
(2002) 05 DEL CK 0011
In the Delhi High Court
Case No : Suit No. 1974 of 1998

Daewoo Motors India Limited

APPELLANT

Vs

Prof. Dr. Brijendra Prasad and Others

RESPONDENT

Date of Decision : 20-05-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 25N, 9

Citation : AIR 2003 Delhi 2

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : R.K. Saini, for the Appellant; Party in person, for the Respondent

Judgement

J.D. Kapoor, J.—The defendant No. 4 was once employee of the plaintiff. Defendant No. 1 is his brother who is a self-styled Chief Director General of Public Interest Issues Research Academy. The Northern Region Chapter of this Academy has been shown as the residential address of defendant No. 4. Accordingly to the plaintiff the services of defendants were terminated on 15th May, 1998 whereas the defendant claims that he had resigned and the resignation was accepted on the said date itself. After having severed his relationship as that of employee and employer the defendant allegedly started vilification campaign against the plaintiff which is a multi national company engaged in the business of manufacture and sale of Cars and Commercial Vehicles.

2. Through this suit permanent injunction has been sought restraining the defendants and their agents, servants etc. from indulging in or repeating any act which is likely to, directly or indirectly harm or damage the reputation, honour and goodwill of the plaintiff company, its Directors, officers, employees.

3. It is averred that on and around the 3rd week of July 1998 the plaintiff received a threatening letter dated 16th July, 1998 addressed to its Chairman, Vice-Chairman, Deputy Managing Director (Finance & Business Management) and Director (Personnel) from defendant No. 1 levelling various false, frivolous,

baseless, scandalous and vexatious allegations against the plaintiff company and its employees/agents with malafide intention and ulterior motives. In the said letter the defendant threatened and gave time schedule that it would initiate legal action against the plaintiff in case demands mentioned in the said letter were not implemented.

4. The plaintiff company decided to ignore and not to send any reply to the aforesaid letter as after reading the contents, the plaintiff company found that the same had been sent at the behest of an ex-employee simply to blackmail the plaintiff company. It was further noted that the said letter was sent to the plaintiff company only with a malafide intention to put undue pressure to meet unjust and unwarranted demands of the defendants.

5. When defendants realised that they are unable to make the company to succumb to their pressure, defendants 1 & 2 sent letter dated 31st July, 1998 addressed to the Union of India, Financial Institutions, Central Bureau of Investigations etc. once again making false, frivolous, scandalous and baseless allegations against the plaintiff company and its employees/agents with the malafide intention and ulterior motive of damaging the reputation and goodwill of the plaintiff company.

6. The Industrial Development Bank of India (DBI) to whom also the letter dated 16th July, 1998 was sent by the defendant No. 1 called upon the plaintiff company to forward its comments on the allegation made in the letter dated 16.7.98 issued by the defendant No. 1 as well as furnish legal opinion in this regard which the plaintiff company did and replies dated 7.9.1998 and 10.9.1998 were sent to the IDBI.

7. During enquiries it was also revealed that the letters are being written at the behest of an ex employee of the company, defendant No. 4 who is the real brother of defendant No. 1 and that the so called Public Interest Issue Research Academy (PIIRA) is the closely held Trust of both the brothers and they are indulging in these tactics for wrongful gain.

8. Some of the extracts of the notices which are annexed need to be reproduced. These are as under:-

"Very serious offences have been and are being committed by the aforesaid company for which they are being booked in courts of competent jurisdiction by our clients. Obviously, such a culprit MNC ought not be financed by Government bodies in the shape of loans/additional limits etc. This is necessary in the interest of proper utilisation of public funds. The Department of Heavy Industries may also review this matter in the light of these facts.

Moreover, for considering loan applications, following factors showing truthful factual position of serious mismanagement by the Chairman, Vice-Chairman Deputy managing Director, Director-Personnel, and its Founder - Chairman, ought also to be considered carefully:-

A. For the last six months, our (investors) confidence has completely shaken in view of mismanagement of the Company and the Share price is hovering at Rs. 7.30, Rs. 7.50 against Right Issue of Rs. 15/-.

