

Subhas Chandra Bose Vs. R. Knight and Sons and anr.

Subhas Chandra Bose Vs. R. Knight and Sons and anr.

SooperKanoon Citation : sooperkanoon.com/873569

Court : Kolkata

Decided On : Jan-30-1928

Reported in : AIR1929Cal69,113Ind.Cas.834

Appellant : Subhas Chandra Bose

Respondent : R. Knight and Sons and anr.

Judgement :

Rankin, C.J.

1. The plaintiff Subhas Chandra Bose sues the defendants who are the proprietors and editor of the Statesman newspaper for damages for libel contained in their issue of 26th November 1924. The words complained of are part of a leading article of which the main subject matter is a speech made by the Earl of Lytton when Governor of Bengal at Maldah on the 24th of that month. This speech had been published in extenso in the issue of the 25th and no complaint is made on that publication.

2. In the previous month, namely on 25th October 1924, the Governor-General under Section 72, Government of India Act, made and promulgated an ordinance to supplement the ordinary Criminal Law in Bengal. This among other provisions gave power to the Local Government in certain circumstances to arrest persons whom it believed to be guilty of certain crimes and to commit them to jail or to intern them without trial. Under this ordinance and under the provisions of

Regulation 3 of 1818 a considerable number of persons including the plaintiff were on 25th October 1924, arrested and lodged in jail. The ordinance was accompanied by a statement by the Governor-General of the reasons which had moved him to make the ordinance and on the same day there was published a resolution of the Government of Bengal explaining the reasons which had led the Governor-in-Council to ask the Governor-General to promulgate the ordinance.

3. The speech made by Lord Lytton at Maldah on 24th November 1924 contained this statement:

But men who defy the law, who live and act outside the law, who menace the liberty of those live within it, who take upon themselves to decide without process of law who shall live and who shall die, these men have no right to the protection of law -- they are outlaws, they are a danger to the State and their liberty is forfeited. It is against such men and such men alone, that the special powers, which my Government have asked for and have obtained are being directed. Every single-man, who has been arrested under Regulation 3 of 1818 or under the new Ordinance, is a member of a terrorist organization that seeks to attain its objects by violence and intimidation that proposes, if not checked, to carry out more murders. Every man, too, who has been arrested is being detained, not on the isolated statements of a single informer but on evidence from many different sources unknown to each other, spread over many months, which has to satisfy the Government of Bengal, as well as two independent Judges, and in the case of the Regulation 3 prisoners, the Government of India and the Viceroy himself -- probably the best trained lawyer in India -- that he is not merely a member of, but an active participator in this terrorist conspiracy.

4. The leading article of 26th November which is complained of discloses that the circumstances that the plaintiff and certain others of the arrested men were prominent members of a political party called the Swaraj Party had given rise to the contention that the ordinance and Regulation were being directed against that party and its members. In other words that the person arrested or some of them were imprisoned not because Government was desirous to stamp out a, terrorist conspiracy but because it wished to strike at the Swaraj Party and to get rid in that

way of legitimate opposition of a peaceful and political character. A. main purpose of Lord Lytton's speech at Maldah as appears therefrom had been to repudiate this suggestion by establishing first the fact that a far-reaching conspiracy to commit crimes was at work, in Bengal and secondly that the special powers of Government had been exercised carefully and solely with a view to cope with it.

5. The article complained of commenced with a reference to the Maldah speech and after certain personal references to a Mr. Gandhi proceeds to deal with two statements which it imputes to him. The first is the statement that

if it is not a fact that the ordinance is directed against the Swarajists then the Government ought by this time to have contradicted the complaint.

6. The second is the statement that:

if it can be proved that the ordinance is not aimed at the Swarajists I have no objection to making amends.

