



Superintendent  
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Spl.C.No.151/95

[Ebt 68-A]

Presented on :- 1-9-1995

Registered on :- 1-9-1995

Decided On:- 6-1-2010

Duration :- Yrs Months Days

14 4 5

IN THE COURT OF THE ADHOC DISTRICT JUDGE-1,  
FTC, PANAJI-GOA.

(Before Smt. Vijaya D. Pol, Ad-hoc District Judge-1, Fast  
Track Court, Panaji-Goa).

SPECIAL CIVIL SUIT NO. 151/95

Mr. Narcinha <sup>✓</sup>Narendra Naik  
Gaunekar,  
son of Late Nagendra Niak  
Gauenkar, married of full  
age, Chartered Accountant,  
having its office at 106,  
Govinda Building Panaji,  
Goa and residing at Taleigao,  
Ilhas Goa. ....Plaintiffs.

V/s

Shri A.K.Heblekar  
of full age, gainfully  
employed at Goa University,  
Taleigao Plateau, Taleigao,  
Ilhas Goa, and who is also  
residing at University Campus,  
Taleigao Plateau,

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Taleigao , Ilhas Goa.

.....Defendants.

Plaintiff represented by Ld. Advocate Shri V. Bodke at the time of hearing and *Adv. Shri W. Sambhar* at the time of passing Judgment.

Defendant represented by Advocate Mrs A. Agni at the time of arguments and *Defendant present in person.* at the the time of Judgment.

**J U D G M E N T**

(Delivered on this the 6<sup>th</sup> day of the month of January of the year 2010)

This judgment disposes of the aforesaid civil suit wherein the plaintiff has prayed the court to direct the defendant to pay to the plaintiff an amount of Rs. 5,00,000/- as damages on account of the defamation of the plaintiff done by the defendant resulting in harm to his reputation and his practice as chartered accountant and also resulting in lowering of the image of the plaintiff in the eyes of the public in general and students community and clients of the plaintiff besides causing mental pain and annoyance to the plaintiff together with interest on the said amount from 28-4-1995 onwards.

2. It is the case of the plaintiff that he is a practicing chartered

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accountant having a firm styled as M/s "Nayak Gaunekar & Company" at Panaji Goa . According to the plaintiff he is practicing as chartered accountant for the last 29 years and he is also a professor in Panaji S.S.Dempo College of Commerce and other colleges outside Goa.

3 . According to the plaintiff, the defendant got published a letter in the daily Navhind Times dated 2-9-1994 wherein according to the plaintiff , the defendant made several defamatory statements against the plaintiff thereby injuring the prestige , practice and reputation of the plaintiff and lowering the image of the plaintiff in the eyes of his clients , students and public in general besides, causing mental pain and annoyance to the plaintiff . In the plaint the plaintiff has given the statements published by the defendant in the said daily Navhind Times , which according to the plaintiff are defamatory in nature . According to the plaintiff the defendant got published the said letter malafidely fully knowing that the said defamatory statements made by the defendant are false . According to the plaintiff at no time he has acted hastily or negligently in drafting the syllabus as alleged in the said publication .

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4 .According to the plaintiff in the beginning , the said letter published in the Navhind Times dated 2-9-1994 escaped his attention but in the month of October 1994 his friends started asking the plaintiff as to why he has acted negligently and hastily as stated in the said letter which was brought to the notice of the plaintiff and the plaintiff then was shocked to read the contents of the said letter but due to the pressure of work he could not entrust the matter immediately to his lawyer but in the April 1995 when a client of the plaintiff again raised the issue about the letter , the plaintiff realised the seriousness and gravity of the matter and immediately contacted his lawyer who accordingly issued a legal notice dated 16-4-1995 wherein the defendant was called upon to pay compensation of Rs. 5,00,000/- on accountant defamation of the plaintiff and the defendant inspite of having received the said notice did not reply to the same . The cause of action according to the plaintiff arose on 2-9-1994 when the defamatory letter was published in the Navhind Times dated 2-9-1994.