B. The working of the company specially Finance Division is dubious and absolutely non-transparent. Late night meetings and dealings/working are the order of the day. THE COMPANY HAS NOT MADE ANY PROFITS AND YET PAID 20% BONUS/EX-GRAIIA TO ITS EMPLOYEES DURING FINANCIAL YEAR 1996-1997. CRORES OF RS. ARE SPENT DUE TO OVER-TIME WORKING AND PAYING THE BILLS FOR STAYING IN FIVE STAR HOTEL AND GIFT ARTICLES. ALL SUCH EXPENSES AND LARGE KICK-BACKS ARE FUNDED THROUGH LOANS ETC. WE WONDER IS IT THE WAY OF SPENDING OUT PUBLIC MONEY AND ARE THE LOANS SANCTIONED AND DISBURSED TO THE COMPANY FOR PAYING THE BRIBES AND ILLEGAL GRATIFICATION RECKLESSLY? As regards health of the company, balance sheet of last three financial years may be examined by you."

9. The main defense of the defendant is that the aforesaid legal notices were given to the plaintiff so that they make amends in their working and functioning. The amounts were sought to be tendered by the plaintiff company in respect of the following lapses:-

(i) Not paying statutory compensation to kins of killed 8 workers despite accident having taken place on 3.8.97 and demand notices issued by Commissioner under Workmen Compensation Act 1926 and thus illegal withholding payment of about Rs. 10 lacs

(ii) not getting Certified Standing Orders for the employees despite many written assurances given to Labour Authorities;

(iii) not paying retrenchment compensation to more than 620 workers of the factory and not seeking any permission of State Government u/s 25N(i)(b) of Industrial Disputes Act, 1947;

(iv) not having on its pay rolls a Welfare Officer in Grade-I, 3 Safety Officers and a Company Secretary in a continuous manner and thus violating the Uttar Pradesh Welfare Officers Rules 1955, Uttar Pradesh Safety Officers Rules 1984 and Companies Act, 1956;

(v) not framing a Sexual Harassment Protection Scheme as per the directions dated 13.8.97 of Hon"ble Supreme Court in Vishakha and Ors. v. State of Rajasthan and Ors. and thus showing full contempt to the Indian Legislation;

(vii) breaching more than 20 Central and State enactments and committing every day more than 90 offences connected therewith and

(viii) not managing the company professionally and having worst industrial relations at the factory.

10. Both the parties filed their affidavits by way of their evidence. The plaintiff has proved the following documents.

1. Exhibit A is the certificate of incorporation of the plaintiff.
2. Exhibits B & C are the Employment/personal data of the defendant No. 4 with the plaintiff company and the appointment letter dated 24th August, 1996.
3. The resignation letter dated 15th May, 1998 and its acceptance by the plaintiff company is Exhibit D.

11. It may be mentioned at the very outset that by way of public interest litigation the defendants had also filed a writ in this regard in this Court which was dismissed being not maintainable. The observations made by me in the order dated 7th December, 2000 need to be referred as these would show that the real motive of the intention of the defendant is not to protect and preserve the interest of the public. It appears to be an act for personal vendetta.

12. Most of the enactments cited by the defendants involve criminal or penal action and as such are not even remotely related or connected with the averments made in the plaint and the defense set up by the defendants. There are several other agencies which are meant for taking care of the persons who commit violation or breach of law.

13. In S.B. Noronah Vs. Prem Kumari Khanna, the Supreme Court has observed that the parties may win or lose on substantial questions and not on technical/tortures and the Courts cannot be abettors.

14. Similarly acts of omissions or commissions of any person with regard to any enactment of the country or the statute is neither the kernel of dispute between the parties nor is the requirement of the law for eliciting better particulars. Parties are entitled only to seek particulars if the information has been furnished in the vague terms in respect of the fact and not otherwise. The defendant whose services were terminated appears to be nursing a grudge against the plaintiff and, Therefore, has assumed himself as a crusader or a public spirited person to explicit and blackmail erstwhile employer.

15. The so called public interest academy is a family affairs of the defendants. The defendant had not business to serve the plaintiff with the legal notices. At the most he could have taken action against his wrongful dismissal from service. The plaintiff has taken pains to cull out as many as 23 statutes the violations of which have been committed by the plaintiff. There are two statutory authorities for taking action against the violations of these acts. The details of these statutes and rules and regulations made there under have been given by the plaintiff in para 4. No person can be allowed to indulge in vilification campaign as the plaintiff is indulging. The plaintiff has succeeded in making out a case for permanent injunction. As a consequence the suit is decreed in terms of prayer A of the plaint.