THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(CIVIL DIVISION)

CIVIL SUIT NO. 391 of 2012

CONSOLIDATED WITH HCCS 36/2013, 387/2012 AND 390/2012

DR. WASSWA JOSEPH MATOVU ============ PLAINTIFF

VERSUS

1. **PROF. VENANSIUS BARYAMUREEBA**
2. **MAKERERE UNIVERSITY**
3. **NEW VISION PRINTING AND PUBLISHING CORPORATION LTD & 4 OTHERS**
4. **UGANDA BROADCASTING CORPORATION======= DEFENDANTS**

BEFORE HON. JUSTICE SSEKAANA MUSA

JUDGMENT

The plaintiff sued the four (4) defendants in separate suits for defamation (libel), seeking from each of them general damages, apology, a permanent injunction against publication of defamatory matters, interest and costs. In respect to the 3rd defendant he also sought aggravated damages.

The plaintiff's claim against the 1st defendant is that between 7/2/2011 and 9/2/2011, the 1st defendant appeared on Radio Sapentia, a press conference and caused to be published statements to the effect that the plaintiff was mentally ill and had been suspended.

The plaintiff's claim against the 2nd defendant is that the 1st defendant was at the time the Vice Chancellor and therefore the Chief Executive of the 2nd defendant

and the 2nd defendant raised a preliminary objection that the suit is time barred which objection was adopted as issue 1. That the 3rd defendant on 4th February 2011, published an article that the plaintiff was suspended on allegations of over spreading rumors making an innuendo that he had indeed spread the rumors. That the 4th defendant in its broadcast of 8th February 2011, that the plaintiff had been suspended due to concerns about his mental stability, consistency and undermining his duties at the campus.

The parties agreed upon the following issues in their joint scheduling memorandum;

I. *Whether the plaintiff's claim was time barred*
II. *Whether the statements/ publications made by the 1st, 3rd and 4th defendants were defamatory of the plaintiff.*
III. *Whether the 2nd defendant is vicariously liable for the statements claimed to have been made by the 1st defendant.*
IV. *Remedies available.*

All parties were directed by court to file submissions which were considered by this Honorable Court.

RESOLUTION OF ISSUES

Whether the plaintiff's claim was time barred

The plaintiff's counsel submitted that under Section 3 (1) (a) of the Limitation Act Cap. 80, an action in tort as in the instant case, may be brought within 6 (six) years from the date on which the cause of action arose. Where the defendant is a scheduled corporation, the provisions of the Civil Procedure and Limitation (Miscellaneous Provisions) Act, Cap. 72 may come into play, which reduce the limitation period in respect of such corporations to two years from the date when the cause of action arose.

The statements complained of were initially made on 4th February 2011 (in New Vision), on 7th February (Radio Sapientia), on 8th February (on UBC Television) and on 18th February (New Vision again). The suit against the 1st defendant was filed on 31st December 2012 and its defence was filed on 7th February 2013. The ones against the 4th defendant was filed on 20th December 2012 and it filed its defence on 22nd January 2013. All these are well within two years from the date when the statements giving rise to the suit were first made, not to mention six years, which is the applicable period. It is only Makerere University which at first sight seems to have appoint in this regard considering that the suit against it was filed on 19th February 2013.

Plaintiff's counsel further submitted that even the suit against Makerere is not time barred, in the first place when a suspension letter and a newspaper containing defamatory matters were put in the public domain as a result of the 2nd defendant acting through its servants, they remained in permanent documentary form. Unlike a radio or TV statement, which is transient, a statement contained in a hard document continues to be published, every time the document is communicated to a 3rd party other than the maker/publisher and the person it refers to. As the authorities cited below show, a defamation is the publication of defamatory statements and publication is the communication of statements beyond the maker and the plaintiff. ***See Winfield & Jolowicz on Tort, 11th Edition at pg 295, 297.***

Counsel for the plaintiff submitted that not only did the 2nd defendant release the suspension letter containing the allegations of fraud but also gave the letter and other documents to the 3rd & 4th defendant to use in their WSDs. That Section 3 of the Civil Procedure and Limitation (Miscellaneous Provisions) Act does not say the action has to be brought within two years from the date on which the cause of action first arose, it only says "when the cause of action arose."