5 . The defendant filed his written statement wherein the

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defendant has denied that it was he who got published the said letter in daily Navhind Times and according to the defendant he had never instructed either to the editor or to the publisher of the Navhind Times to print and published the said letter, which was merely addressed to the editor giving factual position with reference to the news item that had appeared in the Navhind Times dated 19-8-1994 on the subject of syllabus revision so that necessary clarification could be published by the editor giving correct factual position on the subject. The defendant has denied that he has made any defamatory statement against the plaintiff in the said letter which according to him only gives the factual position/ factual disclosure of correct position in relation to the news item published in the daily Navhind Times dated 19-8-1994. The defendant has denied that by the said letter the image of the plaintiff was seriously injured in the eyes of public, student community and his clients and according to the defendant the quantification of Rs. 5,00,000/- is without any basis. It is also stated that without joining the editor and the publisher of the news paper in the instant suit, the plaintiff has no grievance against them for publishing the said letter and hence there is no justification for making grievance for

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publication of the said letter by the defendant . According to the defendant the suit is bad for non joinder of necessary parties .

6 . On the basis of the pleadings and the documents on record the following issues have been framed.

I S S U E S

- 1 . Whether the plaintiff proves that the defendant published a letter in the daily Navhind Times dated 2.9.1994 and have seriously injured the prestige practice and reputation of the plaintiff in the eye of the general public and clients in particulars?
- 2 . Whether the plaintiff proves that the defendant are liable to pay compensation to the tune of Rs. 5 lakhs?
- 3 . Whether the defendant prove that the plaintiff have no cause of action to file the suit against him?
- 4 . What relief? What Order?

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7. During the course of evidence the plaintiff examined himself as PW1 and produced on record the document in support of his case and thereafter examined four witnesses . The defendant examined himself as DW1 and produced documentary evidence and then examined one witness as DW2 . Written submissions were filed by Ld. Advocate Shri V. Bodke for the plaintiff and by Ld. Ms A Agni for the defendant .

8. After going through the entire records of the case I decide the aforesaid issues as follows:-

**ISSUES**

Issue No.1

Issue No.2

Issue No.3

Issue No.4

**FINDINGS**

In the Negative

In the Negative

In the Affirmative

As per Order.

**R E A S O N S**

**ISSUE NO.1**

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9. It is the case of the plaintiff that the defamatory statement made by the defendant injuring and harming the reputation, prestige and practice of the plaintiff and also lowering the image of the plaintiff is contained in the letter which is published in the daily Navhind Times dated 2-9-1994 and which is at ex-20 and according to the plaintiff the defamatory statements contained in the said letter are as under:-

1) "Mr Naik Gaunekar could not finalise and submit the draft syllabus despite a number of reminders, and was given a final extension of time for presenting the draft syllabus at the meeting of the Board of studies held on 17-12-1993"

2) "Shri Naik Gaunekar could not submit the draft syllabus at this meeting."

3) "It was only on 9-7-1994 that Mr. N.N.Naik Gaunekar made a casual reference to the subject to Prin. Borkar during a meeting of one of the University Committees."

4) "In fact, he had sent a hastily prepared draft, which did not adhere to the guidelines, as late as 24-12-1993"

5) "If Mr Naik Gaunekar and the sub-committee under his convenership had done its duty conscientiously and in proper time, all the ensuing confusion could have been avoided."



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According to the plaintiff, the defendant got published the aforesaid letter malafidely and fully knowing that the said defamatory statements made by the defendant are false .

10 . Hence the entire case revolves around the said published letter at exh 20 and in order to ascertain whether any defamatory statements are made against the plaintiff, the said published letter has to be seen not only vis-a-vis the oral and documentary evidence on record but especially vis -a-vis the cross examination of the plaintiff wherein the admissions made by him are very relevant and significant.

11. The perusal of the said published letter at exh 20 clearly shows that the said letter gave the factual position/ clarification with regard to the news item in the Navhind Times dated 19-8-1994 and the same was written by the defendant in his capacity as a Registrar of the Goa University because under the name of the defendant, "Goa University" is written . The next step is to ascertain as to whether the statements made in the said published letter are false or correct . **Firstly** the said letters states that the plaintiff could not finalise and submit the

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draft syllabus in time despite number of reminders and was given a final extension of time for presenting the draft syllabus at the meeting of the Board of Studies held on 17-12-1993 . The said statement is not defamatory as it is a statement of fact . The plaintiff has himself admitted in his cross examination as follows :-