7. Upon the first statement the writer contends that Government has contradicted the complaint and that part of the argument appears to be finished. Upon the second statement the writer contends that Mr. Gandhi produces no proof that the Government's object is to break up the Swaraj party though he claims to have been shown such evidence and the writer infers that the so-called evidence must be ridiculously weak. On the other hand argues the writer, Lord Lytton in his Maldah speech produces proofs -- proofs, as I understand the writer that the ordinance is not aimed at the Swarajists. Then comes the passage complained of:

We who live in Bengal have before our eyes the evidence of a foul and far-reaching conspiracy. We have seen men murdered, shops wrecked, rails removed, bombs and imported weapons found. The Government have evidence collected not from a single informer but carefully traced and checked over a long period from totally different approaches, which has satisfied them and satisfied a former Lord Chief Justice of England that every single man arrested is a member of a terrorist organization. Mr. Subhas Chandra Bose, Chief Executive officer of Calcutta, was arrested under Regulation 3 and, therefore, the evidence regarding

his complicity has had to pass the trained legal scrutiny of the Viceroy. It is no doubt disconcerting for Mr. Das that his right-hand man has been arrested. But if the directing brain of the terrorist organization was also the right hand man of Mr. Das and of the Swarajist party, so much the worse for the Swarajist party. This duplication of roles is unfortunate, but the Swarajists would be well-advised to insist less strongly on the point.

8. Save for the last three sentences which contribute a certain amount of argument the passage complained of is a summary or paraphrase of passages in Lord Lytton's speech. But it is introduced in the middle of the writer's own polemic against Mr. Gandhi and it is clearly introduced as his own, statement of fact from which in turn grows an argument of his own against Mr. Das.

9. It is reasonably clear to me that the general intention of the passage is to show from Lord Lytton's speech that the ordinance is not aimed at the swarajists and that Government is using its special powers not dishonestly and in order to put down political opposition but honestly and in order to put down crime.

10. Now the defendants do not justify and though they have pleaded privilege there is nothing in the plea: *Channing Arnold v. Emperor* A.I.R. 1914 P.C. 116. There are therefore two questions for decision -- first whether the article is defamatory of the plaintiff and secondly whether it is fair comment on a matter of public interest.

11. There can be no doubt, and indeed it is not disputed in this Court, that the subject-matter of the article is a matter of public interest and concern. By this, it seems desirable to say, I do not mean that a great many newspapers and their readers or other members of the public were taking interest in the matter, but that it was a matter which by its nature affected the public weal and touched upon public business so that any individual citizen had a right to express himself in fair and proper comment or criticism.

12. Certain elaborate particulars were delivered under the plea of fair comment at a late stage of the case. These seem if harmless to have been unnecessary. A number of irrelevant documents were also put in under this plea but not much

reference was made to them at the trial as we learn from the judgment.

13. I have stated what I regard as the general intention of the words complained of but it is not enough to have regard merely to the general intention. It may happen, and some times does, that a writer in the course of argument which is quite legitimate makes statements of fact of a libellous character either out of zeal or of inadvertance or for other reasons. In the present case the plaintiff's complaint is that in the article the writer asserts that the plaintiff is a member of a terrorist organization. It is for the Court in the first place to rule whether or not as a matter of law the article is capable of this construction, and as I understand the judgment of the learned Judge he has rightly directed himself in the affirmative. The next question is a question of fact for a jury and the learned Judge in deciding it was sitting as a jury.

14. The article does not say in so many words that the plaintiff is a member of a terrorist organization but it is for the jury to say whether it means this, that is, whether the ordinary man of the kind likely to read the article would understand it in this sense. As we are dealing with a newspaper which has a wide circulation in India it is I think wrong to postulate as the learned Judge seems to have done that the ordinary reader is for this purpose to be taken to have had a knowledge of the contents of the Gazette and the numerous other papers produced at the hearing. He would no doubt have some knowledge of the broad facts as to these sensational arrests. But if the prima facie meaning of this article to an ordinary man would be that the plaintiff was a member of a terrorist organization it is almost idle to say that this meaning can be cut down by a reference to what had been said in official publications or in their newspaper.

15. On this point it appears to me that a jury would have to choose between two lines of argument. On the one hand it might be emphasized that the writer makes no pretence to have seen the evidence which Government has collected, that he is only concerned to make good the point that in the matter of these arrests Government is not acting carelessly or recklessly, without inquiry or without being faced with a real emergency; that he must not readily be taken to go beyond this point and to contribute an assertion of his own about the guilt or innocence of the

plaintiff. On this view the article would not mean that the plaintiff was a terrorist but merely that the competent officers of Government dealing with the matter had caused him to be arrested because they had been led to that conclusion, and not because he belonged to the Swaraj party. Upon the other hand, a jury having in mind the ordinary reader a person of no exceptional subtlety would be bound to notice that the evidence referred to in the article is described in impressive language as collected not from a single informer but carefully traced and checked over a long period from totally different approaches; and that it is specially emphasized in the plaintiffs' case that the decision to arrest him was taken as a result of trained legal scrutiny by a former Lord Chief Justice of England. They would I think be entitled to remember in arriving at the meaning of this leading article or the Maldah speech that in that speech itself there was no ambiguity upon this matter;

Every single man, who has been arrested under Reg. 3 of 1818 or under the new ordinance, is a member of a terrorist organization that seeks to attain its objects by violence and intimidation, that proposes, if not checked, to carry out more murders.

