated that he was a registered correspondent of Dainik Navjyoti. He

obtained news from the police control room Jodhpur on telephone. He then confirmed it from the city division "D". He went to the Kalal Colony

and verified from the inmates of Mohalla. Then he went to the mother of Manjulata who told that whereabouts of the girl were not known. It all

happened on 16-12-77. He was also informed by the inmates of Mohalla that Manjulata had run away with Kamlesh earlier as well. Then only he

sent the report to the newspaper for publication. He has stated that he sent the report to the newspaper with the intention that in case the persons

knowing Manjulata would read the news, they would send her back to her parents. The witness was cross-examined at length but to my utter

surprise I find that Nirmala was not cross-examined on this point that Bajrang Singh Shekhawat met her and confirmed the news from her. Bajrang

Singh Shekhawat has admitted, in his cross-examination that when Nirmala was being examined in the Court he was present and he had told Shri

Mojlal Lal Kala, the advocate on behalf of Dainik Navjyoti, the fact that he had met Manjulata's mother to verify the fact, Had it been correct

Manjulata's mother would have definitely been "cross-examined" on this point. It is well settled that when a witness is not put the case of opposite

party, it is to be taken as afterthought. So the statement of Bajrang Singh Shekhawat that he verified the fact from the mother of Manjulata, is an

after thought and cannot be relied. It is expected of the correspondents of newspapers that they would not send such news items without

verification. From the evidence on record it is proved that Shri Bajrang Singh Shekhawat did not verify the news from the mother of Manjulata as

was alleged by him.

12. Bajrang Singh Shekhawat, DW-4 might have received information from the police headquarter but when the written statement was drafted in

his presence and as told by him he narrated all the facts to advocate shri Mohan Lal Kala, they were not mentioned in the written statement. So it

is also not mentioned that the facts are verified from the inmates of Mohalla. But he states that he had verified from the inmates of Mohalla yet he is

not in a position to name anybody. He has stated that he had noted the information in a register but even that register is not produced before the

Court. So though DW-4 is an advocate and a correspondent of Dainik Navjyoti he did not behave in responsible manner so far as the news

regarding Manjulata was concerned. He has tried to develop a new theory that he gave the information with an intention to secure the girl in case

anybody known to her came to read it. This is something very strange in the circumstances of the case because he was never asked by anyone of

the family members of Manjulata to do so. Besides, according to him he had verified the fact from the inmates of the Mohalla but he is not in a

position to name anybody from whom he had enquired. The defendants have produced DW-3 Shambhu- lal but he does not state that Bajrang

Singh Shekhawat had ever enquired from him. Hence the lower Court was right in holding that the information given to the newspaper by Bajrang

Singh Shekhawat was not based on correct facts.

13. DW-2 Narpal Chand has stated that he did not know as to who had given the information which was recorded as Ex.1 in Rojnamcha. This

information is in the hand of Head Constable Abdul Haq but Abdul Haq has not been produced in witness box.

Ex. 1 mentions that the information was received from one constable Ramesh Chandra from police station Division "D" but even Ramesh Chandra

has not been produced in the witness box. So there is no evidence on record as to what was the source of information to the police. It is not

alleged that the parents of the girl had reported to the police. According to the defence the report in newspaper is based on Ex. 1 but the court is in

dark as to what has been the result of investigation of this report. The record does not speak if any challan was presented against Kamlesh or any

other action was taken against him. Even Kamlesh has not been produced in the witness box. Therefore, the argument of the learned counsel for

the defendant appellant that the news item was based on correct facts does not appear to be correct. The law as regards defamation is that if

defamatory words are published, they are presumed to be false and the burden to prove that they are not so is upon the defendant. So from the

evidence produced on behalf of the defendant it is not so proved.

14. DW-1 Deen Bandhu Choudhary had stated that the news item published in the newspaper was correct as the same was confirmed by the

police record but as I have already stated, the news item published in the newspaper which is Ex. 1 is not confirmed from the police record. One

Bhikam Parihar DW-5 was produced on behalf of the defendants who stated that Nirmala who is the mother of Manjulata came to him to

purchase medicines and at that time she told Bhikam Parihar that her daughter had run away for whom medicines for treatment of irregular menses

was required. Needless to say that the witness is untrue because in case Manjulata had run away, the mother would not purchase medicines from

Bhikam, Parihar who had a chemist shop Secondly, his statement cannot be believed because he is not related to the family of the plaintiff and her

parents whom Nirmala would tell the fact in confidence. On the other hand, plaintiff examined herself, her mother and father as well as PW-3

Gulab Singh, PW-5 Kesu Raj, PW-6 Jai Kumar, PW-7 Chandra Singh and PW-8 Mangilal. From the statements of Manjulata, PW-2 Nirmaia.

