

IN THE COURT OF SPECIAL RAILWAY MAGISTRATE, (SUB-JUDGE),
JAMMU

Present: Anoop Kumar Sharma

Jammu university through its Registrar.

(Complainant)

V/s

1. Early Times Newspaper, Through its Editor, Printer & Publisher Early Times newspaper, Maharaja Gulab Singh Marg Extension, Jammu
2. Avinash Azad, Journalist, Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu
3. Mohd Irfan, Journalist Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu
4. K. Koushal, Journalist, Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu

(Accused Persons)

In the Matter:

Complaint u/s 500/501/502 RPC.

Present:

Mr. Anil Sethi Advocate for the complainant.

ORDER

09-05-2016:

In the matter in hand, an inquiry u/s 202 Cr. P. C was ordered and IGP Jammu Zone was directed to entrust the inquiry to a Gazetted Officer of *known worth and credibility*. Inquiry so desired came to be conducted by SP South Jammu, who after completion of inquiry submitted the report before this Court on 07-04-2016.

Heard the Learned Counsel for the complainant.

It is submitted by the Learned Counsel for the complainant that the complainant was not associated in the inquiry by the Inquiry Officer, so the report submitted by him, is without any merits. He further submitted that the

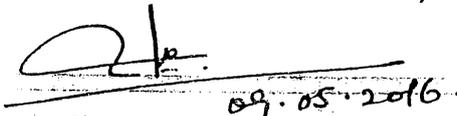

09.05.2016

University kept on waiting the Inquiry Officer to approach it, but the Enquiry Officer conducted the inquiry in a manner unknown to established procedure. The report thus, deserves an outright rejection.

I have gone through the Inquiry report and other material placed on record. Bestowed my thoughtful considerations to the relevant provisions of law.

While going through the report submitted by the Inquiry Officer and other record collected by him in the course of inquiry, it transpires that the inquiry officer has totally misdirected himself in conducting the inquiry of the matter. It seems that the inquiry officer has no legal concept as to how an inquiry u/s 202 Cr. P. C is conducted. An inquiry u/s 202 Cr. P. C, being an inquiry at pre summoning stage, the accused is not required to be associated with it, rather the complainant and his evidence is to be taken into account in order to return a finding with regard to truth or falsehood of the complaint. But the inquiry officer has bypassed the procedure and instead of inquiring the facts from the complainant, he has heard the accused persons, as if he were to conduct a trial and return a finding of their guilt or innocence. If such are the officers of known worth and credibility in Jammu and Kashmir Police then it does not require any further comment.

However, to set right the things it is once again reiterated and made clear that the case is filed by the university to prosecute the accused newspaper and its publisher and reporters for having published defamatory news items against the complainant university, in its different issues. The Inquiry Officer is required to conduct an inquiry from the complainant and to go through the record of the university to ascertain, whether the news items are based on truth or are false, as every news item carry some kind of factual reporting with regard to the activity of the university. It is to be verified whether the reported facts are based on truth or are otherwise, and a report accordingly is required to be submitted before this Court. The matter has already delayed much, as considerable time was taken by the Inquiry Officer, to conduct an inquiry in a manner which was beyond the legal scope.


09.05.2016

In these circumstances, the report submitted by the Inquiry Officer, cannot be relied upon, thus, is rejected. Let the complaint along with copy of all the relevant record be sent back to SSP Jammu, directing him to get the matter further inquired, in its right perspective by adopting the right course, by some competent officer. The further inquiry must be completed within a period of 15 days failing which the Inquiry Officer, shall personally remain present before this Court on the next date. A copy of this order be sent to ICJ Jammu also for his information, as the initial direction to get the matter enquired through an officer of known worth and credibility was given to him so, he is required to be informed about the status of the case.

Put up on 26-05-2016.