Counsel for the 1st defendant submitted that the plaintiff has no cause of action against him as the same is time barred citing ***Section 4 of the Civil Procedure and***

Limitation (Miscellaneous Provisions) Act, Otto Tommy Lee Ocamker v Attorney General & 3 ors C.S No. 14 of 2010.

Counsel for the 2nd defendant submitted that the defamatory statements were made in the period between 4th February 2011 and 18th February 2011, the case against the 2nd defendant was filed on 19th February 2013 more than two years after the publication of the allegedly defamatory statements. ***See Section 3(1) Civil Procedure and Limitation (Miscellaneous Provisions) Act, Madvani International SA vs Attorney General SCCA 23 of 2010, Hilton vs Sulton Steam Laundry (1946) 1 KB, 81.***

2nd Defendant's counsel further submitted that the claim against them expired two years after the publication and as such he lost all color of right against the 2nd defendant. The plaintiff's claim could not have been legally revived upon a plea of disability which rendered him unable to purse his claim within the prescribed period of two years. The said plea was never set out in the plaint or proved in evidence during the hearing of the suit. ***See Godfrey Magezi v National Medical Stores & Ors HCCS No. 636 of 2016.***

DETERMINATION

A limitation period is a time limit during which an action may be brought, thereafter a potential plaintiff is barred and may no longer bring his action. Court can on its own discretion take cognizance of the fact of limitation. Statutes of limitation are in their nature strict and inflexible enactments. Their overriding purpose is interest *republicae ut sit finis iitum,* meaning that litigation shall be automatically stifled after fixed length of time, irrespective of the merits of a particular case. ***See Charles Mpiima vs Attorney General HCCS No. 980/1990 [1990-1991] 2 KALR 54, Hilton vs Sulton Steam Laundry [1946] 1 KB 1 at 81.***

The limitation statutes are the Limitation Act Cap 80 and the Civil Procedure and Limitation (Miscellaneous Provisions) Act Cap 72 that impose a limit of time upon an existing right of action. An underlying principle of the law of limitation is that, once a cause of action has become statute barred, subsequently

developments cannot revive it. ***Arnold vs Central Electricity Generating Board [1988] AC 288.***

In the case of ***Makula International Ltd vs His Eminence Cardinal Nsubuga [1982] HCB 11*** the then Court of Appeal held *inter alia* that:

"a court has no residual or inherent jurisdiction to enlarge time laid down by a statute and therefore the judge's order extending the time within which to appeal, several months after the expiry of the statutory period, was without jurisdiction, was a nullity and would be set aside…"

Where the suit is instituted after the expiration of the period prescribed by the law of limitation, the plaint shall show the grounds upon which exemption from that law is claimed. ***See Order 7 Rule 6.***

I have analyzed the evidence before this court, am inclined to agree with the submissions of counsel for the 2nd defendant and find that the suit against the 2nd defendant is time barred.

Whether the statements/ publications made by the 1st, 3rd and 4th defendants were defamatory of the plaintiff.

Counsel for the plaintiff submitted that in a suit of defamation, the plaintiff must prove;

1) *That the words or statements complained of are defamatory.*
2) *That they refer to the plaintiff.*
3) *That they were maliciously published by the defendants* ***(see Winfield and - on tort, supra, p.283)***

The fact that the statements complained of were published is an agreed fact. They were duly published by being communicated to 3rd parties i.e. parties other than the original makers. The only remaining question is whether they were defamatory of the plaintiff. Defamation has been legally defined in ***Winfield and Jolowicz (p.274)*** give the move modern and broader definition of defamation, at page 274 and 283 that;

"A statement which disparages a man in his reputation to his office, profession, calling, trade or business may be defamatory, e.g. the imputation of some quality which would be detrimental …. To the successful carrying on his office, trade, or profession, such as want of ability, incompetence and of course, dishonesty or fraudulent conduct."

Plaintiff's counsel further submitted that for a statement to be defamatory, it need not have resulted in the plaintiff actually being shunned or avoided or lowered in the estimation of tight – thinking members of the public. The test is whether the statement "tends" to have that effect, not whether it has had the effect. Hence in ***Hough-v- London Newspaper [1940] 2 KB 507 at P515***, Goddard L.J explained that it is not necessary to prove that the words used actually had that effect. It is not even necessary that the members of the public believe the words. The law lord stated;

"If words are used which impute discreditable conduct to my friend, he has been defamed to me, although I do not believe the imputation, and may even know that it is untrue."

