

Babu Parshad Vs. Muda Mal

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Court : Allahabad

Decided On : Jan-23-1913

Reported in : 18Ind.Cas.331

Judge : George Knox and ;Rafique, JJ.

Appellant : Babu Parshad

Respondent : Muda Mal

Judgement :

1. There are six connected appeals before us Nos. 1329 to 1334. The facts which have given rise to these appeals are as follows: In 1909, one Badbu was sent up by the Police at Ghaziabad on a charge under Section 110, Criminal Procedure Code. Muda Mal and others, the respondents in the six appeals before us, gave evidence for the Police against Budhu. Muda Mal said in his evidence that Budhu committed theft and lived with Babu Parshad plaintiff-appellant and that Babu Parshad was a badmash himself. Babu Parshad instituted six different suits in the Court of the Subordinate Judge of Meerut for recovery of damages on the allegation that in statements made by Muda Mal and others were defamatory. The suits were resisted on the ground among others that the statement of a witness in the witness box was privileged and no civil suit for damages could lie in a Civil Court on the basis of the statement made by the witness, even if it be considered defamatory. The learned Subordinate Judge, without going in to the merits of the case accepted the plea for the defence and held that the suits of Baba Parshad

were not maintainable. On appeal to the District Judge, the decrees of the first Court were affirmed. Babu Parshad has come up in second appeal to this Court. It is contended on his behalf, and we think rightly, that before it can be decided whether a statement made by a witness in the witness box amounts to defamation, it is to be considered whether that statement was relevant to the inquiry in which the evidence was given. The learned Subordinate Judge, when summing up the authorities on the point, says that the authorities show that the statement of a witness in a judicial proceeding, if it is relevant to the inquiry before the Court, cannot form the basis of a suit for damages for defamation. In the appeals before us, no evidence was taken and it cannot be said whether the statements complained of were or were not relevant to the inquiry before the Magistrate, namely, the character of Budhu. We think that the Court of first instance should have had materials before it in order to determine the relevancy of the statements complained of before holding that the suits of Babu Parshad were not maintainable. We, therefore, set aside the decrees of the Courts below and remand the case to the Subordinate Judge for trial according to law. The case will go to the Subordinate Judge through the District Judge. Costs will abide the event.