

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 108/2016

[2018] SCSC

CHARLES BASTIENNE

Plaintiff

versus

1. ROBERT ERNESTA
2. PRINTEC PRESS HOLDING PTY LTD

Defendants

Heard: 30th May 2018
Counsel: Mr Hoareau for plaintiff
Mr Elizabeth for the 1st Defendant
Mr Ferley for the 2nd Defendant
Delivered: 11th July 2018

JUDGMENT

Nunkoo J

THE BACKGROUND

[1] The Plaintiff is suing the Defendants for defamation and claiming damages. He is a Minister of the Government of Seychelles; the First Defendant is the Editor of a weekly

newspaper known as *Seychelles Weekly*, and the Second Defendant is the printer of the said newspaper.

THE DEFAMATORY MATERIAL

- [2] The said words were contained in an article in the *Seychelles Weekly* which was headed in large type "Nepalese businessman accuses Seychellois authorities of corruption." As per the article, one Pradhuma Kumar Deuja, who was the chairman of the United Manpower Agency in Nepal, had made allegations of corruption against the Seychellois Government and specifically against Mr. Charles Bastienne when he was the Minister for Internal Affairs. It was his story that his company is the only company authorised by the Government of Nepal to recruit security officers for foreign countries. His company had been involved with the Seychelles Ministry for Internal Affairs in providing security personnel for the prisons and through Ligi's Agency directed by Mr. Martin Aglae.
- [3] Mr. Deuja claims that during his visit to the Seychelles in October 2016 he was requested to pay SCR 122,500.00 to Ligi's company as commission for the supply of 100 security personnel for the Ministry of Home Affairs. According to Mr. Deuja this money was paid to a lady who he claimed was the girlfriend of one Martin Aglae. Mr. Deuja allegedly filmed the whole transaction. Subsequent to the transaction, he and Aglae's girlfriend went to the Minister's office where the money was allegedly given to the Minister.
- [4] The following is the extract of the article which appeared in the *Seychelles Weekly* of 2nd December 2016:

"One Nepalese national, Mr. Pradhuma Kumar Deuja, who is the chair-person of United Manpower Agency in Nepal is making serious allegations of corruption within the Seychelles Government set up following his interactions with the Seychellois Ministry of Home Affairs at the time it was headed by Minister Charles Bastienne. United Manpower Agency's business is to recruit Nepalese for employment abroad. They have been involved with the Seychelles Ministry of Home Affairs in providing security personnel for the prisons and Marpol Security through Ligi's Agency directed by Mr. Martin Aglae.

Mr. Deuja avers that he has been cheated of considerable amounts of money by both Mr. Aglae and Minister Bastienne who he claims are the co-owners of Marpol security

services. During his last visit to the Seychelles in October, he was requested to pay SR122,500 to Ligi's company as commission for the supply of 100 security personnel for the Ministry of Home Affairs which he paid to a lady he claims is Martin Aglae's girlfriend. Mr. Deuja filmed the whole transaction and has made a video of it which he is now circulating.

Subsequent to the payment, he and Aglae's girlfriend was [sic] taken to the Minister's office where he alleges the money was given over to the Minister as well as other documents in relation to the personnel his company was going to send over to Seychelles. In attendance was one Mrs Florianne Vidot.

Mr. Deuja alleges that Mr. Martin Aglae has been recruiting security personnel from other non-authorised recruitment agencies in Nepal and not from his agency as agreed. He states that his company is the only Government accredited company in Nepal to undertake the activities of providing security personnel to foreign countries. He has taken up a case against the Seychelles Ministry of Home Affairs back in Nepal and as result the Nepalese Government is undertaking an investigation in the matter.

Mr Deuja has copied all relevant documents including the video recording to President Danny Faure in the hope that he takes appropriate action.

The allegations are of a very serious nature and will adversely affect the credibility of Seychelles Government if not dealt with accordingly".

THE CASE OF THE PLAINTIFF AND HIS EVIDENCE

[5] It is alleged by the Plaintiff that the words complained of referred to and were understood to refer to the Plaintiff, both by implication and by specific reference to him.

[6] The words complained of were defamatory in their natural and ordinary meaning, including the meaning that the Plaintiff:

(i) has been guilty of the criminal offence of official corruption in terms of Section 91 of the Penal Code;

(ii) is a corrupt individual and Minister;

(iii) has abused his office as a Minister to secure financial gains for his own benefit;

(iv) has defrauded one Mr. Pradhuma Kumar Deuja of considerable amounts of money;

(v) has failed to discharge his duties as a Minister in a professional and transparent manner; and/ or

(vi) as a person, Minister and/ or politician, is dishonest and untrustworthy and he should therefore be removed as a Minister.

