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Basdeo Pande Vs. Balbhaddar Pande

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Court : Allahabad

Decided On : Jul-18-1906

Reported in : (1907)ILR29All44

Judge : John Stanley, C.J. and ;Rustomjee, J.

Appellant : Basdeo Pande

Respondent : Balbhaddar Pande

Judgement :

John Stanley, C.J. and Rustomjee, J.

1. This appeal must be allowed. The suit is one for damages for alleged false imprisonment and was brought under the following circumstances: The defendant appellant Balbhaddar was badly beaten by some person or persons on the 22nd of April 1903. He was carried to the police station at Gopiganj and there reported the circumstances of the occurrence and named the plaintiff and others as being the perpetrators of the assault upon him. The police made the usual inquiries and arrested the plaintiff and the others who were named along with him as participators in the assault, and sent them up to the Sub-Divisional Magistrate, who, after holding a preliminary inquiry, committed them all for trial to the Court of Session. The result of the trial was that all the accused were acquitted. This suit was then instituted to recover damages for false imprisonment. The imprisonment extended from 23rd of April to the 23rd of July 1903. Both the lower Courts have

decreed the plaintiff's claim and awarded to him the very substantial sum of Rs. 832-8. From these decrees the present appeal has been preferred, the ground of appeal being that there having been an investigation by the police, and the arrest having been the result of that investigation, the suit against the appellant did not, lie. We are of opinion that this ground of appeal is well founded. It would be a serious thing in a case in which a person who was assaulted, as was the plaintiff in this case, forthwith gave information to the police of what had occurred, and the police acting upon that information held an inquiry which resulted in a criminal prosecution, if under such circumstances the informant should be held liable to be sued in a Civil Court for damages for false imprisonment. We think that the decision of a Bench of the Madras High Court in the case of Narasinga Row v. Muthaya Pillai (1902) I.L.R., 26 Mad., 362 is correct. The facts of that case were very similar to the facts of the case before us. In that case the principal defendant gave information to the police that the plaintiff had illegally broken open the outer door of his house with intent to attach his property for arrears of kist. The station-house officer then held an investigation and subsequently charged the plaintiff before a Magistrate. The Magistrate tried the case and dismissed it, and thereupon the plaintiff sued for damages for malicious prosecution. Ill was held by Boddam and Bhashyam Ayyangar, JJ., that 'the only person who can be sued in an action for malicious prosecution is the person who prosecutes In this case, though the first defendant may have instituted criminal proceedings before the police, he certainly did not prosecute the plaintiff. He merely gave information to the police, and the police, after investigation, appear to have thought fit to prosecute the plaintiff. The first defendant is not responsible for their acts.' We agree in this statement of the law. The present claim is for damages for false imprisonment. If a party is not liable for damages for malicious prosecution, under the circumstances indicated above, it is difficult to see how he could be held liable for damages for false imprisonment. We allow the appeal, set aside the decrees of both the lower Courts, and dismiss the suit of the plaintiff with costs in all Courts.

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