

1936  
 HARGULAL MAL  
 v.  
 MOHAMMAD  
 ATA ELAHI  
 KHAN.  
 MONROE J.

the giving of notice to the Collector or other person in charge of a ward under the United Provinces Court of Wards Act.

I hold, therefore, that the suit is barred by limitation.

A. N. C.

*Appeal dismissed.*

**ORIGINAL CRIMINAL.**

*Before Monroe and Din Mohammad JJ.*

**BENNETT COLEMAN AND CO. LTD.**

Applicants

*versus*

G. S. MONGA—Respondent 1 and  
 S. BAKHSHISH SINGH, EDITOR 'KHALSA'  
 Respondent 2.

**Original Criminal No. 4 of 1936.**

*Contempt of Court — Jurisdiction of High Court—where contempt is committed in respect of a Court subordinate to it—Contempt of Courts Act, XII of 1926, section 2 (3)—publication of a plaint in a Civil suit—whether can amount to a contempt.*

On 6th February, 1936, Mr. Monga instituted a suit at Lahore against the applicant-Company for a declaration that he was entitled to a prize as winner of one of the applicants' 'Commonsense Crossword Competitions.' The summons of this suit was served on February 26th, 1936. (The suit was subsequently changed to one for damages, the amount being one rupee). Meanwhile Bakhshish Singh had published the plaint together with a photograph of Mr. Monga in the paper "Khalsa" at Mr. Monga's request, similar requests having been made by Mr. Monga to Editors of a number of other Newspapers in India. It was argued in support of the present application that this publication was likely to prejudice the applicants in their defence to the suit and was a contempt of Court, while the Respondent 1 urged that this plaint merely set out the facts of the case, and Respondent 2 that he published the plaint merely as an item.

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of news. The High Court found that not only was this publication calculated to prejudice the applicants in their case but that the publication was caused by Mr. Monga out of spite and with the intention of damaging his opponents and earning a notoriety for himself.

*Held*, that the High Court could take cognisance of a contempt alleged to have been committed in respect of a Court subordinate to it, notwithstanding the provisions of section 2 (3) of the Contempt of Courts Act, as the words "where such contempt is an offence punishable under the Indian Penal Code" mean that the contempt must be punishable as a contempt under the Indian Penal Code and not punishable only because it otherwise is an offence.

*Held also*, that the mere publication of a plaint in a suit may amount to a contempt of Court. It is interfering with the course of justice to make public a statement of claim, which is the *ex parte* statement of one side, and if newspapers take upon themselves to publish copies of *resumés* of pleadings and similar documents in pending suits they do so at considerable risk.

*In re The Cheltenham and Swansea Railway Carriage and Wagon Company* (1), *Roach v. Hall* (2), *Cheshire v. Strauss* (3), and *Atindra Narayan Roy v. Hemanta Kumari Devi* (4), relied upon.

*Application under section 2 (3) of the Contempt of Courts Act, praying that the respondents may be charged and dealt with according to law.*

SHAMSHER BAHADUR, for Applicant.

ISHAR DAS KHANNA and RAM NARAIN, for Respondent 1.

PARTAP SINGH and BHAGAT SINGH, for Respondent 2.

The judgment of the Court was delivered by—

MONROE J.—This is an application under the Contempt of Courts Act brought by Bennett Coleman

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(1) (1869) 38 L. J. R. Ch. 330.

(3) (1896) 12 T. L. R. 291.

(2) 2 Atk. 469.

(4) 1924 A. I. R. (Cal.) 606.

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and Co. Ltd. against G. S. Monga and S. Bakhshish Singh. The applicants are the publishers of a weekly paper called "The Illustrated Weekly of India," and Bakhshish Singh, second respondent, is the editor of a paper called "The Khalsa," which is published in Lahore. The applicants carry on in their paper a competition known as "The Commonsense Crossword Competition," and give prizes for correct solutions. G. S. Monga, the first respondent, attempted to solve the puzzle contained in the issue of the 29th December, 1935, and posted three separate solutions. The applicants admitted the receipt of two, one of which contained twelve and the other thirteen mistakes. Mr. Monga asserted that he had sent in a third solution which, when compared with the published result, was correct in all respects. Some correspondence took place between Mr. Monga and the applicants and on the 6th of February, 1936, he instituted a suit against the applicants in the Court of the Senior Subordinate Judge, Lahore, praying for a declaration that he was entitled to a prize as a winner. A summons in this suit was served on the 26th of February, 1936. In the meantime Bakhshish Singh had published the plaint together with a photograph of Mr. Monga in the paper "Khalsa." It is further alleged by the applicants and has not been denied by Mr. Monga that he circularised copies of the page containing the plaint and photograph to several newspapers in India, with a letter asking the editors of such newspapers to reproduce the plaint in an early issue of their papers. It was further stated and not denied that the plaint had been amended on the 30th of April, 1936, and that the claim had been altered to one for damages only, the amount being one rupee. The applicants complain that the publication of the plaint is likely to

do them damage and it has been argued before us that this publication is likely to prejudice them in their defence to the suit and is a contempt of Court.

The answer put forward by Mr. Monga is that his plaint merely sets out the facts and that he has given in it not only his side of the story but that of the applicants. The argument for the editor of "The Khalsa" is that he published this item merely as an item of news.