[7] In short, the Plaintiff avers that these words constitute a defamation.

[8] In chief, the Plaintiff gave evidence to the effect that he was appointed Minister on 1 February 2015, and is presently the Minister for Habitat, Infrastructure and Land Use. Prior to his appointment as Minister for Habitat Infrastructure and Land Use he was Minister for Internal Affairs. He was referred to an edition of the *Seychelles Weekly* newspaper, dated 2nd December 2016, Volume 15 No 45. He stated that the First Defendant, that is one Robert Ernesta, was the editor of that newspaper and that the Second Defendant was its printer.

[9] He also stated that he never met the said Mr. Deuja, and that he did not know him. He stated that in fact he had met Martin Aglae who informed him that he had contacts in Nepal which could provide Government with officers who would cost about 600 to 700 hundred dollars instead of 1200 dollars per month, as supplied by the company of Mr. Deuja. He testified that he told Mr Aglae that he had to deal with his Director of Administration who was at that time Mrs. Florianne Vidot. He also stated that the said Mr. Deuja had tried to contact him through Whatsapp asking for an appointment, which he ignored. He stated that Deuja told him that the said Martin Aglae had defrauded him and that if he would not do anything about that he, i.e Deuja, was going to publish that in all the newspapers in Seychelles and in the world. The Plaintiff told Deuja he could do whatever he wanted.

[10] He also stated that he never met Martin Aglae's girlfriend nor did he know her. He gave evidence as to how the article affected his family and family life and how it caused embarrassment to him in his Ministry; even going to church had become embarrassing as

he felt people were looking suspiciously at him. He was therefore claiming the sum of SCR 2 million jointly from the Defendants.

DEFENCE OF THE FIRST DEFENDANT

- [11] The First Defendant has pleaded in his defence that the said words were not false, malicious or defamatory of the Plaintiff. He has pleaded that those words were in fact accurate and true, and that the story was in the national interest and was received from a reliable source. He maintains that he carried out his own investigations, that it was his duty as a journalist to expose corrupt politicians and officials. Lastly, he pleads that the Plaintiff did not suffer any loss as he is still a Minister enjoying his salary and perks and if anything happened then it is that the said article has improved the Plaintiff's profile. It is his plea that no damage was done to the reputation of the Plaintiff.
- [12] The First Defendant testified that he had received information about activities that were taking place between the Ministry for Internal Affairs and one Martin Aglae, who was the Managing Director of a recruitment company. He stated that the said Deuja had told him that it was Ligi's agency that had told him to pay the sum of SCR 120,000.00 and that it was a plot between Martin Aglae and the Minister. He maintained that his article was factually correct in that Deuja had been cheated of considerable amounts of money by both Martin Aglae and the Plaintiff. He stated that he had seen a video made by Deuja showing Deuja handing over money to Martin Aglae's girlfriend and from there they are seen going to the Minister's office where the money was allegedly handed over to the Minister.
- [13] He stated that he published the article as it was in public interest and that he considered it his moral duty to do so as a journalist. He also confirmed that he did not deem it necessary to obtain the Plaintiff's version before publishing the article, nor did he find it necessary to have a face-to-face meeting with the said Deuja to verify the facts. For him, it sufficed that he had the documents on which he relied, and a video, made apparently by Deuja, that he had seen and which he stated was also sent to the President. He maintained that Deuja was his reliable source.

[14] The video recording referred to was also produced by the First Defendant, without objection from the Plaintiff despite its maker not being present in court.

DEFENCE OF THE SECOND DEFENDANT

[15] The second Defendant was represented by its Managing Director, Mrs Sundarie. She admitted printing the *Seychelles Weekly* newspaper. She stated that the First Defendant sends a pen drive, following which it goes to the platemaking, that is, at the computer department, from which it goes for printing. She stated that she does not normally check the contents as they come late and she does not have the time to check.

[16] The following is an excerpt from her testimony

Question: Mrs Sundarie when you explained to this Court how you received the newspaper for printing how do you receive it.? Mrs Sundarie do you print the Weekly Newspaper?