16. They would doubtless notice that even when the writer is paraphrasing Lord Lytton he is making the statements on his own account. 'We who live in Bengal have before our eyes.' 'We have seen' 'Government have evidence.' It passes from argument to statement and from statement to argument. It adds the touch about the 'directing brain.' It does not say. 'If, as Lord Lytton thinks.' It does not even say 'if the right-hand man of Mr. Das is the directing brain.' It says 'if the directing brain of the terrorist organization was also the right-hand man of Mr. Das.'

17. What then is the opinion on this question arrived at by the learned Judge? His view is this:

This language as to persons arrested under Reg. 3 of 1818 is almost identical with that of Lord Lytton's speech. He does not in so many words say that the plaintiff was a member of terrorist organization but he points the way to the reader to make the deduction for himself from the materials cited, which brings him to his point.

and again. Had the author of this article written:

Lord Lytton at Maldah said that every single man who had been arrested under Reg. 3 of 1818 or under the new ordinance is a member of a terrorist organization. Subhas Chandra Bose was arrested under Reg. 3 of 1818. Therefore from the speech of Lord Lytton one may conclude that Subhas Chandra Bose is a member of a terrorist organization.

his legal position would, I conceive, have been as unassailable as his reasoning.

18. In my judgment that is a finding that the words in question meant, and were understood to mean, that the plaintiff was a member of a terrorist organization. Whether this is fair comment or not is a further question. If this was the view of the learned Judge after careful consideration it would be difficult indeed to say that the ordinary reader would have seen a distinction which has escaped the learned Judge and would have taken the argument of the writer to fall short of meaning that the plaintiff was a terrorist. If the intention was to point the way to the reader to make a deduction for himself this is only what the law calls innuendo and it is no service to a defendant to say that he only pointed the way but did not carry the reader to the destination. Apart, however, from anything which has been said by the learned Judge my opinion as a juror on this is against the defendants. If the writer desired to state short of saying in so many words that the plaintiff was a member of a terrorist organization, and if he had no intention to convey to his readers any opinion upon the plaintiff's guilt or innocence, he was in duty bound to take much greater care than he has done. The ordinary reader would regard his argument as this:

Subhas Chandra BOSS was not arrested because he was a Swarajist; he was arrested because he was a terrorist; that he is a terrorist we know from Lord Lytton's speech and from the fact that there is a good evidence against him which has convinced a lawyer scarcely likely to make a mistake.

19. I do not think that the writer has taken any care at all to show to his reader that there is a third or middle view or to direct him to it -- the view namely that whether the decision in any particular case be right or wrong it was a decision taken in

order to put down crime as distinct from political opposition.

20. If then the meaning of the article is that the plaintiff was a member of a terrorist organization the question arises (whether it is fair comment. It is clearly a statement that the plaintiff is guilty [of a crime of the most heinous character and if the plaintiff coming into Court with a view to clear his character is to be told that because the matter is one of public interest and concern any member of the public is entitled to assert the plaintiff's guilt provided he couples it with statements of fact which though short of proof afford him a basis for a not unreasonable opinion, the consequences would seem to be serious. To say that nothing can be comment which is an inference of fact or which injuriously affects a person's character would indeed be to put the matter too broadly. [Hunt v. Star newspaper Co. [1908] 2 K.B. 309.] But this is not a case in which, after describing the plaintiffs' conduct with substantial accuracy, the writer has gone on to express an opinion about that conduct, whether it was biassed or malicious or incompetent or negligent. It is not even a case in which it is proved by the evidence called before the Court that the plaintiff has been guilty of particular acts and where the writer has merely contributed an opinion that the acts set out with substantial correctness amount or do not amount to an offence against the law. In this case the writer has argued the question whether there is or is not sufficient reason to believe that the plaintiff, of whose acts he has, and professes to have, no particulars, is guilty of conspiracy to murder. If the conclusion recommended to his readers be that the plaintiff is guilty of this charge, he is in the position of a person who has publicly charged another with a crime, and, apart from a defence of privilege, he must either justify or pay. It is no defence whatever to say that he honestly believed in his accusation, or that he had a certain amount of reason for making it; or that Lord Lytton had said it before; or that he was concerned to support a policy of Government. To draw in general language a distinction between fact and comment is a difficult task. But in this case the distinction would be obliterated altogether were we to hold that such a charge was comment and not a statement of fact. It is sufficient for me on this point to refer to two cases decided in this Court and binding upon us -- Barrow v. Hem Chandra Lahiri [1908] 35 Cal. 495 and the Englishman Ltd. v. Lajpat Bai [1910] 37 Cal. 760.