In the first place, we have no doubt whatever that the publication of this plaint is the publication of a document reflecting severely on the conduct of the applicants. Though no express charge is made, yet it is clearly implied that the competition was not properly conducted by the applicants. Mr. Monga has clearly shown that his action was inspired purely by spite, by sending a copy of this publication with a request for its reproduction in newspapers all over India. Such a reproduction could do him no good and any effect it could have would certainly be detrimental to the applicants and would be calculated to raise prejudice against them. It is impossible to conceive why a newspaper should publish such a document. It, together with a photograph of Mr. Monga, takes up an entire page of the issue of the newspaper. It is not, as a perusal of it shows, a paper that is normally illustrated; yet, in order to draw attention to this trivial dispute, a large photograph of Mr. Monga is published in it. We have no hesitation in coming to the conclusion that not only was this publication calculated to prejudice the applicants in their case but the publication was caused by Mr. Monga out of spite and with the intention of damaging his opponents and earning a notoriety for himself. What the motive

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of the newspaper proprietor in publishing the plaint and photograph was, it is impossible even to surmise. No one could regard this plaint as an interesting item of news.

It is necessary to consider then whether the mere publication of a plaint in a suit may amount to a contempt of Court. The first ground of objection that was brought before us against holding the present publication as a contempt of Court, was not pressed. In sub-section (3) of section 2 of the Contempt of Courts Act, it is provided :—

“ No High Court shall take cognisance of a contempt alleged to have been committed in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.”

It was suggested that in the present case if the publication of the document could be contempt, it would also be defamatory and, therefore, punishable as an offence. But, in our opinion, this sub-section means that the contempt must be punishable as a contempt under the Indian Penal Code and not punishable only because it otherwise is an offence.

That the publication of a plaint may amount to contempt, is clear on the authorities cited to us. *In re The Cheltenham and Swansea Railway Carriage and Wagon Company* (1), it was held that the publication of a petition for the winding up of a company, containing charges of fraud against the directors, before the hearing of the petition was a contempt. Vice-Chancellor Malins relied upon the principle laid down by Lord Hardwicke in *Roach v. Hall* (2). The passage which has been frequently cited in later cases

(1) (1869) 38 L. J. R. Ch. 330.

(2) 2 Atk. 469.

and which may be taken as the basis of the modern law on this question, runs as follows:—

“ Nothing is more incumbent upon Courts of Justice than to preserve their proceedings from being misrepresented; nor is there anything of more pernicious consequence than to prejudice the minds of the public against persons concerned as parties in causes before the cause is finally heard.”

Vice-Chancellor Malins lays down as a general proposition that “ whenever a newspaper, either on its own motion or at the instigation of others, publishes the proceedings in a cause before the hearing, it tends to prejudice that cause in the minds of the public.” In *Cheshire v. Strauss* (1), so very clearly was it recognised that the publication of a statement of claim amounted to a contempt of Court that Sir Frank Lockwood for the respondent refused even to contend that it was not a contempt. He relied on the fact that his client had realised his error and done all that he could to remedy it. Mr. Justice Day in his judgment said:—

“ It was shocking that newspapers should publish such matters as this which had not been before any Court of Justice. There was no excuse for that. It was interfering with the course of justice to make public the statement of claim in this way, which was the *ex parte* statement of one side.”

The learned counsel for the respondents relied on a passage from the judgment in *Atindra Narayan Roy v. Hamanta Kumari Devi* (2). The facts in that case bear a strong resemblance to those of the present case except that there was an intermediary between the

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plaintiff in the suit, the plaint in which was published, and the editor of the newspaper which published it. The learned Judge came to the conclusion that there had not been a contempt of Court and added :—

“ But I desire to say that if the editors and proprietors of newspapers take upon themselves to publish copies or resumés of pleadings and similar documents in pending suits, they do so at considerable risk.”

The learned Judge distinguished the case before him from the authorities cited on the ground that in those authorities it appeared that the documents reproduced contained charges of disgraceful conduct against the opposite party, while in the case before him he considered that the defendant was represented as merely the victim of the wickedness of others and he thought that no one reading the article would form an unfavourable view of the conduct of the defendant. Whether the distinction made by the learned Judge is well founded in law or not, and in our opinion it is not, his decision has no bearing on the case before us.

There can be no doubt that the plaint, which was published in the present case, reflects seriously on the conduct of the applicants. We have no doubt that a serious contempt has been committed, a contempt which has been described as of a scandalous nature, and a form of contempt which, if allowed to flourish, might become a serious danger, as was argued by Mr. Carson (afterwards Lord Carson) in *Cheshire v. Strauss* (1), the case to which we have referred above :—

“ If such a thing could be done, no one was safe. All that a man had to do was to commence an action

against a public man, draw up a statement of claim containing any matters of prejudice he might choose to invent, and then threaten to make public the statement of claim.”

During the hearing we asked the learned counsel for both parties what their attitude was about the contempt. Mr. Partap Singh for the editor of the newspaper said that he regretted the publication which had been made without any intention of harming the applicants. Mr. Monga, on the other hand, claimed that it was his right to publish the plaint and, as we have indicated, his conduct shows that he was acting with deliberation, prompted by spite and a desire to injure the applicants.

In the circumstances, we think that it would be sufficient for S. Bakhshish Singh to pay Rs.32 towards the costs of this application. We fine Mr. Monga Rs.100 and order him to pay Rs.32, costs of the application, also. Mr. Monga will have one month from the date of this judgment, within which to make the payment.

A. N. C.

*Application accepted.*

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