

MHPU020058732021



Presented on : 24/08/2021,
Registered on : 02/09/2021,
Decided on : 22/07/2024,
Duration on : 02-Y, 11-M, 29-D.

IN THE COURT OF 8th JT. CIVIL JUDGE SENIOR DIVISION, PUNE.**(Presided over by – K.M. Jaisingani)**

SPL.CIVIL SUIT NO. 1309/2021
CNR:MHPU02-005873-2021
Exh No. - 44.

Mrs. Muskaan Sarfaraz Khan
D/O. Niyaz Zahoor Khan,
Age- 27 yrs, Occu.- Teacher
R/at- Survey No. 34/1, Sai Park Society,
Lane No. 7, Near Shivanjali Mitra Mandal,
Borate Wasti, Chandannagar,
Kharadi, Pune 411 014

.... Plaintiff**- VERSUS -**

1. **Mr. Sarfaraz Irshad Khan,**
Age- 27 yrs, Occu.- Sales Boy,
Office At : Telephone Shoppee,
Shirole Road, Opp. Sambhaji Garden,
Deccan Gymkhana, Pune – 411 004.
2. **Mr. Irshad Khan,**
Age- 49 yrs, Occu.- Business,
3. **Msr. Ruksana Irshad Khan,**
Age- 47 yrs, Occu.- House-maker,
4. **Ruksar Irshad Khan,**
Age- 25 yrs, Occu.- Nil,
Defendant No. 2 to 4 R/at-
B-503, Urban Rice Society,
Behind Dhara Petrol Pump,
Pisoli, Pune – 411 060.

.... Defendants**SUIT FOR RECOVERY OF COMPENSATION FOR DEFAMATION.**

.....

Appearances :-

For the plaintiff : Adv. Smt. Komal Deshmukh.
For the defendants : Adv. Shri. A. S. Shaikh.

.....

JUDGMENT
(DELIVERED ON – 22nd JULY, 2024)

1. This is suit for recovery of Rs. 10,00,000/- (Rupees Ten Lakh only) towards the compensation for defamation.

2. In brief, the plaintiff pleaded that on 30.12.2020, she married with the defendant No. 1. The defendants No. 2 to 4 are relatives of defendant No. 1. After her marriage, the defendants started harassing and abusing to the plaintiff. On 19.03.2021, the plaintiff filed the complaint against them before Bharosa Cell, Commissioner Office, Pune.

3. Further, she submitted that she had love affairs with defendant No. 1 and there should be no misunderstanding, so, she informed to the defendants that her marriage was fixed with Mr. Salman but it was cancelled. The defendants started to abuse and torture to the plaintiff after they came to know about Mr. Salman and after making inquiry by them from him.

4. Further, she submitted that she came to know about fake account on Instagram (Muskan Walmiki) wherein the photos of the plaintiff and her student Mr. Sujal Walmiki were morphed. The said photos are offensive, vulgar and obscene, which damaged the

reputation of the plaintiff in the society. Thereafter, she made complaint in Cyber Cell, Pune. The defendant No. 1 had shown those photographs to his friends and relatives. They circulated those photographs at the workplace of the plaintiff. So, the reputation of the plaintiff was scattered. Since then, the relatives, friends, teachers and students of the plaintiff are treating her with questionable character. The defendants damaged her reputation by posting morphed photos on Instagram and circulating them.

5. Further, she submitted that by building undue influence, the defendant No. 1 obtained video of her confession and under pressure, she gave the confession. She gave said confession to save her marital relationship. The defendant No. 1 issued false notice dated 27.04.2021 through his advocate Mr. M.M.Sayyed. There are false allegations levelled in the said notice that the plaintiff had undergone abortion 3 to 4 times and her character was cheap. The defendants discussed about it with the relatives which harmed the reputation of the plaintiff. So, on 25.06.2021, the plaintiff issued notice to the defendants asking them to prompt written assurance and apology for defamation. The defendants failed to comply the said notice. So, the plaintiff is constrained to file the present suit.

6. By written statement (Exh. 39), the defendants resisted the suit claim. The defendants have admitted the relationship as pleaded by the plaintiff. They denied the rest of the contention of the plaintiff. They submitted that after marriage for about one month, the plaintiff stayed with them properly. She was serving with S.N.B.P. International School, Mundhawa, Pune as Teacher before and after

marriage. The plaintiff was coming late from the school. On 06.03.2021, she left the matrimonial house.

7. Further, they submitted that they came to know that the plaintiff was serving at Saint Anjalis School, she had affairs with a boy studying in 10th Std. She undergone abortion for about 3-4 times. The defendants asked about it after getting knowledge of the said facts. On asking about it, the plaintiff admitted that she had affairs with boys of the school and she had under gone abortion for 2-3 times. The defendants are cheated by the plaintiff.

8. Further, they submitted that there was attempt to come to compromise between them and the plaintiff. The plaintiff told them that she is not interested to co-habit with the defendants. The plaintiff had herself admitted about her affairs and abortion. The defendants have not defamed the plaintiff. So, they prayed for dismissal of suit with costs.

9. Considering the rival submissions, the following issues are framed vide Exh. 40 and my findings thereon with reasons are as under :-

Sr. No.	<u>ISSUES</u>	<u>FINDINGS</u>
1)	Does the plaintiff prove that defendants defamed her ?	.. No.
2)	Is the plaintiff entitled to reliefs prayed for ?	.. No.
3)	What order and decree ?	..As per final Order.