Announced
09-05-2016


(Anoop Kumar Sharma) 09.05.2016
Special Railway Magistrate,
(Sub-Judge), Jammu

**IN THE COURT OF SPECIAL RAILWAY MAGISTRATE, (SUB-JUDGE),
JAMMU**

Present: - Anoop Kumar Sharma

***Jammu University Through Registrar, B. R Ambedkar
Road, Jammu.***

(Complainant)

V/s

- 1. Early Times Newspaper, Through its Editor, Printer & Publisher Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu.***
- 2. Avinash Azad, Journalist, Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu.***
- 3. Mohd Irfan, Journalist Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu.***
- 4. K. Koushal, Jouranlist, Early Times Newspaper, Maharaja Gulab Singh Marg Extension, Jammu.***

(Accused Persons)

In the Matter of: Complaint under section 500/501/502 RPC.

Present: Mr. Anil Sethi Advocate for the complainant.

ORDER

29-01-2016:

In the complaint in hand, complainant Jammu University, has urged that the newspaper "Early Times" had started a campaign of defamation and vilification against the Jammu University and its Vice Chancellor by publishing the news items in its issues, which are based on falsehood and are concocted stories. It is urged that after publishing the false and defamatory news against the University, the newspaper is circulated in the University Campus in order to give the news items a wide publicity and degrade the reputation of University and its Vice Chancellor, in the estimation of the right thinking persons of the society. Complainant university has further urged that the University filed a civil suit against

Sd/-Judge

the accused persons in which Court of Ld. Munsiff Jammu has temporarily restrained the newspaper and its publisher from publishing any false news item pertaining to the University but the accused persons are hardly bothered to honour the same. Complainant, as such, has prayed for punishing the accused persons u/s 500, 501 and 502 RPC.

This Court examined the Registrar of the University and one witness namely Neeraj Sharma, who is also an officer of the Jammu University u/s 200 Cr. P.C and the examination reduced to writing was made part of record. The complaint is supported with many paper cuttings of the newspaper which according to complainant carries defamatory news against the University.

I have minutely perused the news cuttings, annexed with the complaint, along with the statement of the complainant and the witness recorded in the matter.

Heard the Learned Counsel for the complainant.

A bare perusal of the news cuttings which are annexed with the complaint reveals that majority of the news items carry some kind of information, describing some facts and figures pertaining to the record of the University. Whereas, the many other news items are published in reference to some Organizations having given some kind of statement or having initiated some kind of protest against the University or its Vice Chancellor. Nothing is filed on record by the University to show that news items published are factually incorrect. In the humble view of this Court, before proceeding ahead in the matter, the truth or falsehood of these news items is required to be ascertained, so that appropriate order in the matter may be passed.

The complaint, as such, is referred for an inquiry u/s 202 Cr. P. C to be conducted by a Gazette Officer of the Police Department, who after ascertaining the truth or falsehood of the news items published in the

SAT Judge

accused paper shall submit a report before this Court. As the matter pertains to highest seat of learning of the State, and is against a newspaper, the same is required to be inquired by an officer of known worth and credibility.

Thus, a copy of this complaint along with all the documents annexed thereto be forwarded to IGP Jammu Zone, along with a copy of this order, directing him to entrust the inquiry to a Gazetted Officer of Police Department, of the stature as desired above, under an intimation to this Court. The Enquiry Officer shall complete the inquiry u/s 202 Cr. P. C and submit report of the same to this Court by or before 19th February 2016.

Put up on 19th February 2016.

Announced

29-01-2016



(Anoop Kumar Sharma)

Special Railway Magistrate,

(Sub-Judge), Jammu.

Copy of the order forwarded to IGP ZPHQ Jammu, for compliance.

(Anoop Kumar Sharma)

Special Railway Magistrate,

(Sub-Judge), Jammu



IN THE COURT OF MUNSIFF, JAMMU.

Present:- PRAVIN PANDOH

Jammu University through Registrar, B.R Ambedkar Road, Jammu.

(.....Plaintiff)

Versus



1. Early Tiems Newspaper, through its Editor, Printer and Publisher Early times Newspaper, Maharaja Gulab Singh Marg Ext. Jammu Behind Hotel Rivera, Jammu.
2. Avinash Azad, Journalist, Early Tiems Newspaper, Maharaja Gulab Singh Marg Ext. Jammu Behind Hotel Rivera, Jammu.
3. Mohd Irfan, Journalist Early Tiems Newspaper, Maharaja Gulab Singh Marg Ext. Jammu Behind Hotel Rivera, Jammu.
4. K.Koushal, Journalist Early Tiems Newspaper, Maharaja Gulab Singh Marg Ext. Jammu Behind Hotel Rivera, Jammu

(...Defendant)

IN THE MATTER OF:- Civil Original suit for permanent prohibitory injunction restraining the defendants the defendants from printing, publishing and carrying out any news item pertaining to the plaintiff in view of biased, malicious, defamatory and scandalous campaign indulged in by the defendants.

