

In Re: Muthusami Naidu

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Court : Chennai

Decided On : Apr-19-1912

Reported in : (1914)ILR37Mad110

Judge : Benson and ;Sundara Ayyar, JJ.

Appellant : In Re: Muthusami Naidu

Judgement :

ORDER

1. The question for decision in the revision petition is whether a defamatory statement made by one person regarding another in a complaint presented by the former against the latter is absolutely privileged. In *In re Venkata Reddi I.L.R. (1913) Mad. 216* a Full Bench of this Court has expressed the opinion that neither party, witness Counsel, nor Judge can be held to be liable for defamation on account of words spoken or written in any proceeding before a court recognised by law and that such statements must be regarded as absolutely privileged. The learned Chief Justice refers in the course of his judgment to the decision in *Golap Jan Bholanath Khettry (1911) 38 Calc. 880*, where it was held that statements made in a complaint to a magistrate were protected by absolute privilege. The same view was held by the Queen's Bench Division in *Lilley v. Roney (1892) L.J. 61 Q.B.727*. The defamation in that case was contained in a letter of complaint addressed to the Registrar of the Incorporated Law Society against a solicitor, the society being a body having power to enquire into the conduct of solicitors. In *Bank of British North America v. Strong (1876) 1 A.C. 307*, the Privy Council no

doubt expressed the opinion that a statement in a notice of action would not be entitled to more than a qualified privilege. But this is apparently because the notice is not a part of the proceedings before the Court. We do not think that a statement in a complaint which initiates a proceeding should be held to be entitled to less privilege than other statements made by parties in the subsequent stages of the proceedings. If the complaint is false, then the defendant would be entitled to prosecute the complainant for preferring a false charge. We think the proper rule to lay down is that a statement contained in a complaint should be held to be absolutely privileged. We therefore set aside the conviction of the accused. The fine, if already paid, must be refunded.

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