“ It is true that I was called upon by the Chairman of Board of Studies to submit the syllabus pertaining to accountancy and financial management by 9<sup>th</sup> of **December 1993** to the Chairman of Board of Studies, so that it could be placed before Academic Council on **17-12-1993**. It is true that I sent the syllabus to the Chairman Borad of Studies in the subject aforesaid by letter dated **20-12-1993** stating that myself and another colleague had sat on 18-12-1993 and prepared the syllabus . It is correct that the colleague referred to by me in the letter dated 20-12-1993 was one professor Ramani. “



Earlier in the cross the plaintiff has admitted as follows:-

“ It is true that I was the convener for

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the sub committee in the accountancy and financial management . It is true that on 15-10-1993 I was informed to finalise the draft syllabi in two or three meetings and that next meeting was fixed on 19-11-1993 to consider the detailed syllabi . It is true that the final draft was to be placed before the Academic Council on 15-12-1993 . To the question as to when I submitted the final draft , I say that I had no scope/ opportunity to submit the final draft before the Board of Studies as no meeting was held even though it was convened as the other member did not turn up because the other members were assigned some job of preparing the syllabus and they were not paid TA and DA. It is true that finally I submitted the syllabus on 28-12-1993, however I do not remember the dates precisely . It is true that I had received letter dated 9-12-1993 and notice dated 10-12-1993 wherein it is stipulated that the meeting was fixed on 17-12-1993 by which time I had to sent the final draft of Syllabi . I had not given the syllabus on 17-12-1993, as I



voluntarily say that after my appointment as convener only one meeting was held wherein all the members attended and for the subsequent meeting they did not appear and consequently syllabi was not framed and in my letter all the said facts were given to Shri D.V.Borkar who was the chairman of Board of studies. It is true that by letter dated 16-12-1993 I had requested Mr Borkar to relieve me from the responsibility of preparing syllabi as I could not do much in the matter..... It is true that it is evident from my letter dated 16-12-1993 that till the date of the meeting on 17-12-1993 the syllabus was not prepared from my end . I do not know anything to the suggestion that the syllabus which was sent by me on 20-12-1993 was received by the Goa University on 24-12-1993 .....I do not know anything to the suggestion that on 17-12-1993 it was decided to adopt the syllabi prepared by UGC after making modifications to suit the needs of the Goa University as I voluntarily say that I had walked out of the meeting.”



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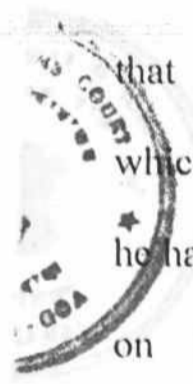
The aforesaid significant admissions on the part of the plaintiff have to be seen alongwith the deposition of Shri Devidas Borkar, who was the principal of Shri Damodar College of Commerce and Economic Margao from June 1981 to May 1996 and Registrar of the Goa University from 1-6-1996 till his retirement and who was appointed as the Chairman of the Undergraduate Board of Studies in Commerce in the year 1993 . Mr. D.V.Borkar examined as DW2 has deposed that he wrote a letter dated 18-10-1993 to the then Registrar, Goa University informing him that a meeting was held on 15-10-1993 , in connection with restructuring of B.Com, Degree Course and in that meeting subject wise sub committees were constituted for drafting the syllabi in various subjects in the Commerce faculty and he had specifically mentioned in the said letter which is at exh 28 that all the conveners had been told to finalise the draft syllabi in two or three meetings and according to DW2 , the plaintiff was the convener, heading the sub committee of Financial Accounting and Auditing . DW2 has further deposed that on 9-12-1993 he sent a letter ( exh 25) to all the conveners of all the sub committees that as per the



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directives of the Vice Chancellor the final meeting of the Undergraduate Board of Studies was fixed on 17-12-1993 and that he intimated them that they were required to sent him the final draft syllabi on or before 13-12-1993 . DW2 states that he also sent a notice dated 10-12-1993 ( exh 26) intimating all conveners that the meeting as aforesaid would be held on 17-12-1993 at 15.00hrs . According to DW2 , on 16-12-1993 he received for the first time a letter from the plaintiff which is at exh 24 requesting him to release him from the responsibility of drafting the syllabi for B. Com Course however, by the time the said letter was received by him the last date of submitting the draft syllabi had already lapsed . DW2 further deposes that on 20-12-1993 he received a letter from the plaintiff which is at exh 23 that he was submitting the syllabus which he had prepared after seeking assistance from another colleague on 18-12-1993 . According to DW2 as per the said letter dated 20-12-1993 the draft syllabus was prepared after the date on which the final meeting as aforesaid was held ie after 17-12-1993 . DW2 further clarifies that at no point of time the plaintiff informed him that the other members of the sub committee were not co-operating with him or that they were



