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if it be assumed that defendant No. 1 defrayed the funeral expenses. She got the possession over the estate unlawfully, and therefore cannot claim any lien.

As regards the claim about the money alleged to have been spent on the medical treatment of the mother of the last male holder the defendant No. 1 has no case. She had, if her allegations be true, advanced money to the mother of the last male holder for expenses in connection with her illness. Her position is like that of an ordinary creditor. She may sue for the expenses which she incurred in regard to her mother's illness, and obtain a decree. But she has no lien over the estate.

For the reasons given above I would dismiss the appeal with costs.

SULAIMAN, C.J.:—I agree.

HARRIES, J.:—I agree.

## REVISIONAL CRIMINAL

*Before Justice Sir Charles Kendall*

EMPEROR v. WAHID ULLAH AHRARI\*

1935  
March, 11

*Indian Penal Code, section 499, explanation 2—Defamation—Imputation regarding character of the girls of a college—No particular girl or girls named or identifiable.*

Where the defamatory articles, published in a newspaper, related to the alleged habitual immoral conduct of the girls of a particular college, but no particular girl or girls were named in or identifiable from the articles, and the complaint was filed by a number of girls of the college, it was *held* that the author of the articles was rightly convicted under section 500 of the Indian Penal Code, inasmuch as the inevitable effect of the articles on the mind of the reader must be to make him believe that it was habitual with the girls of the college to misbehave in the ways mentioned, so that all the girls in the college collectively and each girl individually must suffer in reputation.

Mr. *Kumuda Prasad*, for the applicant.

Dr. *M. Nasim* and Mrs. *Faruqi*, for the opposite parties.

\*Criminal Revision No. 8 of 1935, from an order of Kashi Nath, Sessions Judge of Aligarh, dated the 13th of December, 1934.

The Assistant Government Advocate (Dr. M. Wali-ullah), for the Crown.

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KENDALL, J. :—This is an application for the revision of an order of the Sessions Judge of Aligarh upholding the order of conviction and sentence passed by a first class Magistrate on the applicant under section 500 of the Indian Penal Code. The facts on which the conviction has been based are given fully in the order of the Magistrate, and the essentials have been repeated in that of the Sessions Judge. It is sufficient to state here that the applicant was admittedly responsible for two articles which were published in a paper called the *University Punch*, Aligarh, containing the most scandalous accusations against the girls of the Girls' Intermediate College of Aligarh. The articles are given in full both in English and Urdu in the order of the Magistrate. The first of them asserts that the girls of the college frequented "broad Marris Road, green meadows and canal banks which are frequented by pleasure seeking youths every morning and evening for their solace and enjoyment," and also that "Meena bazar exhibition was held within the precincts of the college, that university students and professors, Muslim and non-Muslim gentry of the town and gay officers visited the place after obtaining tickets for shopping with these educated Muslim harlots of the Meena Bazar." I should mention that the translation of the word "*shahidan*" into "harlots" has been objected to by learned counsel for the applicant, and it is suggested that the word means no more than "beauties", unless it is connected with the word "bazar". This, however, is a very technical objection, because the implication conveyed by the word in its context is unmistakable. The second article refers to a particular case, namely that of a young girl who is said to have been found unconscious near the Girls' Intermediate College and it was added that it was widely said that she was the victim of repeated brutal assaults. The implication of the

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article undoubtedly is that owing to the conditions within the college such an incident was quite likely to take place in its neighbourhood.

Both the courts have agreed that the articles are defamatory. In the lower appellate court a plea was taken that the person aimed at in the article was not the girls in the college, but the Honorary Secretary, and that he was not the complainant, so that the prosecution ought to fail. This was a purely technical argument and has not been pressed in this Court. The argument that has been pressed is, firstly, that the articles which contain the defamatory matter do not refer to the "boarder girls", but simply to the girls of the college. It is said that there are over 150 girls in the college of whom 75 are boarders, and of the 67 who joined in making the complaint in the present case one was a minor and her guardian subsequently withdrew from the prosecution. The argument is that if the articles are defamatory, they apply equally to any one of the girls in the college, and that no individual girl is defamed thereby, nor is the college collectively defamed. The case of *Government Advocate v. Gopabandhu Das* (1) has been relied on by Mr. *Kumuda Prasad*, in which it has been remarked by a Bench of the Patna High Court that "An imputation against an association or collection of persons jointly may also amount to defamation within the meaning of section 499 of the Indian Penal Code, but at the same time it must be an imputation capable of being brought home to a particular individual or collection of individuals as such", and again, "The rule is that if the words used contain no reflection upon a particular individual or individuals, but may equally well apply to others, although belonging to the same class, an action will not lie."

Explanation 2 of section 499 of the Indian Penal Code shows that "it may amount to defamation to make an imputation concerning a company or association".

(1) (1922) I.L.R., 1 Pat., 414.

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In the case before the Patna High Court the defamatory words were used in regard to two constables who were said to have committed a particular act on a particular occasion. There was nothing in the article itself to show who the two constables were. They were not even referred to in the article as being constables of a particular thana, though they were taken by the villagers to have been two constables attached to Begunia police station. But there is nothing to indicate which were the two in question. The facts are certainly not analogous to those of the present case. Here the defamatory articles relate to the alleged habitual conduct of the girls of the Intermediate College. Those girls may be over 150 in number and it may not have been the intention of the writer of the articles to imply that every girl in the college was guilty of this conduct. The essence of the offence of defamation, however, is the publication of an imputation with the knowledge that it will harm the reputation of the person defamed, and as these articles do beyond question imply that the girls of the college are habitually guilty of the misbehaviour described in the articles, the inevitable effect on the reader must be to make him believe that it is habitual with the girls of the college to behave in this way. That being so, it seems quite clear that all the girls in the college collectively and each girl individually must suffer in reputation. The difference between this case and the one before the Patna High Court is obvious. In that case two constables were accused of a particular act, and it did not follow from that that all constables suffered in their individual reputation.

The view that has been taken by the courts appears to me to be perfectly correct, and there is no reason to interfere with the orders passed. The sentence no doubt is severe, but the offence, as has been pointed out, was an extremely serious one and the applicant when on his trial made no attempt to express his regret or make any acknowledgment of the fact that he had done wrong. The application is therefore dismissed.