

(1940) 04 MAD CK 0008
In the Madras High Court

Edara Venkayya Pantulu alias E.V. Pant and Another	APPELLANT
Vs	
Kalipattapu Chitti Surya Prakasamma and Another	RESPONDENT

Date of Decision : 29-04-1940

Acts Referred:

Citation : AIR 1940 Mad 879 : (1941) ILR (Mad) 255 : (1940) 52 LW 282 : (1940) 2 MLJ 328

Hon'ble Judges : Pandrang Row, J

Bench : Division Bench

Judgement

Pandrang Row, J.—[After dealing with the facts his Lordship continued.]

2. The defamation having been established beyond doubt it only remains to consider whether the amount of damages awarded by the Court below

is reasonable. It may be mentioned in this connection that before the suit was filed there was a criminal prosecution at the instance of the father of

the plaintiff which resulted in the conviction of all the defendants which was upheld in the High Court on revision. It is argued that the very fact that

there had been, a criminal prosecution and a conviction obtained before the civil suit was launched is itself a reason for reducing the amount of

damages, and reliance has been placed on the decision in Ma Sein Tin v. U Kyaw Maung AIR 1936 Rang. 332. At page 334 there are certain

observations which show that the learned Judge disapproved conduct of this kind, that is, the filing of a civil suit for damages after a criminal

prosecution, though the law grants both remedies to the wronged person. We are not prepared to accept this view, namely, that where the law

permits two remedies a party who avails himself of one remedy after another should not get, so to say, as much compensation as he would

otherwise get. What the law allows must be awarded by the Courts which administer the law. The remedies are moreover different. The law gives

a party both remedies and it is not right in our opinion to take away so to speak by a judicial decision what the law gives in cases of this kind. The

amount awarded by the Court below is Rs. 1,500 whereas the amount claimed is Rs. 5,250. The learned Judge who tried the case has given

reasons for assessing the damages at Rs. 1,500 and no attempt has been made to show that these reasons are not well founded beyond relying on

the decision in *Mar Sein Tin v. U Kyaw Maung* AIR 1936 Rang. 332. In a case of this kind it is not possible for the Court to assess the damages

at an exact figure giving absolutely convincing reasons for so doing. This observation is made necessary by the fact that an attempt was made to

argue that the lower Court should have allowed only proportionate costs in view of the fact that only Rs. 1,500 was decreed in respect of a claim

of Rs. 5,250. Parties cannot be expected to assess the damages in an exact manner. Especially in a case of this kind where loss of reputation is

suffered in respect of the virginity or purity.

3. The appeal is accordingly dismissed with costs of the plaintiff-respondent. The memorandum of objections not being pressed is also dismissed

but without costs.