PW-4 Moh.an Singh and PW-3 Gulab Singh it is borne out that the news item published in the newspaper was false. Manju-lata PW-1 was

cross-examined at length and an attempt has been made to suggest in the cross-examination that the news item did not relate to her but during the

arguments no such attempt was made before me or before the lower Court. The news definitely relates to Manjulata, plaintiff respondent. Learned

counsel for the appellant rightly did not touch this point. Though it was suggested that one Ramesh Chandra constable had made an enquiry about

the report but even Ramesh Chandra has not been produced on behalf of the defendant appellants before the Court below in witness box.

15. PW--3 Gulab Singh has stated that the report given in the paper was totally false. PW-5 Kesu Raj has also stated that the information was

false. PW-6 Jai Kumar Thanvi, PW-7 Chandra Singh have also stated that the information published in the newspaper was false. So on the basis

of evidence the Court below was right in deciding issue No. 1 in favour of the plaintiff respondent.

16. So far as issue No. 2 is concerned, it can very well be said that if a false news item is published in a newspaper, whosoever reads it he has his

own reservations about person about whom a false report is published. The object of law of defamation is to protect an individual's interest in his

reputation. It is no defence in a suit for defamation that the defendant did not intend to injure the plaintiff's reputation, if, in fact, it has been injured.

Even if the defendant bonafidely believed in the truth of the words published, he will still be liable unless the defence of privilege is raised. Deen

Bandhu Choudhary DW-1 had tried in his statement to claim privilege but it is not available to the defendant appellants under any law. Manjulata

PW-1 has stated that after the news item was published in Dainik Navjyoti She became tense, and many a hurdles were put for her marriage"

proposals. She was being looked down by her class fellows and her friends started avoiding her. She has named/one laboratory assistant Jai

Kumar in her statements and the said Jai Kumar PW-6 has been examined on her behalf who has stated that after reading the news item he found

that it was affecting on her career, PW-3 Gulab Singh, PW-5 Kesuraj and PW-7 Chandra Singh have also stated that the reputation of Manjulata

has lowered down. From the statements of her father and mother it is borne out that their reputation has gone down. Gulab Singh has stated that

when the relatives assembled they talked about elopement of plaintiff respondent, PW. 7 Chandra Singh has gone to the extent of saying that after

publication of news item in the Dainik Navjyoti, marriage proposals for Manjulata were minimised. PW-8 Mangilal has stated that he first tried to

get his nephew betrothed with Manjulata but after publication of this news item, the idea was dropped-So it is proved from the evidence of plaintiff

and her witnesses that her reputation has lowered down, marriage proposals were dropped, she underwent mental tensions and her character was

assassinated. The evidence led by plaintiff and her witnesses was sufficient to lower down the prestige of Manjulata. It has been stated on behalf

of the appellant that there was no malice against the plaintiff respondent. Needless to say that in such cases a man may be liable although he had

not a particle of malice against the person defamed. The intention or motive with which the words were employed is, as a rule, immaterial. If the

defendant has in fact injured the plaintiff's reputation, he is liable, although he did not intend so to do, and had no such purpose in his mind when he

wrote or spoke the words. Every man must be presumed to know and to intend the natural and ordinary consequences of his acts. The words are

actionable if false and defamatory, although published accidentally or inadvertently. (Law of Defamation and Malicious Prosecution), by V. Mitter

7th Edition page 152.)

17. From the evidence on record it is found that the defendant appellants after having received information from the police without any proper

verification published the news item, with the result Manjulata and her parents lost their prestige in the society and in eyes of relatives as well as the

persons who knew them. Thus the Court below was right in deciding issues Nos. 1, 2 and 3 in favour of the respondent as against the appellant.

18. Now the question remains whether the Court below was right in awarding damages of Rs. 10,000/-. Issue No. 4 relates to the award of

compensation. Mainly, damages can be said to be of two kinds, general and special. Under the Indian Law, general damages will only be

presumed when the words are actionable per se but in cases where the words are not actionable perse, the proof of special damages is necessary.

Here, words have been proved to be defamatory of the plaintiff, general damages will be presumed since all defamatory words are actionable per

se. The effect of the publication of the news item in Dainik Navjyoti is that the respondent has lost reputation and her parents lost their prestige in

the society, prospects of marriage of Manjulata were lessened. In these circumstances I am of the view that the damages awarded is not excessive.

Therefore, I maintain the finding on issue No. 4. No other point was raised.

19. In view of above discussion, this appeal fails and hereby dismissed with costs.