

Muthusawmi Naidu Vs. Emperor

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Court : Chennai

Decided On : Apr-19-1912

Reported in : 14Ind.Cas.757

Judge : Ralph Benson and ;Sundara Aiyar, JJ.

Appellant : Muthusawmi Naidu

Respondent : Emperor

Judgement :

ORDER

1. The question for decision in the revision petition is, whether a defamatory statement made by one parson regarding another in a complaint presanted by the former against the latter is absolutely privileged.

2. In Potaraju Venkata Reldy v. Emperor (1912) 1 M.W.N. 476 : 13 Cri. L.J. 275 a Fall 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 statement must be regarded as absolutely privileged. The learned Chief Justice refers in the course of his judgment to the decision in Golap Jan v. Bholanath Khetry 15 C.W.N. 917 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. Ronsy 61 L.J.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 inquire into the conduct of Solicitors. In *Bentley v. British North Americans v. Strong* 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 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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