

(1920) 11 BOM CK 0002
In the Bombay High Court
Case No : First Appeal No. 195 of 1919

Vithal Ramchandra Gulwadi

APPELLANT

Vs

Raghavendra Ramrao Baindur

RESPONDENT

Date of Decision : 20-11-1920

Acts Referred:

Citation : AIR 1921 Bom 158 : (1921) 23 BOMLR 447

Hon'ble Judges : Shah, J; Norman Macleod, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Norman Macleod, Kt., C.J.—This is an appeal from the decision of the District Judge of Bijapur in a suit filed by the plaintiff, a pleader of Bagalkot, against Mr. Raghvendra Rainrao Baindur, an Additional Subordinate Judge of Bagalkot, claiming damages for libel contained in two documents (1) a notice dated the 4th October 1916, and (2) an order dated the 27th November 1916. The defendant pleaded that he was protected by Act XVIII of 1850, in that the acts complained of were done by him in discharge of his judicial duty. Both the documents complained of were written by the defendant and served on the plaintiff owing to an unfortunate difference of opinion which had arisen between the plaintiff and the defendant in the course of a suit in which the plaintiff was acting as a pleader for one of the parties. The defendant objected to the conduct of the plaintiff acting as such pleader and called upon him to apologise. The plaintiff did not apologise, and in consequence of his refusal the defendant addressed a further communication to the District Judge which is the subject matter of the other suit filed by the plaintiff against the defendant. It has been argued, as it was argued in the lower Court, that these written communications made by the defendant to the plaintiff and to the District Judge respectively were not made in the discharge of the defendant's judicial duty. The argument seems to be that the duties of a Judge are of various kinds. He has to hear cases between contesting parties, and it is only when acting in that way that he is acting judicially, or acting in

discharge of his judicial duties, but if he is considering the conduct of the pleaders who appear before him, he is not acting in discharge of his judicial duty, and that, therefore, he is not protected by Act XVIII of 1850. I do not think that the Act can be read in that way. It seems to me beyond all doubt that the Judge in dealing with the conduct of the pleader was certainly acting in discharge of his judicial duty, and he is, therefore, protected from any liability to be sued in a civil Court. It may be that under the protection of the Act the Judge may be so foolish or so rash as to exceed the limits of propriety and gratify his own spite against the person involved. But it is difficult to believe that any Judge would be guilty of such impropriety, and there is no reason whatever to believe that the defendant in this case has been guilty of such an impropriety. Even if it were assumed that he had been, he is protected by the Act, and the remedy for the complainant would be to report the matter to a higher authority. I think, therefore, the District Judge came to the right conclusion when he held that the defendant was protected by the Judicial Officers' Protection Act XVIII of 1850, and the appeal must be dismissed with costs.

2. Suit No. 1 of 1918, in which Appeal No. 170 of 1919 was filed, was based on the report which was made by the defendant to the District Judge with regard to the plaintiff's conduct. The suit was dismissed for the same reasons as the other suit was dismissed. It seems perfectly clear to me that it was rightly dismissed, as the defendant reporting the conduct of the plaintiff to the District Judge was acting in discharge of his judicial duty. That appeal, therefore, will also be dismissed with costs.

Shah, J.

3. I agree. In both these cases the acts attributed to the defendant were done by him in the discharge of his judicial duty, and the defendant was acting judicially. I do not feel any doubt whatever on that point. That is a complete answer to the suits filed by the plaintiff under Act XVIII of 1850.