Secondly the test for whether a statement tends to lower a person's reputation or cause him to be shunned or avoided is that of the is that of ordinary person, that is "the right thinking member "of society generally ***see Winfield and Jolowicz on Tort p. 275).*** Thirdly, when a court is determining whether the words complained of are defamatory, the court looks firstly at the words themselves and thereafter, at circumstances under which they are published. This was explained by Justice Musota in ***Adam Rujumba v New Vision*** (supra), at page 2. Fourthly and related to the foregoing in ***Jeremiah Herbert Ntabgoba v the Editor –in –Chief of New Vision Newspaper & anor (2001-2005) HCB 109*** ,Justice Tinyinondi stated;

"Where the words complained of the defamatory in their natural and ordinary meaning, the plaintiff need to prove nothing more than their publication. the onus will lie on the defendant to prove the circumstances which the words were used ….that the word would not be understood by reasonable men to covey the imputation suggested by mere consideration of the words themselves," This means, as explained by Justice Musota in Adam Rujumba (supra) at page 2-3 that;

"The plaintiff does not shoulder the burden of proving the falsity or malice in order to establish a cause of action. If the words are defamatory or capable of being so construed, the law presumes that they are false. The burden shifts to the defendant to show that they are true."

Finally knowledge on the part of the defendants is immaterial. The plaintiff does not have to prove that the defendants knew their assertions to be untrue. When a defendant makes a statement he takes the risk of the consequences of being true .when the defendant makes a statement, he takes the risk of consequence of it being untrue ***(Winfield and Jolowicz, supra, p. 290).***

Counsel for the plaintiff submitted that all these statements are defamatory. To call a lecturer a rumor monger, a fraudster and an insane man is to lower him in the estimation of right – thinking members of society generally, including his family members (such as PW3) and his past and present students and work colleagues, such as PW2. It is also to cause him to be shamed and avoided by the right thinking (ordinary members of society).

No reasonable person would want to associate with a fraudster or a mentally sick person rather, the normal human instinct would be to avoid such a person. Indeed the 3rd defendant's cartoon of 18th February 2011 is revealing. That these days when the plaintiff states an economics theory to his students, the retort of the students is, "I hope that is not a rumor". What more evidence of being shunned and lowered would one want? The two cartoons reduce the plaintiff to an object of ridicule, the very criterion the old narrow definition of defamation used. By the 1st and 2nd defendant creating a situation where he could be so ridiculed by the 3rd defendant, and by the 3rd defendant broadcasting the ridicule to its leadership, they defamed the plaintiff.

Counsel for the 1st Defendants submitted that the words published were not the words he uttered. DW1 testified [para.16 and 17 of the witness statement] that in response to a question asked by journalists, he replied that all stuff of the university including the vice chancellor were to be examined for mental health as

part of the health checkups and those found with mental issues would be assisted.

That notwithstanding, the 1st Defendant submits that the words 'mentally ill" are not defamatory. In ***Lubanga v Dr Ddumba CACA No.11 of 2011, the court of Appeal affirmed Justice Kibuuka Musoke's*** holding in the High Court that being mentally ill is a natural trend of life as the word "illness" per se does not defame anybody in the absence of extrinsic evidence showing injurious meaning or effect ,this decision was upheld by the court of Appeal. Therefore, the plaintiff has failed to prove all the ingredients of defamation i.e. the publication, words, statements refer to the plaintiff; the statement was defamatory; and publication by the Defendant.

Counsel for the 3rd defendant submitted that in ***Hon. Justice Peter Onega v John Jaramogi Oloya, Civil Suit No.114 of 2009,*** the court held that a defamatory statement is one which tends to lower or injure the reputation of the plaintiff in the estimation of the right thinking of members of the society or which tends to cause right thinking members of the society to shun or avoid him or her. In ***"GATLEY ON LIBEL AND SLANDER" (8th Ed Par 31)*** it is stated that the defamatory statement is one which tends to lower a person in the estimation of right thinking members of society or ridicule or convey an imputation on him disparaging or injurious to him in his office, professional calling, trade or business." There is however a rider to the above statement in ***ASTIRE VS CAMPLING (1966) IWLR 34 at page 41 Diplock L, J*** stated;

"A statement does not give rise to a cause of action against its publishers merely because its damage to the plaintiff. the statement must be false and it must be defamatory of the plaintiff, that is to say, the statement must itself contain, whether expressly or by implication, a statement of fact which would lower the plaintiff in the estimation of a reasonable reader who had knowledge of such facts, not contained in the statement as then reader might reasonably be expected to possess."