21. It was contended before us by Mr. Langford James on behalf of the defendants that while it is true as a general proposition that under a plea of fair comment a defendant has to show that his comment has been made upon a basis of facts proved to be true, there is an important reservation which is, in a case of the present kind, to be made with regard to this doctrine. It is said that if the defendant is commenting upon the statement of another person which statement he is entitled to comment on, he need not prove that statement to be true and that this reservation applies with particular force when that other person's statement is privileged or is contained in a privileged document. The authority for this proposition is the case of *Mangena v. Wright* [1909] 2 K.B. 958 where Phillimore, J. puts the case of a vote in a Parliament or the judgment of a Judge where by inadvertance or otherwise an individual is wrongly stated to have been guilty of some act of which he is entirely innocent. Accordingly the defendants in the present case contend that they were entitled to comment on Lord Lytton's statement assuming that what he said was true and that without proving any one of the facts alleged by Lord Lytton they can defeat the plaintiff's suit. If the case of *Mangena v. Wright* [1909] 2 K.B. 958 is the only authority for this doctrine it is not unimportant to notice that the learned Judge whose great authority is now appealed to was dealing with a case in which an extract from a parliamentary paper was published as an extract, and the letter enclosing this extract for publication, referred to the plaintiff's 'interesting career' and to the plaintiff as an 'unfortunate native' words which were said by the defendants to import no more than that the plaintiff was a mischievous agitator. The learned Judge was proceeding on the footing that a jury might hold that the letter was not a repetition and re-statement of the defamatory statements in the extract. On this view the comment was kept separate from the statements. I observe that this case was cited to the Court in the *Englishman Ltd. v. Lajpat Rai* [1910] 37 Cal. 760. It was ruled by Harrington J., as follows:

No doubt the fair and accurate report of a speech made in Parliament is privileged, even though it contains facts defamatory to the plaintiff. But no authority has been cited for the proposition that a person is entitled to republish these defamatory statements not as a report of what has been said in Parliament, but as a statement of his own.

22. In the present case I agree that the defendants were entitled to refer to the fact that the Viceroy and the Governor had caused the arrest of the plaintiff because they were satisfied that he was a terrorist, but in a matter of so great importance to the plaintiff it was very necessary that they should refrain from conveying to the ordinary reader an opinion of their own which was in effect the reiteration of a charge of criminal conduct. In such a matter a journalist who does not exercise a reasonable degree of care and skill to make plain the limits of his intention may quickly drift into a repetition of the accusation -- into a suggestion that it must be true into an opinion to that effect. If he has done so and if the fair meaning to the ordinary reader, as put by a jury upon his words,, is to present the reader with or commend to him a conclusion that the plaintiff has been guilty of a crime, it is in my opinion erroneous to say that he is merely commenting upon the statement of another.

23. The difficulty in the present case is the question as to the more or less of the meaning of the article. If the intention of the writer was limited in the manner now alleged for the defendants, the expenditure of a few words could have made this clear; and in the absence of a very plain notice to the reader that the guilt of the plaintiff was not being affirmed I think that the words used by the writer in this case carry him over the border line. If this be so then in my opinion there is little substance in the rest of the defence. I should be sorry indeed to lay down anything new on this subject and I quite appreciate that great officers of State may have, in the course of their duty, to decide and sometimes even to declare that an individual has been guilty of crime. But it is always open to that individual to wait until the accusation is. repeated against him by a private person or a newspaper as the opinion or assertion or suggestion of such person or newspaper, and to come into Court to clear his character and to obtain such relief in damages from his accuser as may be appropriate to the circumstances of the case.