REASONS

10. In order to prove the suit claim, the plaintiff examined herself vide Exh. 34. In addition to oral evidence, she has not relied on any documentary evidence. On the contrary, the defendants neither entered into witness box nor relied upon any documentary evidence.

11. On last date of the case, nobody was present on behalf of the defendants. So, the evidence of the defendants was closed. Today, the matter was listed for final argument. The learned advocate for the plaintiff submitted that she filed written notes of argument Exh. 36 and it be treated as her argument. As the defendants and their advocate were absent, the dictation of judgment was started. When part of the dictation of the judgment is given, the defendants have filed application for permission to adduce evidence, which is rejected. Hence, the suit is taken for delivery of judgment.

AS TO ISSUE NOS. 1 TO 3 :-

12. The suit is for recovery of Rs. 10,00,000/- as compensation for defamation. The defendants have denied the facts of defamation of plaintiff, so burden is on plaintiff to establish her case. For proving her case, the plaintiff examined her. She has not produced any document during her evidence.

13. Admittedly, the plaintiff married with defendant No. 1 on 30.12.2020. The defendant No. 2 to 4 are relatives of her husband. Before and after the marriage, she was serving at S.N.B.P. School,

Manjari as a teacher. The plaintiff has pleaded about ill-treatment subjected to her during the course of her co-habitation at the house of the defendants. In her evidence affidavit, she made statement about the ill-treatment subjected to her at the house of the defendants. During her cross-examination, she made statement that she was suffering from stress and by leaving aside her work, she was required to attend calls of defendants. Further, she stated that she was warned by school either to continue job or to settle the family issues. There are neither pleadings nor statement in evidence affidavit of the plaintiff about it. She explained that the warning given by the school was oral, so she has not described said fact in plaint and evidence affidavit. It is evidence in the nature of improvement in her cross-examination.

14. From the evidence of plaintiff, it transpires that it was disclosed to the defendants before marriage that her marriage was settled with Mr. Salman but it was cancelled. According to the evidence of the plaintiff, after marriage, the defendants started to abuse and torture her for the said reason. On the contrary, the defendants have pleaded that the plaintiff had affairs with one boy studying in 10 Std. at Saint Anjalis School. Further, according to their defence, she had affairs with 2-3 boys and she has under gone abortion 2-3 times. The plaintiff has denied the said fact during her cross-examination. Though, the defendants contended that the fact of fixing her marriage with Mr. Salman Shaikh was not disclosed to them but the plaintiff has specifically pleaded and made statement in evidence about the disclosure of the said fact to the defendants before settling of their marriage. Let it be, the issue of cruelty subjected to

the plaintiff is not required consideration for determination of issue involved in the suit.

15. The suit is based on defamation of plaintiff in Instagram account and by issue of legal notice dated 27.04.2021 through advocate Shri. M.M. Sayyed. By the pleadings, the defendants have specifically pleaded that the said account was neither opened by them nor photographs of the plaintiff are morphed by them. During her cross-examination, the suggestions were put to her that the Muskan Walmiki's account was opened by her and the defendants have no connection with the said account. The plaintiff denied the said suggestion. Further she stated in evidence that she can produce evidence in the Court proving of circulation of those photographs amongst relative, friends and school officials. Further, the suggestion was put to her that she has not produced any document for proving her defamation, which is denied by her. By the entire cross-examination, she was made aware that there are no documents establishing her defamation. Still she has only produced photo copies of morphed photographs on Instagram but she failed to prove them in accordance with law. Though specific suggestions are put to her that there was no uploading of photographs by the defendants, still she did not prove by any evidence that those photographs have been uploaded by the defendants. Accordingly, the plaintiff failed to prove that the defendants defamed her.

16. Further, the plaintiff stated in her evidence that by notice dated 27.04.2021, issued by the defendants through advocate Shri. M.M. Sayyed, she is defamed as false allegations have been levelled

therein in respect to her character and abortion 3-4 times. The plaintiff has produced xerox copy of said notice for first time when the matter proceeded without written statement. The plaintiff had not produced original of the said notice. After filing of written statement by the defendants, the plaintiff filed original of the said notice. There are no averments in her evidence affidavit about filing of original of notice. After closing of evidence, the plaintiff filed the original of the said notice. Even if the said notice is considered, merely leveling allegations by notice are not sufficient to prove the defamation. There is not evidence to prove that the defendants defamed the plaintiff. Accordingly, the plaintiff failed to prove that the defendants defamed her. So, she is not entitled to relief prayed for. Thus, the issues framed are answered in the negative. In the result, suit is liable to be dismissed. Looking to the relationship between the parties, it is just and proper to direct both the parties to bear their own costs of them. Thus, in answer to issue no. 3, I pass following order :-

ORDER

- 1) The suit is dismissed.
- 2) The parties to bear own costs.
- 3) Decree be drawn accordingly.

Date :- 22/07/2024

(K.M. Jaisingani)
8th Jt. Civil Judge Senior Division,
Pune.

I affirm that the contents of this P.D.F file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Mr. C. H. More,
Name of the Court	Mr. K.M. Jaisingani, 8 th Jt. C.J.S.D., Pune.
Date of Judgment	22/07/2024
Judgment signed by the P. O. on	22/07/2024
Judgment uploaded on	23/07/2024