Answer: Yes Weekly we print and this is for Mr Robert Ernesta. So he sends the pendrive and then it goes to the CTP (computer section).But I don't have the time to go through every page of it to be very honest to call and ask them to change anything.. So I don't have the powers to go through and ask them to change anything. So this is not my practice. So this is not my practice I may be wrong but I don't change what comes (Verbatim p 32 of proceedings dated 13 November 2017)

EVIDENCE OF DEFENCE WITNESSES

[17] The First Defendant called the Secretary to Cabinet, Mr. Mohamed Afif to depone on procedures relating to the recruitment of foreign workers and also to testify as to whether following the article published by the Defendants, the President decided to redefine the procedures regarding the recruitment of foreign workers and whether the Minister had followed the correct procedure. In essence, he said that there was nothing objectionable in the way recruitment was carried out by the Plaintiff's Ministry and that the press release was not issued to reprimand the Minister.

[18] The First Defendant also called the Chief Press Secretary from the President's Office. She was asked in the main about the reason why the press communique was issued by the President's Office following the article published by the Weekly. Her answer was that she did not know.

ANALYSIS OF THE EVIDENCE OF THE DEFENDANTS AND THE LAW

[19] The First Defendant has in his defence asserted very strongly that the contents of the article were not only true but also accurate. Defendant's Counsel submitted that the said Mr. Deuja, author of the allegations against the Minister, would be coming to give evidence to support the truthfulness of the allegations, but he never appeared before this Court. Be that as it may, the First Defendant seems to have shouldered the duty of defending and protecting public interest, which is concomitant with a corruption-free Government. Such attitude is to be commended. However the way the story of Mr Deuja was accepted by the First Defendant was not prudent at all; one may even say that the first Defendant was to a certain degree reckless in his the approach when in treating the news he received. He did not care to check the Plaintiff's version, nor did he have any face-to-face meeting with his informer, Mr. Deuja, to verify the facts. In short he did not carry out any additional investigation. He said he believed Mr Deuja to be speaking the truth. He relied on the mail correspondence between Mr Deuja and the video recording given by him and the fact that as he stated, the video recording had been given to the President also made the story credible for him.

[20] The court recognises the need in every democratic society to expose corruption by public officials and investigative journalism is a very important tool and indeed, I should say *en passant*, the UNESCO is committed to encourage this in all member states. It is carrying out workshops, training sessions and making publications available to journalist and engaging them investigative journalism. Investigative journalism also necessitates that the good faith of the source is checked and, more important, investigation from independent sources is carried out before publishing a story. The story must be complete. Here it is a one sided story, unfortunately.

[21] The First Defendant completely overlooked the likelihood that Mr. Deuja could have been acting through frustration as his agency was no longer receiving business from the

Seychelles Government. The following questions from Plaintiff's Counsel and the answers given are illustrative of his state of mind and demonstrate a total lack of professionalism on his part especially when he invoked his prerogative as to why he did not consider it fit to check certain facts from Mr Deuja. The allegation that the Minister and Martin Aglae were owners of Marpol Security Services is verifiable. No attempt was done by the First Defendant to check even such an elementary information from the relevant authorities.

[22] One may even conclude that he was actuated by malice in publishing that article and did intend to cause harm to the reputation of the Plaintiff. The questions put to him by Counsel for the plaintiff and the answers given speak for themselves:

Q: *And did you speak to Mr. Aglae about this incident in the video?*

A: *No.*

Q: *So you confirm that this is a lady and when you saw the video am I right to say all the lady says "I am going to go now to Independence House to the Ministers office correct?"*

A: *Yes.*

Q: *And according to you Mr. Deuja told you that he also went there to the Ministers office?*

A: *Yes.*

Q: *Okay she said in that video that "I am going to Independence House at the Ministers office" correct?*

A: *Yes.*

Q: *In that video do you see the plaintiff Minister Bastienne?*

A: *No.*

Q: *Do you hear the voice in that video Minister Bastienne?*

A: No.

Q: *Tell us Mr. Deuja according to what he told you he immediately thereafter went to the office of Minister Bastienne with the lady correct? This is what he told you?*

A: No answer.

Q: *As a good journalist did you ask Mr. Deuja whether he videoed that meeting with Minister Bastienne?*

A: No.

Q: *Did you not ask him?*

A: No.

Q: *Did you not see it fit that since he have[(sic)]managed to video this incident here and soon thereafter he had gone to Minister Bastienne office and according to you he has used a body cam did you not asked him but do you have a video of the meeting with Minister Bastienne, we believe.*

A: No.