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not attending meetings as they were not being paid T.A/D.A allowance or for any other reason. The following deposition of DW2 is equally significant and hence reproduced hereunder:-

“ I say that it is true that I informed the Registrar that the plaintiff could not finalize and submit the draft syllabus at the meeting held on 17-12-1993 despite a number of reminders. I say that I also informed him that the Academic Council was scheduled to meet on 5.1.1994 and that the Board of Studies had authorized me to finalize the draft syllabus in consultation with the other teachers in the subject and accordingly the syllabus was so finalized on 20-12-1994 and the same was also approved by the Academic Council in the meeting held on 5-1-1994 and was communicated to all colleagues on 4.2. 1994.

I say that it is true that I informed the defendant that the draft syllabi submitted by the plaintiff had been prepared very hastily. I say that this is evident from the fact that till 16-12-1993 the draft syllabus was not ready and as per the letter of the plaintiff himself, he had prepared it only on 18-



12-1993 . I say that I sent a letter dated 1.9.1994 inviting the plaintiff herein to attend another meeting of the Board of Studies which was fixed on 9.8.1994. I say that along with the plaintiff there were some other senior Principals and teachers who were invited to attend the same meeting. I say the present plaintiff was present when the meeting was called to order but he immediately left after the meeting started by handing over a letter, protesting that the draft syllabus sent by him to me was not considered while finalizing the syllabi. I say that if the aforesaid draft syllabi finalized by the plaintiff had been prepared properly and handed over within the time fixed then it would have been definitely considered for finalizing the syllabus . I say that I did inform the defendant herein as to what happened in the meeting held on 9.8.1994. I say that as the defendant herein was the Registrar of the Goa University at that point of time, it was my duty to discuss such issues with him and to keep him informed about such incidents. I say that, I had also addressed a letter dated 12.8.94 (exb.52)



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to the then Vice Chancellor , Dr. P.R.Dubhashi informing him about the lapses on the part of the plaintiff herein and requesting him to take serious note of the in appropriate behavior exhibited by a senior teacher like the plaintiff especially during the meeting which took place on 9.8.1994.”

DW2 has deposed that he had sent one letter dated 12-8-1994 which is at exh 52 to the then Vice Chancellor informing about the lapses on the part of the plaintiff and requesting him to take serious note of the inappropriate behavior of the plaintiff especially during the meeting dated 9-8-1994. DW2 has deposed that he was called by the defendant in August 1994 and the defendant showed him the news which appeared in Navhind Times Daily in August 1994 and the defendants stated to him some clarification had to be given about the news item to which he explained to the defendant that the plaintiff had hastily prepared syllabus . According to DW2 the contents of the said letter of clarification was based on what was informed by him and substantiated by the records of the Goa University and the defendant issued the said letter after consulting him.

DW2 has deposed that the records show that plaintiff had sent a hastily prepared draft which draft was not prepared by the sub committee convened by the Board of Studies but the said draft was prepared by the plaintiff along with a person who was not member of the sub committee and the said draft was never accepted at any time by the Academic Council or the Board of Studies in the subject of Commerce ( Undergraduate ) at any time.

12. From the aforesaid it is clear that the contents of the published letter at exh 20 are not only substantiated and fortified by the documentary evidence on record or by the evidence of DW1 and DW2 but also by the own admissions of the plaintiff in his cross and therefore it is evident that the contents of the said published letter are correct and show the factual position and are therefore not defamatory . The plaintiff has himself admitted that he was unable to present the syllabus on 17-12-1993 and the same is also borne out from the records that he had actually submitted the syllabus on 20-12-1993 . The plaintiff was given reminders to that effect as is clear not only from the evidence of DW2 but also from the admission to that



