

THE LIBEL AND SLANDER ACT

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THE LIBEL AND SLANDER ACT

Cap. 219.
Law
33 of 1961
S. 15.
Act
42 of 1969
3rd Sch.

[1851.]

1. This Act may be cited as the Libel and Slander Act. Short title.

PART I. *Defamatory Words and Libel*

2. In any action for defamation, it shall be lawful for the defendant (after notice, in writing, of his intention so to do, duly given, to the plaintiff at the time of filing or delivering the plea in such action), to give in evidence in mitigation of damages, that he made, or offered, an apology to the plaintiff for such defamation before the commencement of the action or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology. Apology admissible in evidence in mitigation of damages.

3. In an action for a libel contained in any public newspaper, or other periodical publication, it shall be competent to the defendant to plead that such libel was inserted in such newspaper or other periodical publication without actual malice, and without gross negligence; and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication, a full apology for the said libel; or, if the newspaper or periodical publication in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper, or periodical publication, to be selected by the plaintiff in such action; and every such defendant shall, upon filing such plea, be at liberty to pay In action for libel in a newspaper what defendant may plead.

into court a sum of money, by way of amends, for the injury sustained by the publication of such libel; and such payment into court shall be of the same effect, and be available in the same manner, and to the same extent, and be subject to the same rules and regulations as to payment of costs, as payments of money into court in personal actions, under the rules and practice of the Supreme Court; and that to such plea to such action, it shall be competent to the plaintiff to reply generally, denying the whole of such plea:

Provided always, that it shall not be competent to any defendant in such action to file any such plea, without at the same time making a payment of money into court by way of amends; but every such plea so filed without payment of money into court shall be deemed a nullity, and may be treated as such by the plaintiff in the action.

Libels to
extort
money.

4. If any person shall publish, or threaten to publish, any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing, of any matter or thing touching any other person, with intent to extort any money, or security for money, or any valuable thing from such or any other person, or with intent to induce any person to confer, or procure for any person, any appointment, or office of profit or trust; every such offender, on being convicted thereof, shall be liable to be imprisoned with or without hard labour for a term not exceeding three years:

Provided always, that nothing herein contained shall in any manner alter or affect any law now in force in respect of the sending or delivery of threatening letters or writings.

Publishing
libel, know-
ing it to be
false.

5. If any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person, being convicted thereof, shall be liable to be imprisoned for

a term not exceeding two years, and to pay such fine as the court shall impose.

6. If any person shall maliciously publish any defamatory libel, every such person, being convicted thereof, shall be liable to fine or imprisonment or both, as the court may impose, such imprisonment not to exceed the term of one year.

Malicious
defamatory
libels.

7. On the trial of any indictment or information for a defamatory libel, the defendant having pleaded such plea as hereinafter mentioned, the truth of the matters charged may be enquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published; and to entitle the defendant to give evidence of the truth of such matters charged as a defence, to such indictment or information, it shall be necessary for the defendant, in pleading to the said indictment or information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action for defamation; and further to allege that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published; to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof; and if after such plea, the defendant shall be convicted on such indictment, or information, it shall be competent to the court, in pronouncing sentence, to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove, or to disprove the same:

Proceedings
upon trial
of indict-
ment for
defamatory
libel.

Provided always, that the truth of the matters charged in the alleged libel complained of by such indictment or information shall, in no case, be inquired into without such plea of justification:

Provided also, that in addition to such plea it shall be competent to the defendant to plead a plea of not guilty:

Provided also, that nothing in this Act contained shall take away or prejudice any defence under the plea of not guilty, which it is now competent to the defendant to make, under such plea, to any action or indictment or information for defamatory words or libel.

Prima facie
case of
publication
by agent
may be
disproved.

8. Whensoever, upon the trial of any indictment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge and that the said publication did not arise from want of due care, or caution on his part.

Costs.

9. In the case of any indictment or information by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment or information; and upon a special plea of justification to such indictment or information, if the issue be found for the prosecution, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea, such costs, so to be recovered by the defendant or prosecutor respectively, to be taxed by the proper officer of the court before which the said indictment or information is tried.