Q: *So you decided without further enquiry to accept what he had told you?*

A: *Did I accept?*

Q: *I am asking you. You accepted it no? Because you wrote and published what he told you?*

A: *Yes he alleged that he went to the Ministers office that is what I wrote.*

Q: *But did you not see it fit to ask him Mr. Deuja you've produced the video of this lady counting the money and soon thereafter you had gone to Minister Bastienne office, do you have a video of that meeting?*

A: *But I asked him one pertinent question. I asked him "would you be prepared to testify in the Court of Law that you went to the Ministers office" his answer was "yes".*

Q: *Forget about being prepared did you see it fit?*

A: *I saw it fit.*

Q: *To ask him that question.*

A: *To ask him that question.*

Q: *But you did not see it fit to ask as why whether he had a video of the meeting with the Minister.*

A: *That decision obviously is my prerogative and I did not see it fit.*

Q: *And on that basis when he told you "I am prepared to come and testify in a Court case" you accepted his answers?*

A: *I accepted.*

Q: *And you decided on that basis to publish your story?*

A: *Not only on that basis.*

Q: *No but as one of the reason-*

A: *That was one of the minor reasons I wanted to publish the article.*

Q: *So on that basis you did not see fit to asked him whether he had videoed this?*

A: *No.*

Q: *Did you ask him whether he had any other proof that he had actually gone and met with the Minister that day?*

A: *The fact that he was prepared to testify was enough.*

Q: *For you?*

A: *Consolation for me.*

Q: *So it was not a minor issue. It was when you said, in fact you used the word it was*

enough consolation it meant that satisfied you that you could go ahead and published your story.

A: *No answer.*

Q: *It was not a minor issue then?*

A: *No answer.*

Q: *Can you confirm from where you are now giving evidence can you confirm that Mr. Deuja that day did go to see the Minister along with the girlfriend of Mr. Aglae. Can you confirm that?*

A: *No.*

Q: *Thank you. Mr. Ernesta as a good journalist prior to publishing this story did you contact the plaintiff Minister Bastienne to find out his side of the story?*

A: *No.*

Q: *Why not?*

A: *Because I believe I had enough for a start.*

Q: *You did not see it fit that look at I am going to publish something about somebody, someone has told me certain things about him for instance you did not have proof of that meeting. You were relying on what Mr. Deuja had told you. You did not see fit to have contacted him and say Minister Bastienne, you are a Minister, I have certain information about certain things and what do you have to say for yourself? You did not do that?*

A: *No.*

(Verbatim transcript of proceedings dated 17 July pp35 -380).

[23] The cross examination of the Second Defendant confirms how negligent it was in publishing the defamatory article. The answer of its Managing Director that essentially she does not check any material before printing and that it is not her practice to do so is

very surprising to say the least. It shows a total lack of care and attention that a responsible printer should exercise before printing.

RELEVANT LAW

The Constitution indeed provides for freedom of speech and this is a fundamental right in a democratic Republic like Seychelles. However, this right has certain necessary limitations. Article 22(1) provides as follows:-

The freedom of expression is therefore limited by the right to the protection of a citizen's reputation

Every person has a right to freedom of expression and for the purpose of this article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference.

(1) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society-

(a) In the interest of defence, public safety, public order, public morality or public health

(b) For protecting the reputation, rights and freedom or private lives of persons. 3rd may 2013

[24] Learned Counsel for the Plaintiff also referred the Defendants to the Code of Conduct for the Media. I find the following extract from the Code appropriate and relevant for the media insofar as the publication and dissemination of information is concerned. Commitment to professionalism coupled with accuracy come first.

COMMITMENT TO PROFESSIONALISM

As a measure of their commitment to professionalism and the improvement of media

standards in the Seychelles, media publishers, editors, broadcasters and journalists

agree to the following:

ACCURACY

1.1 The Press should not publish inaccurate, misleading or distorted Information, including pictures.

1.2 A significant inaccuracy, misleading statement or distortion once recognized must be corrected promptly and with due prominence, and - where appropriate - an apology published.

1.4 The Press shall clearly distinguish between news, commercials and advertisements.

1.4 The Press, whilst free to take a partisan stance, should distinguish clearly between opinion, comment, conjecture and fact.

[25] The freedom of expression is the life blood of the media. Without this it cannot function. However that freedom, as the Constitution clearly provides, is limited to the extent that the citizen is fully entitled to enjoy his reputation, which means that no one is allowed to harm his reputation. These are two corresponding rights; one does not exist without the other. Whenever therefore, a party comes to a court of law and alleges that his reputation has been tarnished by another person, it is open for the latter to prove that what he published was true; this is the basis of the long established basis of the defence of justification. No harm can be caused by publishing the truth.

