

(1893) 04 MAD CK 0002
In the Madras High Court

Raman Nayar

APPELLANT

Vs

Subramanya Ayyan

RESPONDENT

Date of Decision : 13-04-1893

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 54(c)

Citation : (1894) ILR (Mad) 87

Hon'ble Judges : Arthur J.H. Collins, C.J; Davies, J

Bench : Division Bench

Judgement

1. This was an action for slander, and it was alleged in the plaint that the words complained of were uttered by the defendant, who is the Munsif of

Payoli, during the hearing of a suit to which the plaintiff was a party.

2. The District Judge rejected the plaint u/s 54(c)1, Civil Procedure Code, holding that the suit was barred under a positive rule of law, and that

Act XVIII of 1850 applied.

3. The real question for our decision is, can an action for slander be maintained against a Judge for words used by him whilst trying a cause in

Court even though such words were alleged to be false, malicious and without reasonable cause.

4. This question has long been decided in the negative by the Courts in England on the grounds of public policy, and we think that the English law is

applicable to Courts in India. In Scott v. Stansfield L.R. 3 Ex. 220 the facts were very similar to the present case, and the Court of Exchequer

consisting of Kelly, C.B., and Martin, Bramwell and Channell, B.B., unanimously decided that such an action would not lie; the reasons given were

that it is essential in all Courts that the Judges who are appointed to administer

the law should be permitted to administer it under the protection of the law, independently and freely without favour and without fear. This provision of the law is not for the protection or benefit of a malicious or corrupt Judge, but for the benefit of the public, whose interest it is that the Judges do exercise their functions with independence and without fear of consequences. In *Dawkins v. Lord Rokeby* L.R. 8 Q.B 255 the Court of Exchequer Chamber consisting of ten Judges held that the authorities are clear, uniform and conclusive that no action of slander lies against Judges..."for words spoken" in the ordinary course of any proceeding before any Court or Tribunal recognised by law. A Full Bench of the Madras High Court has held that the English authorities on this subject apply to Judges and Courts in India. See *Sullivan v. Norton* ILR 10 Mad 28

5. Act XVIII of 1850 quoted by the District Judge does not appear to apply in a case like the present.

6. We dismiss the appeal with costs.

1. [Section 64 : The plaint shall be rejected in the following cases:

When plaint shall be cases:

rejected.

(c) if the suit appears from the statement in the plaint to be barred by any positive

rule of Law.

(d) if the plaint, having been returned for amendment within a time fixed by the Court, is not amended within such time.]