

Lord Sheikh v Associated Newspapers Ltd

[\[2019\] EWHC 2947 \(QB\)](#), 169 NLJ 7864, [\[2019\] All ER \(D\) 39 \(Nov\)](#)

Court: QBD

Judgment Date: 04/11/2019

Catchwords & Digest

LIBEL AND SLANDER - DEFAMATORY WORDS – ARTICLE PUBLISHED ON INTERNET

Background

The claimant, a Conservative member of the House of Lords, brought a claim against the defendant company for libel in respect of an article it had published on the Mail Online website (the article), concerning his attendance at a conference in Tunisia which the leader of the opposition (JC) had also attended. The article included photographs and captions, and referred to the claimant and JC as 'fellow travellers'. The claimant contended that the article, in its original and amended form, bore the following meaning: that he was 'a supporter of anti-Semitism ... and hate preaching', among other things (the pleaded meaning). The pleaded meaning was put forward as a natural and ordinary and/or inferential and/or innuendo meaning.

Issues and decisions

Whether the article bore the pleaded meaning.

When deciding on the ordinary meaning of words, the court did not admit evidence of what readers actually took the offending words to mean. Its task was to make an objective assessment of the meaning, applying those principles to the words or other statement that was alleged to defame the claimant, without resort to extraneous materials (see [14] of the judgment).

An innuendo meaning was something different. It was defined in PD53B 4.2(4)(b) as 'a meaning alleged to be conveyed to some person by reason of knowing facts extraneous to the statement complained of'. That was a reference to knowledge that the ordinary reasonable reader would not possess (see [15] of the judgment).

One had to be careful before reading an opinion or value judgment into words that did not express it. However, the defence of honest opinion under s 3 of the [Defamation Act 2013 \(DA 2013\)](#) applied to a 'statement of opinion'. It was not limited to an express statement. There was force in the submission that the process of 'reading between the lines', by which the ordinary reader could identify implied or inferential meanings, was applicable to comment or opinion, as well as to fact. Those considerations, coupled with the inherent flexibility of the ever-evolving methods of conveying meaning, suggested that it would be unwise to rule out the possibility of an implied statement of opinion (see [22] of the judgment).

Not every statement that was, or could be inferred to be, an inference was necessarily to be treated as an expression of opinion (see [23] of the judgment).

The overriding rule when dealing with both meaning and the question whether a statement was factual or opinion was how the words would strike the ordinary reasonable reader. One important principle that followed from that overriding rule was the need to avoid unduly elaborate analysis (see [21], [24] of the judgment).

The ordinary reasonable reader was not naïve, and was readier than a lawyer to read in an implication; but nor was the reader avid for scandal. Much depended on the context in which the offending statements were presented and the reader's expectations about information presented in that context. Context included the publishing platform (see [43] of the judgment).

In the present case, the natural and ordinary meaning of the words and photographs complained of, in their context, was, among other things, that the claimant had a long history of support for, or close association

with, people and organisations that expressed or held anti-Semitic and other extremist views and attitudes (see [38] of the judgment).

Applying settled principles to the facts, the bulk of the meanings consisted of statements of fact, and not comment or opinion. The conclusion in para (i) was one of fact. Paragraph (ii) was an expression of opinion on the matters presented as fact. The reader comment was also an expression of opinion on those matters (see [38] of the judgment).

The use of the term 'fellow traveller' in the context of the article would not affect the reader's reaction to its content, even if the reader was familiar with the special meaning of that term. There was no further or different true innuendo meaning (see [39] of the judgment).

Nowhere did the article directly attribute to the claimant the expression of any anti-Semitic views or any explicit support for any of the ideologies. Overall, the picture presented by the defendant was one of association. The article clearly suggested that the claimant was guilty of association with others; but guilt by association did not follow. It was necessary to go further and assess what was implicit in the associations, as presented to the reader (see [42] of the judgment).

