

Udai Ram Vs. Gobardhan

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Court : Allahabad

Decided On : Dec-10-1926

Reported in : AIR1927All817

Appellant : Udai Ram

Respondent : Gobardhan

Judgement :

Pullan, J.

1. The plaintiff, who is the appellant before me, sued for damages because of certain statements made about him in a complaint filed by the respondent in a criminal Court. Damages were allowed by the Court of first instance but not in the lower appellate Court. The Judge of the Court below has referred to the Full Bench ruling reported as Chunni Lal v. Narsingh Das [1918] 40 All. 841, which is conclusive authority that in India as in England a complaint made in a Court of Justice has absolute privilege. It is argued here that this does not apply to a statement made about a third party in a complaint. Now, it may be that the plaintiff's name does not figure as one of the accused persons in the complaint, which was made by the respondent, but the complaint is very clearly made against him. It is alleged that it is he who has enmity against the complainant and who has conspired with the accused persons in order that they should commit the assault of which the complainant complains. Thus, virtually, it is a complaint against the

plaintiff and I see no reason to differ from the view taken by the lower appellate Court on this point.

2. A second plea is raised here to the effect that the appellant was entitled to a finding by the lower appellate Court as to whether the respondent defamed him subsequently in the village in addition to the words in the complaint which formed the basis of the suit. It is quite clear from the judgment of the Court below that this point was never raised before him and it is equally clear why it was not raised. The Court of first instance which decided the case partly in the plaintiff's favour passed such scathing comments on the witnesses who were suborned by the plaintiff to make out his supplementary case of defamation, that in supporting the judgment of that Court the plaintiff naturally refrained from mentioning this part of his evidence in the Court below. As he intentionally refrained from obtaining a finding on this question in the lower appellate Court, he cannot take this ground of appeal in this Court.

3. In my opinion, the suit was rightly decided and I dismiss the appeal with costs.

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