How costs
to be
recovered.

10. In all cases where a general verdict of guilty or not guilty shall be returned by the jury on the trial of any indictment or information to which a plea of justification has been filed, under the provisions of this Part, the costs,

when taxed by the proper officer shall be paid and payable by the private prosecutor, or defendant, as the case may be, to the other party, and may be enforced by the attachment under the seal of the court, or by a writ of *feri facias*, issued in the form now used for the enforcement of judgment.

PART II. *Newspaper Libel*

11. In this Part of this Act "newspaper" shall mean any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon printed for sale and published in Jamaica periodically or in parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers.

"Newspaper" defined.

12. No criminal proceedings shall be commenced against any proprietor, publisher, editor, or any person responsible for the publication of a newspaper, for any libel published therein, without the fiat of the Director of Public Prosecutions being first had and obtained.

No criminal proceeding for libel without fiat of Director of Public Prosecutions.

13. A Resident Magistrate upon the hearing of a charge against a proprietor, publisher, or editor, or any person responsible for the publication of a newspaper, for a libel published therein, may receive evidence as to the publication being for the public benefit, and as to the matters charged in the libel being true, and as to the report being fair and accurate, and published without malice, and as to any matter which under this or any other enactment, or otherwise, might be given in evidence, by way of defence by the person charged on his trial on indictment, and the Resident Magistrate if of opinion after hearing such evidence that there is a strong or probable presumption that the jury on the trial would acquit the person charged, may dismiss the case.

Hearing before Resident Magistrate.

Duty of Resident Magistrate where libel of trivial character.

14. If a Resident Magistrate upon the hearing of a charge against a proprietor, publisher, editor, or any person responsible for the publication of a newspaper for a libel published therein, is of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and that the offence may be adequately punished by virtue of the powers of this section, the Resident Magistrate shall cause the charge to be read to the person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury or do you consent to the case being dealt with summarily?" and, if such person assents to the case being dealt with summarily, the Resident Magistrate may summarily convict him and adjudge him to pay a fine not exceeding one hundred dollars, and in default to be imprisoned for a period not exceeding three months.

42/1969
3rd Sch.

Report of judicial proceedings.

15. A fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority shall, if published contemporaneously with such proceedings, be privileged:

Provided that nothing in this section shall authorize the publication of any seditious, blasphemous or indecent matter.

Consolidation of actions.

16.—(1) It shall be competent for a judge of the Supreme Court upon an application by or on behalf of two or more defendants in actions in respect to the same or substantially the same libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect of the same or substantially the same libel, shall also be entitled to be joined in a common action upon a joint application being made by

such new defendants and the defendants in the actions already consolidated.

In a consolidated action under this section the jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury shall have found a verdict against the defendant or defendants in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they shall have so found between and against the said last-mentioned defendants; and the Judge, at the trial, if he awards to the plaintiff the costs of the action, shall thereupon make such order as he shall deem just for the apportionment of such costs between and against such defendants.

(2) Subsection 1 shall apply to actions for slander and to actions for slander of title, slander of goods or other malicious falsehood as it applies to actions for libel; and references in that subsection to the same, or substantially the same, libel shall be construed accordingly. 33/1961
S. 15.

17. Every in-giving under or in pursuance of section 17 of the Licences on Trades and Business Act which provides for proprietors of newspapers to give certain information to the Collector of Taxes, shall in all proceedings, civil or criminal, be accepted as sufficient *prima facie* evidence of all the matters and things thereby appearing, unless and until the contrary thereof be shown. In-giving
under
Licences on
Trades and
Business
Act *prima
facie*
evidence.

PART III. *Slander of Women*

18. Words spoken and published which impute unchastity or adultery to any woman or girl, shall not require special damage to render them actionable: Special
damage.

Costs.

Provided always, that in any action for words spoken and made actionable by this section, a plaintiff shall not recover more costs than damages, unless the Judge shall certify that there was reasonable ground for bringing the action.