The reasonable reader would expect the Mail Online to make an allegation of support for terrorism directly, if not bluntly, and not by insinuation. The term 'rubbing shoulders' suggested association without necessarily going so far as active, knowing support. The fact that that term had been used repeatedly would strike the ordinary reader as significant; a clear indication of the thrust of the article, falling short of an allegation of knowing support (see [44] of the judgment).

Further, the repeated reference to the call for an investigation was significant. By itself, that suggested that the matter was not clear-cut. In addition, the closing section of the article was important. The reader was told, via quotations from the claimant, that he held a number of positions which would be inconsistent with support for the ideologies or extremists. No doubt was cast on those factual assertions. The claimant was also quoted expressly denying any anti-Semitic views (see [45] of the judgment).

Moreover, the express comparison with JC did not help the claimant get home with his meaning (see [46] of the judgment).

That said, the accumulation of items of evidence meant that the article went well beyond merely suggesting that there were grounds for an investigation. The implication was of a much stronger case than that (see [47] of the judgment).

The reader would take it that, if the Mail Online had wished to convey its own criticism of the claimant, for being uncritical in his choice of associations, or lacking vigilance, or otherwise, that would be have been done expressly. There was nothing in the wording of the article which implied any such opinion (see [48] of the judgment).

There was an implied meaning, but it was not an implied statement of opinion. It was an implied statement that the associations listed and described in the article, taken together, strongly suggested that the claimant held anti-Semitic views, and approved and supported the ideologies and the extremists. More precisely, it was an implied statement of the meaning specified above (see [49] of the judgment).

Cases considered by this case

Annotations: All Cases **Court:** ALL COURTS

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Treatment	Case Name	Citations	Court	Date	
Considered	Stocker v Stocker	[2019] UKSC 17 , [2020] AC 593 , [2019] 3 All ER 647 , [2019] 2 WLR 1033 , 169 NLJ 7836, [2019] All ER (D) 21 (Apr)	SC	03/04/2019	CaseSearch Entry
Considered	Koutsogiannis v Random House Group Ltd	[2019] EWHC 48 (QB) , [2020] 4 WLR 25 , [2019] All ER (D) 116 (Jan)	QBD	18/01/2019	CaseSearch Entry
Considered	Brown v Bower and another	[2017] EWHC 2637 (QB) , [2017] 4 WLR 197 , (2018) Times,	QBD	31/10/2017	CaseSearch Entry

Treatment	Case Name	Citations	Court	Date	
		04 January, [2017] All ER (D) 185 (Oct)			
Considered	Simpson v MGN Ltd	[2015] EWHC 77 (QB) , [2015] All ER (D) 155 (Jan)	QBD	21/01/2015	CaseSearch Entry
Considered	Lord McAlpine of West Green v Bercow	[2013] EWHC 1342 (QB) , [2013] All ER (D) 301 (May)	QBD	24/05/2013	CaseSearch Entry
Considered	Baturina v Times Newspapers Ltd	[2011] EWCA Civ 308 , [2011] 1 WLR 1526 , [2011] EMLR 343 , [2011] All ER (D) 268 (Mar)	CACivD	23/03/2011	CaseSearch Entry
Considered	John v Guardian News & Media Ltd	[2008] EWHC 3066 (QB) , [2008] All ER (D) 134 (Dec)	QBD	12/12/2008	CaseSearch Entry
Considered	Jeynes v News Magazines Ltd	[2008] EWCA Civ 130 , [2008] All ER (D) 285 (Jan)	CACivD	31/01/2008	CaseSearch Entry
Considered	Chase v News Group Newspapers	[2002] EWCA Civ 1772 , (2002) Times, 31 December, [2003] EMLR 218 , [2002] All ER (D) 20 (Dec)	CACivD	03/12/2002	CaseSearch Entry
Considered	Grubb v Bristol United Press Ltd	[1963] 1 QB 309 , [1962] 2 All ER 380 , [1962] 3 WLR 25 , 106 Sol Jo 262	CA	21/03/1962	CaseSearch Entry

Document information

Court

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