

## CHAPTER VIII

# DEFAMATION—SCURRILOUS WRITINGS: PRINCIPLES

The following principles evolved as a result of the deliberation of the Council of its adjudication on complaints relating to defamation—scurrilous writings :

1. As regards the journalistic propriety of the publication of a libel on a public servant or a public figure, two factors are relevant, namely,
  - (a) The analogy of exception 2 to section 499, Indian Penal Code, is applicable under which matter published in good faith pertaining to the conduct of a public servant in discharging his public functions or as regards his character does not constitute libel.<sup>1</sup>
  - (b) Before going into the question of good faith, the allegation must be found to be untrue. It is presumed that a person has a good character unless proved to the contrary, *i.e.*, no presumption exists as to libellous statements being true. But it is equally true that the respondent cannot be censured unless the publication of an untrue statement is proved against him. No action may be taken against the editor unless the complainant leads evidence to support the complaint.<sup>2</sup>
2. Comments on the public conduct of a political leader and on the views held by him are not improper. However, the same cannot be said to a reference made to his private life. The editor would not be guilty of journalistic impropriety when the facts do not clearly forbid certain inferences which the editor has drawn.<sup>3</sup>
3. For publication of false news-items without verification in order to defame the complainant, the editor is open to censure. An apology from him is not acceptable where he starts a newspaper clearly with the object of blackmailing local officials or public men, but failing in that objective, decides to close it down.<sup>4</sup>
4. Constant publication of certain indecent, obnoxious or defamatory writings with the object of extracting money by blackmail by the

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1. Case of *Blade*, 1969 Ann. Rep. 12.

2. *Ibid.*

3. Case of *Qaumi Ekta*, 1973 Ann. Rep. 34.

4. Case of *Daman Virodh*, 1972 Ann. Rep. 138.

- editor will entail the penalty of censure.<sup>5</sup>
5. An article carrying deliberate allegations by an editor, which are not true and proved to be incorrect, is in the nature of a blackmail intended to threaten the complainant into submission to his dictates. As such, it may be described as “the worst type of journalistic impropriety and misconduct.”<sup>6</sup>
  6. An editor may read “between the lines” and bestow political colour to events which may be correct. However, he may not publish what is characterised in the paper itself as a rumour, with apparently no evidence in support. Indulgence in this type of character assassination, shows irresponsibility on his part.<sup>7</sup>
  7. Compromise effected between the parties indulging in “libellous personal attacks without any regard to journalistic ethics or propriety” will not render a complaint liable to rejection. Mudslinging in the newspaper and the defence of the editor that it was done in retaliation of similar conduct by the complainant leaves both parties open to censure.<sup>8</sup>

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5. Case of *Bharti Leader*, Jan. 1983 P.C.I. Rev. 55 ; case of *Yug Mandal*, 1973 Ann. Rep. 84.

6. Case of *Campus Reporter*, 1972 Ann. Rep. 125.

7. Case of *Sigappu Nada*, 1973 Ann. Rep. 85.

8. Case of *Kewal Satya*, 1973 Ann. Rep. 78.