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effect by the plaintiff in his cross examination. The plaintiff has admitted that the final draft was to be placed before the Academic Council on 15-12-1993. The plaintiff admits that he was informed on 15-10-1993 to finalise the draft in two or three meetings; admits till 17-12-1993 he had not submitted the draft; admits that he had received a letter 9-10-1993 and notice dated 10-12-1993 to submit the draft and that the meeting was fixed on 17-12-1993; admits that he had himself written to relieve him of the responsibility by letter dated 16-12-1993 and further that he had prepared the syllabus within a day i.e. on 18-12-1993 with a help of a person who was not a member of the sub committee. **Secondly** the defamatory statement as alleged is to the effect that the revised syllabus was not objected by any principal or by any teacher and a casual reference was made by the plaintiff with regard to the subject to principal Shri Borkar. The aforesaid statement is also not defamatory but contains the factual position. In this regard the argument that the circular was not circulated and that the teaching faculty could learn about the syllabus only in third week of June 1994 is not supported by any evidence on record. **Thirdly** the defamatory statement according to the plaintiff

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is the statement that "the plaintiff sent a hastily prepared draft which did not adhere with the guidelines dated 24-12-1993". The aforesaid statement is also correct and hence not defamatory. The plaintiff himself admits that though he was appointed to act as the convener of the sub committee he was required to sent the final draft and he was told on 15-10-1993 to finalise the draft syllabi in two or three meetings and the next meeting was fixed on 19-11-1993 to consider the detailed syllabi; admits that he had not submitted the final draft any time before 24-12-1993; admits that he received the letters dated 9-12-1993 and 10-12-1993 mentioning that the meeting was fixed on 17-12-1993 by which time he was to sent the final draft of Syllabi and he had not given the syllabus on 17-12-1993; admits that he had requested Mr Borkar to relieve him from the responsibility of preparing the syllabus by letter dated 16-12-1993 and till the date of the meeting the syllabus was not prepared; admits that the draft syllabus was prepared within one day and that too with the assistance of a person who was not a member of the sub committee. It is significant to note that admittedly the plaintiff did not bring to the notice of Goa University about the members of the committee not attending



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the meeting and for reconstitution of the committee. Thus it is clear that the aforesaid statement in the published letter is substantiated not only by the documentary evidence and the deposition of DW1 and DW2 but also by the admissions of the plaintiff himself. The plaintiff has also not led any evidence to show that he has drafted the syllabus not in haste but in a proper manner though it was drafted in one day and there is no evidence on record to justify that the syllabus drafted by the plaintiff was introduced in Goa University in the second term especially when DW2 has categorically stated that no such syllabus was introduced in the second terms in the year 1993 - 94 . **Fourthly** the statement alleged to be defamatory to the effect that Shri Gaunekar walked out of the meeting is not a defamatory statement as the same is admitted by the plaintiff himself in his cross examination. Exh 29 to 31 show that the plaintiff who was invited to attend the meeting of Board of Studies of Commerce on 9-8-1994 walked out of the meeting after handing over the letter. **Fifthly** according to the plaintiff the defamatory statement in the published letter is that " if the plaintiff and sub-committee under his convener ship had done its duty consciously and at proper time all ensuing



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confusion would have been avoided", however the same is also not a defamatory statement but borne out from the documentary and oral evidence and is clear from the admission of the plaintiff himself. The records clearly show that the plaintiff was the convener and the sub committee under his leadership did not do its duty consciously and in proper time. Though the plaintiff has blamed the members of the sub committee however, he never brought to the notice of the Goa University that the committee should be reconstituted and that he was not able to function on account of non co-operation of the committee and it is only on 16-12-1993 ie after the date of submission of the draft syllabi was over that he wrote the letter that he could not do much in the matter. The plaintiff himself has admitted that his mother had expired and the matter was further delayed but the plaintiff never wrote about the same to Goa University to explain the fact. The plaintiff has not produced any letters written by him to the members of the sub committee. The fact that on 17-12-1993 there was no draft syllabi submitted and the chairman had to be authorized to finalise the syllabi which he had to do in consultation with other teacher is evident from the evidence.



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of the plaintiff as well as from the evidence of DW1 and DW2 and hence it is clear that what is contained in the letter dated 2-9-1994 at exh 20 is only statements of facts clarifying the earlier news item which is at exh 54 and the said facts were informed to DW1 by DW2 and the said facts are borne out of the records .