24. The plaintiff here has sued defendants who are well able to defend themselves and little likely to be wanting in a desire to do so. I cannot forbear to say that he has done all that the law permits to vindicate himself.

25. Upon the question of damages it is I think sufficient to refer once more to the case already cited, *The Englishman Ltd., v. Lajpat Bai* [1910] 37 Cal. 760; and to say that while the charge against the plaintiff is of the most heinous crime, if not indeed of a series of heinous crimes, the question as between the plaintiff and the defendant in this case has reference solely to the damage done to the plaintiff's reputation by the words published on the 26th November 1924. As the plaintiff had been arrested in circumstances which made it plain to the public that he was arrested as a person guilty of being a member of a terrorist organization and as on the 24th November the Governor of the Province had roundly stated this to be a fact as further. It is conceded that the report of the speech in this very newspaper upon the previous day is not a publication of which the plaintiff is entitled to complain, the damage which can be taken to be attributable to the words used by the defendants in their issue of the 26th is of necessity reduced to dimensions which for such a libel are exceedingly small. It would be an obvious injustice if the defendants were made to pay for damage to the plaintiff's reputation which was clearly due to acts and statements by other people. The damages though not high must be substantial and there is no question of nominal, still less of contemptuous, damages. I think the figure should be assessed at Rs. 1,000, that the appeal be allowed with costs on the original side and in this Court, and that the judgment should be entered for the plaintiff accordingly.

C.C. Ghose, J.

26. The judgment just delivered by my Lord makes it unnecessary for me to recapitulate the facts of this case and the circumstances under which the article in the 'Statesman' newspaper complained of was published, but as we are reversing the judgment of the trial Court, I desire to add a few words.

27. The portion of the article in which it is alleged the defendants wantonly and maliciously intended to injure and vilify the plaintiff and to bring him into contempt and disgrace is as follows:

We who live in Bengal have before our eyes the evidence of a foul and far-reaching conspiracy. We have seen men murdered, shops wrecked, rails

removed, bombs and imported weapons found. The Government have evidence collected not from a single informer but carefully traced and checked over a long period from totally different approaches which has satisfied them and satisfied a former Lord Chief Justice of England that every single man arrested is a member of a terrorist organization. Mr. Subhas Chandra Bose, Chief Executive Officer of Calcutta (meaning the plaintiff) was arrested under Eegn. 3 and, therefore, the evidence regarding his complicity has had to pass the trained legal scrutiny of the Viceoroy. It is no doubt disconcerting for Mr. C.R. Das that his right hand man

(referring thereby to the plaintiff)

has been arrested. But if the directing brain of the terrorist organization

(referring thereby to the plaintiff)

was also the right hand man of Mr. Das and of the Swarajist party, so much the worse for the Swarajist party. The duplication of roles

(meaning the roles alleged of the plain-tiff in the foregoing sentences)

is unfortunate, but the swarajist would be well-advised to insist less strongly on the point.

28. The contention of the defendants was that the words complained of did not constitute a libel on the plaintiff. They further added:

In So far as the words complained of consist of allegations of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comments made in good faith and without malice upon facts which are matters of public interest.

29. At the trial a large mass of intrinsic matters in support of the plea of fair comment was allowed to be admitted, the learned Judge apparently holding; that the defendant in an action for libel is permitted to show what it was he was; commenting upon, provided it be a matter of public interest, even though he has to travel outside the scope of the libel for the purpose.

30. The learned Judge held that the language of the writer as to persons arrested under Regulation 3 of 1818 is almost identical with that of Lord Lytton's. speech. He also held that the writer did not in so many words say that the plaintiff was a member of a terrorist organization but he pointed the way to the reader to make the deduction for himself from the materials cited, which brought him to his point, i.e., that with such materials before the world it was useless to proclaim that because a prominent member of the swaraj party had been arrested, therefore, the measures of Government were directed against the swaraj party and not towards the repression of crime and the establishment of law and order.