[26] Article 1383(3) of Civil Code of Seychelles provides -

The provisions of this article and of article 1382 of this Code shall not apply to the civil law of defamation which shall be governed by English Law.

[27] In *Talma v Henriette* (1999) SLR 108, the Court held as follows –

“It is a pre-requisite that for any defamatory statement to be actionable, there should be publication, in the sense that the words complained of were brought to the actual knowledge of some third person, that is a person other than the person defamed. If the

Plaintiff proves facts from which it can be inferred that the words were brought to the knowledge of some third person, he would have established a prima facie case.”

[28] In *Esparon v Fernex and anor* (1980) SLR 148, Sauzier J succinctly described the law of defamation as follows –

“Under article 1383 of the Civil Code of Seychelles, defamation is governed by the principles of English Law. The following are the relevant principles for this case:

1. A man commits the tort of defamation when he publishes to a third person words containing an untrue imputation against the reputation of another.

2. Words which impute to the Plaintiff the commission of a crime for which he can be made to suffer corporally by way of punishment are actionable without proof of special damage.

3. A man, stating what he believes to be the truth about another, is protected in so doing, provided he makes the statement honestly and without any indirect or improper motive.”

BURDEN OF PROOF AND STANDARD OF PROOF

[29] It was held in the case of *Barrado v Berlouis and Another* (1993) SLR 12 that

“...truth of the allegation or imputation is a matter of defence, since the falsity of defamation is presumed until disproved by the Defendant.”

Similarly, in *Pillay v Pillay* [2013] SCSC 68 (at parag [30]), it was held that:

“A defamatory statement is presumed to be false unless the Defendant can prove its truth.”

Further, in *Pillay v Pillay* (*supra*) at parag [29]), it was held that for a plaintiff to succeed in a defamation case he must prove that

(1) The accusation is false;

(2) it impeaches the subject's character;

(3) it is published to a third person;

(4) it damages the reputation of the subject; and

(5) that the accusation is done intentionally or with fault such as wanton disregard of facts or with malicious intention.”

[30] The Plaintiff has to establish his case on a balance of probabilities.

[31] As regard the first Defendant apart from pleading justification, he has raised the following objection in law:

The action of the Plaintiff is misconceived in law as it is the newspaper which published the article and not the 1st Defendant. The Plaintiff has sued the wrong defendant.

[32] I do not find any substance in this defence as the First Defendant as editor, caused the publication of the defamatory material. It is trite law that in defamation cases, a writer, producer, director, editor, and printer and all who cause the publication of an article impugning any person's reputation without justification are liable. In the light of the evidence adduced in this case the above defence does not hold.

[33] However as regards the defence of justification and other defences the following paragraph from *Pillay v Pillay* (supra) is relevant:

“Allowable defences against defamation are justification which includes the truth of the statement, fair comment which is determined by whether the statement was a view that a reasonable person could have held, absolute privilege when the statements were made in Parliament or in court, or they were fair reports of allegations in the public interest and qualified privilege, where it is determined that the freedom of expression outweighs the protection of reputation, but does not amount to the granting of absolute immunity. A defamatory statement is presumed to be false unless the Defendant can prove its truth.”

[34] The First Defendant has indeed pleaded the defence of justification as well as qualified privilege. It is therefore incumbent on him to prove that the statement made was true as regards justification or that as regards qualified privilege he must establish that it was not actuated by malice and that the statements were made as fair comments; the Defendant

assumes a serious responsibility: if he succeeds to establish the truth, he wins; otherwise he obviously loses.

[35] Looking at the whole of the evidence adduced by the First Defendant, I find that he totally failed to investigate the allegations made by Deuja from other sources, which as a prudent journalist he should have done. He was impressed by one and only one person, namely Deuja, and in his subjectivity the Defendant forgot that Deuja might be having a motive of his own in divulging all the information as he lost business, which he believed he alone could do for the Seychelles Government. He might have been acting through frustration to say the least.

[36] There is cast upon the First Defendant a higher standard of proof to establish this defence as it was rightly said in *Moulinie v De Commarmond* (1972) SLR 83 that where justification is pleaded, the standard of proof incumbent on the defendant is not proof beyond reasonable doubt, but proof to a higher degree of probability.

[37] I am of the view that on a proper and thorough analysis of the evidence adduced he has failed to establish in the least the defence of justification or qualified privilege.