13 . None of the witnesses examined by the plaintiff are conversant with the subject of accountancy and have admitted so and therefore are not in a position to depose about the contents of the syllabus . It has been rightly argued by Ld Advocate for the defendant that no amount of weakness in defence evidence will absolve the plaintiff of liability to prove the issue cast on him . PW2 in his cross examination has admitted that the assignment of the preparation of draft syllabus was made by the Goa University to the plaintiff and his college had nothing to do with the preparation or finalization of the draft syllabus ; admits that officially he never placed before the Academic Council the issue of payment of TA/DA to the members of sub committee and also regarding the draft syllabus prepared by the plaintiff ; admits that officially

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the plaintiff could not have taken the help of any professor who was not the member of the committee; admits that he did not ask the plaintiff as to why the plaintiff has not forwarded the draft syllabus which was prepared by him to Goa University; admits that he does not know whether the plaintiff took permission from Goa University to finalise the draft syllabus with professor Shri C.Y.Ramani ; admits that he did not bring to the notice of Goa University that TA/DA of the members was not being paid . PW3 clearly states in his cross that he is not connected with the subject of Financial Accounting, Auditing and Taxation paper and that he has stated regarding the syllabus being the same based on whatever was told to him by professor Sangoram , who deposition is not on record and he further states that he has not personally checked the syllabus of the aforesaid subject as it is not his subject. PW4 has no knowledge of the actual facts regarding preparation of the syllabus, the time consumed and the time allotted etc nor the witness has knowledge about the old and new syllabus . PW5 clearly states in his cross examination that " I do not have any personal knowledge regarding the veracity of the contents of the published articles in the news paper in September 1994."



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14 . The published letter at exh 20 as well as the evidence of DW1 and DW2 clearly shows that the said letter was written by him in his capacity as Registrar so as to give explanation /clarification regarding the news item dated 19-8-94 and the contents of the said letter were based on information received from professor Shri D.V.Borkar and the said letter was written in consultation with professor Shri D.V.Borkar. DW1 or DW2 need not have expertise in the subject of accountancy so as to give the factual details as to the date by which the draft syllabus had to be submitted or to submit that the plaintiff was reminded to that effect number of times or to submit that the plaintiff failed to submit the draft syllabus within the time period and that the syllabus was hurriedly prepared within a day . Moreover as stated above all the aforesaid facts are admitted by the plaintiff in his cross examination.

15 . It is alleged by the plaintiff that his image is lowered in the eyes of public in general and students community besides, harming his practice as chartered accountant, however the plaintiff has failed to prove the same either by oral evidence or by

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documentary evidence. Though PW5 has stated in his affidavit in evidence that his company M/s Paramed Pharmaceuticals Pvt Ltd appointed the plaintiff as Chartered Accountant of the company in the year 1989 and was paying Rs. 8000/- p.m as his fees and after the publication of the said letter the said company withdrew the appointment of the plaintiff in the year 1995 and appointed another chartered accountant and further states that after the publication of the said letter the clientage of the plaintiff was reduced by 20% , except the aforesaid bare statements no documentary evidence is produced on record to substantiate the same and on the contrary PW5 admits/states in his cross examination as follows:-

“ Mr Gaunekar was appointed by our Company by passing a resolution and by giving him an appointment letter . At present I do not have the said resolution and the appointment letter . I say that the allegation in the said published letter were referring to the functioning of Mr Gaunekar as chartered accountant ..... I do not have any letter stating specifically that the plaintiff's services have been terminated pursuant to the publication of the news in the News Paper of September 1994 ..... I do not have any

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document to show that the aforesaid person had withdrawn their accounts/business from the plaintiff.”

Thus except the bare statements in the affidavits or in the plaint there is no documentary evidence to prove the injury/loss /damages if any sustained by the plaintiff .

16 . It is argued by the Ld. Advocate for the plaintiff that there is no stamp of the University on the letter dated 12-8-1994 which is at exh 52, however it is seen that there are endorsements of the officials of University on the said letter which is given as a certified true copy by the Assistant Registrar of Goa University . Merely because the plaintiff was appointed as examiner as argued by Ld Advocate for the plaintiff , the same does not mean that the syllabi was not drafted by him hastily. When the plaintiff was appointed in October and had two months to draft the syllabi there was no justification nor any justification is proved to draft the same within one day . The letter dated 20-12-1993 at exh 49 , apart from the admission of the plaintiff shows that the syllabi was drafted on 18-12-1993 ie within a day . The Ld Advocate for the plaintiff has argued that the defendant though not knowing

