
(1933) 12 CAL CK 0009
In the Calcutta High Court

Atindra Narayan Roy

APPELLANT

Vs

Hemanta Kumari Devi and Others

RESPONDENT

Date of Decision : 13-12-1933

Acts Referred:

Citation : AIR 1934 Cal 606 : 152 Ind. Cas. 900

Hon'ble Judges : Panckridge, J

Bench : Division Bench

Judgement

Panckridge, J.—This is a rule obtained by the defendant Maharani Hemanta Kumari Devi calling upon Hirendra Nath Sanyal and Satyendra Nath Mazumdar to show cause why they should not be committed for contempt of Court for causing to be printed for circulation the allegations made in the plaint in the suit, and, for publishing an abstract or a copy of the said plaint.

2. The respondent Sanyal is a relation of the plaintiff. The respondent Mazumdar is the editor of a Bengalee Newspaper called the "Ananda Bazar Patrika." This suit was filed on 7th July 1933, and the summons was served on 21st July. It appears that in the issue of the respondent Mazumdar's newspaper of 8th August 1933, the article, of which a complaint is now made, appeared. The respondent Mazumdar states that about 4th August 1933, the respondent Sanyal approached him and furnished him with a copy of the plaint and with what he describes as a summary for publication. He adds that the respondent Sanyal also asked for his assistance in arranging for the appearance of an article similar to the one complained of in other newspapers. In compliance with the respondent Sanyal's request, the respondent Mazumdar communicated with the editors of four other newspapers and the article in question or an article closely resembling it, in due course appeared in their columns. The respondent Sanyal has filed no affidavit denying the respondent Mazumdar's account of the manner in which he obtained the materials for the article and that account must therefore be accepted as correct.

3. In my opinion, the conduct of the respondent Sanyal is to be deprecated. It is

suggested that his intention was merely to furnish the editor of the newspaper, with whom he was on terms of friendship with a valuable piece of news. I do not accept the suggestion for one moment, it is only a suggestion on the part of counsel and it is not supported by the oath of Sanyal. I have no doubt that Sanyal, being related to the plaintiff, thought it highly probable that the publication of the plaintiff's allegations in the press would be distasteful to the defendant, and that his motive in communicating with Mazumdar was to procure publication of matter offensive to the defendant. I have not called upon counsel for the respondent Mazumdar, because for reasons, which I shall shortly give, I do not think that there has been a contempt of Court in this case, but I desire to say that if the editors and proprietors of newspapers take upon themselves to publish copies or resumes of pleadings and similar documents, in pending suits, they do so at considerable risk. If editors regard my judgment in the light of a license to them to publish matters of this nature they are likely to find themselves gravely mistaken. I now turn to the article concerning which complaint is made. It is admitted that the article is a resume of the plaint.

4. As it first appeared, it was headed "complaint of the adopted son against Rani Hemanta Kumari." In consequence of a protest on behalf of the defendant, the respondent Mazumdar thereafter inserted a paragraph in his newspaper correcting the phrase "the adopted son" to "the alleged adopted son" and making it clear that the head line was not intended in any way to commit the newspaper to the statement that the plaintiff, was, in truth, the adopted son of the defendant. I think his action in inserting the correction was proper, but I do not attach much importance to the omission of the word "alleged" in the original head line. The article is to the effect that a suit has recently been filed in which the adopted son of the defendant's deceased-husband is claiming the Putiya Raj. It goes on to allege the adoption of the plaintiff by the defendant after her husband's death and states that although the plaintiff and the defendant remained on good terms for a considerable time, the defendant thereafter, at the instigation of her son-in-law and her grandson, entered into an agreement with the natural father of the defendant, who was at that time a minor under the terms of which his rights were considerably diminished to the advantage of the defendant's daughters and their families. The article proceeds to state that on attaining majority the plaintiff came to learn that the defendant being improperly influenced by the machinations of her son-in-law and daughter's sons was trying to make her daughter's sons her future heirs. The article stated that the plaintiff claims possession of the estate, costs and mesne profits.

5. The defendant relies on various authorities for the proposition that to publish a pleading, while the suit is pending, amounts to an ex parte statement of the case and is, in effect, an improper attempt to influence the judgment of the Court and to interfere with the course of justice. The first case is *In re Cheltenham and Swansea Railway Carriage and Wagon Company* (1869) 8 Eq 580. In that case a petition has been presented for winding up a company, containing grave and serious charges with reference to the conduct of the directors. Sir R. Malins, V.C,

held that its publication constituted a contempt of Court. The next case is *Chesshire v. Strauss* (1896) 12 TLB 291. In that case a newspaper had published a copy or resume of the statement of a claim, which is described as containing allegations, many of which were immaterial, of a most damaging description. This was held to amount to a contempt of Court and Day, J., observed that it was interfering with the course of justice to make public the statement of claim in this way, which was the ex parte statement of one side. Finally, there is the recent case *In re William Thoma Shipping Co., Ltd.* (1930) 2 Ch 368. There, certain plaintiffs in a debenture holder's action obtained an order for the appointment of a receiver of the defendant company. The director of a company closely connected with the defendant company gave an interview to a newspaper correspondent and permitted him to publish statements adversely criticising the conduct of the plaintiffs in obtaining the appointment of a receiver. His observations were held by Maugham, J., to amount to an injurious misrepresentation concerning the parties to the proceedings and to constitute a contempt of Court.

6. Now, with regard to the first two cases, it appears from the reports that the statement of claim in one case and the winding up petition in the other contained charges of disgraceful conduct against the opposite parties. I find it quite impossible to say that there has been anything of the sort here. Indeed, the defendant in the article is represented as merely the victim of the wickedness of others. No one, I think, reading the article would form an unfavourable view of the conduct of the defendant. The case decided by Maugham, J., is of no great importance from this point of view, because what was complained of there was not the contents of any pleadings or any petition but an intemperate criticism of plaintiffs who has successfully obtained an order, the granting of which was at the discretion of the Court. It seems to me that all these cases are distinguishable and that the defendant is not justified in saying that the publication can be read as an attack upon her personal character and is therefore likely to prejudice her in the eyes of the Court or the public. Again, I do not think that this is a case where it can be said that there has been an attempt to prejudge the issue or to substitute what is sometimes called "trial by newspaper" for trial by a Court of justice. A reader of the article cannot fail to realize that what is set out is merely a summary of the plaintiff's allegations. There is nothing in the article from which a reasonable person could draw the conclusion that the defendant is not prepared to meet the plaintiff's case. I do not think that it has been shown that there is any likelihood of the defendant being embarrassed in her conduct of the proceedings by the publication, nor of witnesses being deterred by the fact that the article complained of has appeared. As I observed at the outset, it is a matter of considerable risk to publish the summary of a pleading in a pending case in newspaper, and journalists are liable to get themselves into serious trouble if they publish articles of this class. At the same time, I am bound to say that I do not think that the conditions necessary for making an order for the committal of the defendants or for their punishment

in any other manner have been satisfied. The rule therefore is discharged. The respondent Mazumdar is entitled to his costs. To mark my disapproval of the conduct of the respondent Sanyal, I direct that he pay his own costs.