[38] As regards the Second Defendant it settled law that the printer is equally liable for defamation for without publication there cannot be defamation. The Second Defendant did not establish any defence at all and is jointly liable to pay damages to the Plaintiff.

[39] Damages should therefore be awarded to the Plaintiff. In the assessment of damages I am guided by the following principles: first, the duty of the court to protect against harm to one's reputation. In this regard, Professor G. Feltoe states:

“Harm to reputation is extremely insidious and once reputation has been damaged, it is very difficult to repair the damage. Newspapers and broadcasting media are extremely powerful agencies which are able to reach a very wide audience people. Many newspapers are on line and their copy is accessible to the entire world. If they publish defamatory material, the end result can be devastating harm to reputation. It is important

therefore that the law affords proper protection against harm to reputation and provides suitable remedies for defamation” (Zimbabwe Rule of Law Journal, February 2018)

[40] Secondly, with regard to quantum, the court stated in *Olivia Derjacques v Joseph Louise* (1982) SLR 175 at page 180:

“The amount of damages is governed by all the circumstances of the case such as the conduct of the plaintiff, his position and standing, the nature of the defamation, the mode of extent of publication, the absence or refusal of any retraction or apology and the whole conduct of the defendant in the affair.”

[41] I have given due attention to each and every of the factors enumerated above; the Plaintiff is a high ranking public official dealing with government business and organisations in Seychelles as well as internationally. In this sense he differs from many of the other litigants in many of the other defamation cases cited. The public view of his integrity is an important part of his ability to command the respect of the public in the performance of his role in the government. Further, in today’s technological context, information circulates very fast and reaches all corners of the world in matters of split seconds. The wide readership of the newspaper in question and the prominence of the headline linking the Minister to corruption further exacerbate any reputational damage. Further there was neither retraction nor apology.

[42] When considering the quantum I am guided by the reasoning in several other cases. I am also guided by the amounts granted. In *Laporte v Fanchette* (2013) SLR 593 the Court of Appeal upheld an order of SR100, 000 as an order granted to a lay litigant for words uttered outside a casino in the presence of several persons. In *Ramkalawan v Parti Lepep & Ano*. [2017] SCSC 445, the Supreme Court granted an order of SR100, 000 for defamatory statements that had occurred in 2006 against the Leader of the Opposition. In *Ramkalawan v Gill* (unreported) CS 111/2013 a case of defamatory publication through social media, the award granted was Rs200, 000 by the Supreme Court.

[43] Perhaps the most relevant case is *Pillay v Regar Publications (Pty) Ltd & Ors* (1997) SLR 125, which concerned an article alleging dishonest dealings in the sale of a property by the Minister for Education and Culture. In this case, in 1997, Perera J

granted an award of SR450, 000; the Court of Appeal reduced it to SCR 175000.00. Nearly 20 years have passed by since then and this country has done tremendous progress as has also seen considerable increases in prices, at least fivefold of those of the 1990s. The economy has changed and the country is classified as a high income country. Simple arithmetic will mean awarding five times more which will come to above SCR 800,000.00. Of late the trend in awarding damages for physical loss or injury has moved upwards. Care must also be taken to ensure that damages imposed on the press is not perceived as a punishment.

- [44] The Plaintiff's claim is for a sum of SR 2 million as damages from the Defendants. In assessing the quantum, I have also given some consideration to the fact that Plaintiff held an important portfolio in government; and that he had suffered trauma caused to him at his place of work and in society generally. Furthermore, I believe his testimony of the hardship caused to him *vis a vis* his family members, to the suffering through which his family went, so much so that he had to give himself a break abroad.
- [45] Having regard to all the other circumstances, I consider that an amount of SCR 600,000 as damages would be a fair amount to award. I therefore order the Defendants to pay jointly and severally this sum as damages to pay the same with plaintiff together with costs.
- [46] One last word of caution: it would be in the interest of the media and journalists at large if instead of choosing the easy path of publishing calumnious articles that they take instead the often difficult path of finding the truth, establishing it without fail, and ensuring that nothing but the truth is published; in so doing the media will be perceived as a credible institution so necessary and useful in a democratic society. They must also take into account the new technological environment which makes dissemination very fast, very easy, very wide and very large. Otherwise the media will become an instrument of lobbyists of all sorts and lose its role as the fourth pillar.

Signed, dated and delivered at Ile du Port on 11th July 2018.

S Nunkoo
Judge of the Supreme Court