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the subject of accountancy had powers to enforce attendance of the sub committee members. There is no force in the aforesaid arguments as the plaintiff himself has admitted in the cross examination that he did not write any letter to the Registrar / the defendant about non attendance of the sub committee members. The Ld Advocate for the plaintiff refers to exh 30 ie minutes of the meeting dated 17-12-1993 and according to him the minutes set out that it was reported by the convener of the committee that the members of the sub committee were not cooperative . In this regard it is seen that the minutes of the meeting held on 17-12-1993 ( exh 30 ) reveal that on 17-12-1993 it was informed that the syllabus could not be finalised due to non corporation of the members and on 17-12-1993 it was resolved to authorise the Chairman BOS to finalize the syllabi in consultation with the teachers on the subject. DW2 also has corroborated the same . Thus the syllabus was not finalized on 17-12-1993 . It is clear that the plaintiff waited up to the last date ie 16-12-1993 or 17-12-1993 to communicate his inability to submit the draft syllabi . The argument that DW1 or Dw2 is biased is without any basis . The Ld. Advocate for the plaintiff has relied upon AIR 25 Allahabad Pg 371



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however the said authority is not attracted in the instant suit as the language used in exh 20 does not come within the purview of defamatory language nor there is anything in exh 20 which would excite the adverse opinion of public against the plaintiff. The judgment reported in AIR 1982 Karnataka Pg 287 is also not attracted to the instant case because in the instant case there is neither proof of injury to the reputation of the plaintiff nor of damages. The Ld. Advocate for the plaintiff has relied upon the judgment reported AIR 2003 AP,25 wherein there were allegations made by the appellant, President of the society against an officer of the Central Bank and on facts the truth of the allegations was not established and the allegations being per se defamatory regarding the respondent having indulged in malpractices and having illicit intimacy with several ladies, it was held that these allegations are per se defamatory and accordingly on the facts of the said case the respondent was held entitled to damages from the appellant. The aforesaid decision is not attracted in the instant suit as in the instant case the plaintiff has failed to prove any defamation against him and failed to prove injury to his reputation and it is clear that the letter was published at exh 20

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by the defendant as Registrar of Goa University and not in his personal capacity and the same was published by way of clarification about the news item dated 19-8-1994. The Ld. Advocate for the plaintiff relied upon the judgment reported in AIR 2007 Delhi Pg 9 but the ratio of the said judgment is not attracted in the present suit. In the aforesaid case there were defamatory statements made against the members of a Executive Board and the issue was whether the society was defamed and whether the society had cause of action to file the suit. In the said case the defamatory statements were made against Chauhan Brothers and not against the Society and the court held that only the person who is defamed will have cause of action to file the suit. Hence the aforesaid judgment is not attracted in the instant case. The Ld Advocate for the plaintiff has argued that the defendant was not at all concerned with sending the clarification as alleged by him nor it was his duty as a Registrar to send the same nor he was given any authority by the Goa University to send such a letter for publication however there is no force in the aforesaid arguments because the issue in the instant suit is not whether the defendant as a Registrar had power or authority to issue such a letter of clarification but





whether the said published letter is defamatory in nature or not and whether the said published letter gives true facts or not .

17 . In view of the aforesaid therefore the plaintiff has failed to prove that the defendant got published a defamatory letter in the Dally Navhind Times , defaming the plaintiff and seriously injuring his prestige , practice and reputation in the eyes of the general public and his clients . Hence the instant issue is answered in the negative.

**ISSUE No.2**

18 . Since the plaintiff has failed to prove that the defendant caused any defamation to the plaintiff by publishing the letter at exh 20 , the plaintiff is not entitled to any compensation from the defendant . Hence the instant issue is answered in the negative.

**ISSUE No.3**

19 . Because of the reasons stated above the defendant has proved that the plaintiff has no cause of action to file a suit against him. The instant issue is therefore answered in the affirmative.

**ISSUE No.4**

*Yatley*



20. In the premises aforesaid I pass the following :-

O R D E R

The instant suit is dismissed with costs.

Decree be drawn up accordingly.



a/c

*Vijaya D. Pol*  
**(Vijaya D. Pol)**  
Adhoc District Judge-1, (FTC),  
Panaji Goa.