AND

IN THE MATTER OF:- *Application for interim relief*

Mr. Anil Sethi Advocate, for the applicant/ Plaintiff.

ORDER

The facts of the plaintiff / applicant case in brief are that the plaintiff is a creation of statute, the highest seat of learning established by an act of the Legislature. The plaintiff has at all times provided best of teachings to its students. The students in turn, have risen to the highest level of society on account of the impeccable character of the teaching staff, the management skill and the devotion and dedication of the staff of the University. The university, in pursuit of its excellence has to take many decisions which include administrative, academic and other public related matters. These decisions are taken by a collegiums/collection of individuals who are highly educated and have total commitment towards the society. On the account of name, reputation and goodwill earned by the plaintiff in its field, a host of people have turned hostile/inimical towards the plaintiff. These hostile elements have somehow included the defendants in their fold who have felt a pinch of fair, partial and honest decisions taken by the University i.e plaintiff on the academic side as also on the administrative side have joint hand against the present dispensation manning the Jammu University and have succeeded in starting a campaign of vilification against the plaintiff. The defendants published a newspaper in the name of **Early Times newspaper**. The News paper carries the name of the defendants as Editor, Printer, Publisher, Journalist etc. This newspaper has off late started a defamatory campaign against the plaintiff which is based on falsehood and concocted story. Which reveals that the newspaper run by defendants is not only publishing defamatory story against the plaintiff but also indulging in printing facts which are incorrect.

false, scandalous and aim that tarnishing the image of the plaintiff. The defendants are publishing the news items in the predetermined manner and with a motive to defame the plaintiff and victimize it and its functionaries. The newspaper is circulated in the University campus in all the departments of studies and amongst all those who are of the concerned field. Despite repeated requests the defendants did not accede to the request of the plaintiff till date are publishing the unwanted /defamatory story against the plaintiff, as such the cause of action accrued to the plaintiff to file the instant suit.

Along the side of the main suit the plaintiff has moved one more application for interim injunction, which is supported by a duly sworn affidavit and where in a prayer for dispensation of emergent notice has been made.

Heard Mr. Anil Sethi & Mr. Suresh Kumar Ld. Counsels for the plaintiff who have supported their arguments with two authorities (1) Megna Publishers Co. Ltd. & ors V/s Shilpa S. Shetty case No. Appeal (Civil) 344 of 2002 (2). Shilpa S, Shetty V/s Megna Publishers Co. Ltd and ors. AIR 2001 BOM 176. and perused the file and annexure i.e. Photocopies of the newspapers published by the defendants on file.

From the material made available on record at this stage it appears that plaintiff has made out a good prima facie case in his favour.

The other factors governing injunction i.e. balance of convenience and irreparable loss also tilts towards him, the matter in hand seems to be of an emergent in nature, therefore, the prior notice to the non-applicant as envisaged Under Order 39 rule 3 CPC is dispensed with and in order to preserve suit property the grant of injunction is must.

Issue notice to other side. Meanwhile, the defendants/non-applicants are temporarily restrained from printing, publishing and carrying out any false news items pertaining to plaintiff and also restrained from displaying, carrying any such false thing in their website or any other electronic media till further orders. This order is, however, subject to objections from other side. The other side is at liberty to seek alteration / modification of order in case chooses so on or before next date of hearing. The plaintiff is directed to comply the provisions of Order 39 Rule 3 of CPC and shall submit service compliance affidavit within 7 days. Let the file shall come up for filing of objections from other side on next date of hearing on 29.09.2015.

Announced:
15.09.2015


Munsiff, Jammu

Forwarded to S.O. Tamilat Sadar Court Jammu
for Service 