31. On appeal before us Sir Binod Mitter for the appellant did not deny that the matters referred to in the offending article were matters of public interest or that the speech of Lord Lytton at Maldah was privileged. He also stated that for the purposes of this case he was preferred to admit that the publication of Lord Lytton's speech in the 'Statesman' newspaper on the 25th November 1924 was also privileged. This point was that in circumstances like what happened in this case it was the duty of the person who took the plea of fair comment to make his comments in such a manner so that they might appear to reasonably minded men as comments and not as statements of fact, and that where the writer accuses another of having committed criminal offences he is required under the law to prove the facts upon which his comment is based. Sir Binod argued that in the present instance the writer has warranted the accuracy of the allegations of fact made by Lord Lytton and that the article went far beyond what can be construed as fair comment upon a matter of public interest, and contained statements of fact highly defamatory of the plaintiff. Sir Binod argued that the writer called the plaintiff the directing brain of the terrorist organization and has vouched for the facts referred to by Lord Lytton in his speech at Maldah and that in these circumstances the plea of fair comment was of no avail to the writer.

32. Mr. Langford James on behalf of the defendants argued that taking the article as a whole it was clear that the writer thereof had made no assertion of his own about the guilt of the plaintiff and that all that he had done was to paraphrase the speech of Lord Lytton. He further argued that the rule that the defence of fair comment would fail, unless the facts alleged in the document complained of were

true, did not apply where one person alleged the facts and another person commented on the same and in support of this he cited the case of *Mangena v. Wright* [1909] 2 K.B. 958.

33. A newspaper has no privilege beyond any other member of the community in commenting on any matter of public interest and no privilege whatsoever attaches to his position (Per Lord Shaw in *Channing Arnold v. Emperor* A.I.R. 1914 P.C. 116. When the defendant in a case for damages for defamation takes the plea of fair comment, he is not required to justify the comment and it is sufficient for him if he can satisfy the Court that it is 'fair' comment. A libellous statement of fact is not a comment or criticism on anything. If the words complained of are justified as comment and the words also contain allegations of fact, the defendant is required to prove that such allegations of fact are true and it is not sufficient for him to plead that he bona fide believed them to be true. In other words, the distinction between comment and allegations of fact must always be borne in mind in determining whether the plea of fair comment can be sustained.

34. It is necessary for me to refer to the cases which were cited at the Bar but it is well settled that in order to give room for the plea of fair comment the facts must be truly stated and if the facts upon which the comment purports to be made do not exist, the foundation of the plea fails. Where the words which are alleged to be defamatory allege or assume as true facts concerning the plaintiff, which the plaintiff denies, and which either involve a slanderous imputation in themselves, or upon which the comment bases imputations or inferences injurious to the plaintiff, it is settled law that the defence of fair comment fails, unless the comment is truthful in regard to its allegation or assumption of such facts.

35. These being the guiding principles one must turn to the article complained of and find out whether the words complained of are allegations of fact or expressions of opinion, and if the latter, whether such expressions of opinion are fair comment or not. In this case I do not propose to add the analysis of the article made by my Lord. It will suffice if I say that I have read and re-read the article complained of several times and I have come to the conclusion that the writer has not been as careful as he might have been and has distinctly alleged that the

plaintiff has been guilty of previous crimes. The writer was obviously entitled to comment on Lord Lytton's speech and to summarize the same; he was entitled to state that the plaintiff had been arrested under Regulation 3 of 1818 and that the evidence against him had satisfied the executive that he was a person who ought to be detained under the said regulation; but he was not entitled to suggest or to state, as in my opinion he has done, that Subhas Chandra Bose was the directing brain of the terrorist organization in Bengal. A great deal of verbal criticism of the words complained of was presented before us, but in my opinion it is impossible to escape from the conclusion upon a fair reading of the article that the writer has made defamatory statements of fact about the plaintiff about which there is no evidence. It may be that in the eye of the executive the plaintiff did commit acts justifying detention under Regulation 3 of 1818; but so far as this case is concerned, there is no evidence on record proving that the plaintiff has been guilty of acts such as are imputed to him by the writer in the words complained of. In my view, therefore, on the words complained of there is no room for the conclusion that the writer is protected by the plea of fair comment.

36. The case of *Mangena v. Wright* [1909] 2 K.B. 958, referred to above was a peculiar one the facts there were altogether different and the judgment of Phillimore, J. must be read in the light of the facts in that case. The present case is altogether different, bearing in mind the way in which the offending assertions of fact regarding the plaintiff have been introduced.

37. I agree, therefore, with my Lord in the view taken by him and I am of opinion that this appeal should be allowed and the plaintiff's suit decreed with costs in both Courts. I agree with my Lord in his assessment of the damages sustained by the plaintiff