*Checked with the original: MRB*  
*U.D.C*



**APPLICATION No. 1081**  
**CERTIFIED COPY for record.**

Date on which copy applied for ..... 08-01-10  
Date on which application completed ..... 08-01-10  
Date given for taking delivery ..... 12-01-10 *Date extended to 14-01-10*  
Date on which copy was ready ..... 14-01-10  
Date on which copy delivered ..... 15-01-10  
Copying and comparing fees, etc. Rs. .... 128/-  
are paid in Nazir Section of this Court  
under Receipt No. .... 146863 dated 08/01/2010



*Kalm*  
**Superintendent**  
**District & Sessions Court**  
**Panaji-Goa.**





Superintendent  
C.A. No. 151/1995

1

Presented on : 01.09.1995  
Registered on : 01.09.1995  
Decided on : 06.01.2010  
Duration : Yrs Months Days  
14 4 5

IN THE COURT OF AD-HOC DISTRICT JUDGE - 1, JUNTA  
HOUSE, PANAJI

SPL. CIVIL SUIT NO. 151/1995

Mr. Narcinha Nagendra Naik  
Gaunekar,  
son of late Nagendra Naik  
Gaunekar, married, of full  
age, Chartered Accountant,  
having his office at 106,  
Govinda Building at Panaji,  
Goa and residing at Talcigao,  
Ilhas, Goa.

.... Plaintiff

V/S



Shri A. K. Heblekar,  
of full age, gainfully  
employed at Goa University,  
Taleigao Plateau, Taleigao,  
Ilhas, Goa and who is also  
residing at University  
Campus, Taleigao Plateau,  
Taleigao, Ilhas, Goa.

.... Defendant

**DECREE**

This is a suit for Damages and Compensation filed by the  
plaintiff against the defendant praying :

1. That the defendant be decreed and ordered to pay to the  
plaintiff an amount of Rs. 5,00,000/- as damages on account of  
the defamation of the plaintiff made by the defendant seriously  
injuring and harming the prestige, reputation and practice of the  
plaintiff lowering the image of the plaintiff in the eyes of public in  
general and students community and clients of the plaintiff in  
particular besides causing mental pain and annoyance to the  
plaintiff on account of the defamatory statements made by the  
defendant, together with interest on the aforesaid sum of  
Rs. 5,00,000/- from 28.4.1995;



2. For such other and further reliefs as the nature of the the case demands;
3. For Costs .

This suit coming on this day for final disposal before Smt. Vijaya D. Pol, Adhoc District Judge-1, Panaji in presence of Advocate Shri V. Bodke for the plaintiff at the time of hearing and Adv. Shri G. Sambhari at the time of passing Judgment and Advocate Mrs A. Agni for the defendant at the time of hearing and defendant present in person at the time of Judgment, it is ordered that the instant suit is dismissed with costs.

**BILL OF COSTS**

	Plaintiffs		Defendant	
	Rs.	Ps.	Rs.	Ps.
Stamp for plaint	3,000	00	-	-
Stamp for Power	00	50	00	50
Stamp for Exhibits	14	50	18	00
Process fee	13	00	-	-
Pleader's fee	-	-	2900	00
<b>TOTAL</b>	3028	00	2918	50
Rounded to	3028	00	2919	00

*[Handwritten signature]*





Superintendent  
3

Given under my hand and the seal of the Court, this 06<sup>th</sup>  
day of January, 2010.



*Vijaya D. Pol*  
14/1/2010  
( Vijaya D. Pol )  
Ad-hoc District Judge -1,  
Panaji.

Checked by:

*[Signature]*  
Asst. Sheristedar

Examined and found correct

*[Signature]*  
Superintendent

Advocate for the plaintiff

Advocate for the Defendant



*Checked with the original. MPP  
U.D.C.*

**APPLICATION No. 1081**  
**CERTIFIED COPY for record.**

Date on which copy applied for *08-01-10*  
Date on which application completed *08-01-10*  
Date given for taking delivery *12-01-10* date extended to *14-01-10*  
Date on which copy was ready *14-01-10*  
Date on which copy delivered *15-01-10*  
Copying and comparing fees, etc. Rs. *16/-*  
are paid in Nazir Section of this Court  
under Receipt No. *146863* dated *08/01/2010*



*[Signature]*  
15/01/10  
Superintendent  
District & Sessions Court  
Panaji-Goa