

IN THE COURT OF THE SENIOR CIVIL JUDGE BANPUR.

PRESENT:-

Sri Satya Ranjan Pradhan,  
Senior Civil Judge, Banpur.

C.S. No 111/157 of 2014/2013

Bishnupriya Sahoo, aged about 37 years,  
W/o Subhendu Sahoo.  
Vill: Balabhadrapur, Po: Satapada,  
P.S: Brahmagiri, Dist: Puri, A/P: Working as Tahasildar,  
Chilika, P.S: Banpur, Dist: Khordha .....Plaintiff.

-Versus-

Soumyaranjan Samantaray, aged about 30 years,  
S/o Hadibandhu Samantaray of Vill? Po Haripur Sasan,  
P.S: Banpur, Dist: Khordha, , publisher -cum-Editor for weekly  
newspaper " Sasan Prahari" printed and published at Plot No.38  
Lingaraj Vihar, Pokhariput, BBSR, Dist: Khordha.  
..... Defendant.

Counsel for Plaintiffs ... Sri Bijaya Patra, Advocate.  
Counsel for defendant ... None.

Date of Exparte Argument – 19.12.2014.  
Date of Exparte Judgment – 26.12.2014

EXPARTE JUDGMENT

This is a suit filed by the plaintiff seeking damage worth Rs.50,00,000/- from the defendant.

2. The case of the plaintiff as per the plaint is that:

She was working as Tahasildar at Chilika Tahasil under Khurda district. During her tenure the defendant being the Editor – cum- Publisher of the weekly News paper called "Sasan Prahari" published some obscene news items against the plaintiff on 04.06.2013. Although the plaintiff objected to such false and baseless news articles the defendant did not listen to her rather further threatened her to publish more obscene materials against the plaintiff again and again. It is claimed by the plaintiff that due to such publication of false and fabricated news her prestige and social reputation in the society has lower down. Again on

24.06.13 the defendant with an intention to defame and hamper her social prestige, published some obscene news items in the said newspaper it is claimed by the plaintiff that due to such publication she was affected both mentally and physically and could not able to discharge her official duty smoothly. It is further mentioned by the plaintiff that the said newspaper called as "Sasan Prahari" is not a registered news paper. In spite of that the defendant being the publisher –cum- Editor of that newspaper published such news items without any basis in such vulgar language against her which is intolerable. After going through the said news items the plaintiff issued a pleader notice by Regd. Post with A.D to the defendant but no replay was received from the defendant. Hence the present suit.

3. Being summoned the defendant did not appear so he was set exparte.

4. No issue was framed as the defendant did not appear in the suit. Although no issues were framed in this case, the plaintiff has to prove that she is entitled to get a sum of Rs. 50,00,000/- towards damage due to the aforesaid publication made by the defendant.

5. Only the plaintiff examined herself as P.W.1 and some documents are marked on her behalf as Ext.1 ( series), 2 & 3.

6. To substantiate her claim the plaintiff examined herself as P.W.1. While being examined as P.W.1 she stated that at the relevant period she was working as Tahasildar, Chilika under District of Khordha. On 04.06.2013 the defendant being the Publisher -cum- Editor of weekly News paper called "Sasan Prahari" published some obscene news items against her. After going through the news items, she found it to be false so she objected it before the defendant but the defendant declared that he will publish other obscene materials against her in future. Again on 24.06.2013 the defendant published some unwanted news items affecting her modesty and fame in the said news paper. It is claimed by the plaintiff that due to such obscene news items published by the defendant her social prestige & dignity got affected seriously and moreover her social reputation in the locality was lower down. After

going through the aforesaid news items although she sent a pleader notice against the defendant but no reply was received by her. So he filed the present suit claiming damage from the defendant to the tune of Rs.50,00,000/-. In support of her claim she produced the copy of Advocate notice along with postal receipt and A.D which are marked as Ext, 1,1/a,1/b. In addition to that she has also filed the copy of newspaper called "Sasan Prahari" dated 4.6.13 & 24.06.2013 marked as Ext.2 & 3 respectively.

7. Defamation is a false and unprivileged communication of fact that is harmful to someone's reputation. According to English jurists, 'a man's reputation is his property' and if somebody injures the reputation of another person, he does it at his own risk. Defamation can be of two types: (1) **Libel:** It is a publication made in some permanent form. A libel may be in the form of a picture, written statement, cartoon, photograph, statue, film, compact disc, or effigy. A libel is addressed to the 'eye'. (2) **Slander:** A defamatory statement published in a transient form is known as a slander. It may be in the form of words spoken or even a gesture. A slander is addressed to the 'ear'. In English Law, libel is actionable even without any proof of damage, but slander becomes actionable only when proof of any damage exists.

In India, however, libel and slander are hardly distinguished and both are actionable even without the proof of any special damage. In case of defamation, the intention to defame is immaterial. If the words spoken are defamatory in nature, the defendant is liable even though he believed it to be innocent. In order to constitute an offence of defamation, the following conditions must be satisfied (1)The words must be false and defamatory (2) Such words must refer to the plaintiff (3)Those words must be published.

The defendant in this case has to prove **against an action for defamation:** (1) **Fair Comment:** A comment which is fair and of public interest is a good defence in an action for defamation (2) **Truth:** If the defamatory matter is a truth, it stands as a good defence. But the defendant did not appear and not proving the same.

On perusal of the said news items published in the said newspaper called "Sasan Prahari" dated 24.06.2013 the claim of the plaintiff seems to be genuine because at no point of time and at any given standard the said news item published in the news paper can not be said to be not defamatory in nature. The said news items also referred to the plaintiff and as published. In this case the defendant did not appear despite issuance of summons if he would have appeared and proved his defence on the ground that it was a fair comment or was having any truth in it then it would have been a different story. But the defendant did not appear and put forth his defence. In this circumstances the said news items published against the plaintiff who is a public servant and a lady too in the said newspaper called "Sasan Prahari" can be said to be defamatory in nature, at any standard. Although the newspapers are called as the fourth pillar of the democracy and has got independence to publish news items but the heading under which the news item was published on 24.06.2013 against the plaintiff and that too without any truth in it is said to be very defamatory in nature. Accordingly, I am of the opinion that the plaintiff has able to prove her case so far as the amount of damage is claimed that seems to be a bit high. Considering the nature of the publication an amount of Rs.5,00,000/- be paid to the plaintiff by the defendant. Hence it is ordered.

### **Order**

The suit be and the same is decreed exparte against the defendant with cost.

The defendant is liable to pay a sum of Rs.5,00,000/- to the plaintiff towards damage. The defendant is directed to pay the same within a period of three months hence, failing which the plaintiff is at liberty to take steps for realization of the same through process of the Court.

Advocate's fee is at the exparte scale.

Sr. Civil Judge, Banpur.

Transcribed to my dictation, corrected and signed by me and pronounced in the open court this the 26<sup>th</sup> day of December,2014.

Sr. Civil Judge, Banpur.

List of witnesses examined on behalf of Plaintiffs :-

P.W.1            Bishnupriya Sahoo

List of documents proved on behalf of the Plaintiffs :-

Ext.1            Postal receipt.

Ext. 1/a & 1/b        A.D. Receipt.

Ext.2            News item dated 24.06.2013.

Ext.3            News item.

Sr. Civil Judge, Banpur.