It is the truth and a fact that the defendant was suspended, the grounds for his suspension are also listed in his suspension letter and some of these grounds

were carried by the newspaper. ***See also GODFREY SEJJOBA VS REV PATRICK RWABIGONJI 1977) HCB 37***

3rd defendant's counsel further cited ***A.K & Fats (U) Ltd vs. Bidco Uganda Ltd C.S No. 715 of 2005,*** *"Defamation was identified as ….' Something more that an insult or derogatory comment. It is not capable of exact definition. How far a person is affected by unkind words will depend not just on the words used, but also on the people who must then judge him."* ***Fr. Giovanni Scalabrini vs New Vision, HCCS No. 110 of 2010*** where **Justice Kabiito** held that;

"To expect that the defendant would have gone further to investigate this matter beyond what was obtained, would, in my opinion impose a more onerous duty on the defendant, as a news media, and lead to stifling of news and information necessary in the public interest."

Eng. Barnabas Okeny and others vs Peter Odok W'oceng Civil Suit No. 12 of 2009

Justice Stephen Mubiru held that *"Once a statement is capable of being interpreted as an assertion of fact, the question then will be whether it imputes any moral fault or defect of personal character. For professional aspects, it will be deemed so if it imputes lack of qualification, knowledge, skill, capacity, judgment or efficiency in the conduct of one's trade or business or professional activity. There are certain established rules to determine whether a statement is defamatory or not. The first rule is that the whole of the statement complained of must be read and not only a part or parts of it. The second is that words are to be taken in the sense of their natural and ordinary meaning. The court must have regard to what the words would convey to the ordinary man.*

Counsel for the 3rd defendant further submitted that the facts asserted by the 3rd defendant are that; the plaintiff was suspended pending investigations and grounds for his suspension were listed in his suspension letter. In the cross examination of PWI, he concedes that he was suspended band the grounds for his suspension were listed in his suspension letter. PWI also testified that it was because of his vigilance that the suspension was lifted. He also stated that the

allegations were not yet investigated and for that reason they should not have been published.

However, the witness of the plaintiff testified that there was no court order prohibiting the media form making publication about the plaintiff's suspension. The 3rd defendant reported about the plaintiff's suspension fairly and accurately. The 3rd defendant in its article quotes the letter by the director human resources, Sabastian Ngobi, *"this is to inform you (Motive) that the vice chancellor has directed me to suspend you from your duties with immediate effect pending investigation,"* said Ngobi's letter of January 17 2011.

The plaintiff also admitted that the phrase pending investigation as stated in the suspension letter and equally reported about by the 3rd defendant means that the allegations were not yet investigated. Allegations pending investigations cannot by any definition be said to be conclusive or definitive of a person's character. The conclusion of investigation could have the plaintiff cleared of the said allegations or not. The plaintiff further testified that he has a court injunction which has been in place since 2010 that has the effect of prohibiting Makerere University form suspending him or investigating him.

3rd defendant's counsel further submitted that the statements of the facts complained about are the plaintiff was suspended, secondly that the suspension letter carried grounds for his suspension which the 3rd defendant carried verbatim in the newspaper, that the statement complained of was factual i.e. the plaintiff was suspended with grounds and that was the truth and cannot therefore be defamatory.

The plaintiff also complains about the cartoons published on 5th and 18th February 2019 by the 3rd defendant. Besides the plaintiff demonstrating before court that the cartoons do not look like the plaintiff and that they were made in bad taste, he did not show or lead any evidence to show that they were defamatory. DW3, Bwambale Teddeo testified that the cartoons are for humor and keeping some entertainment for the readers. This was also noted by ***Justice Eldad Mwangusya*** in the case of ***Editor in Chief of the New Vision Printing &***

Publishing Company Ltd vs. Godfrey Sekandi and anor High court civil appeal No.33 of 2011 that;

"It has been said that journalists, need to be permitted a degree of exaggeration even in the context of factual assertions".

Counsel finally submitted that the article published on 4th February 2010 was based on verified facts and cannot be defamatory. The cartoons published on 5th and 18th February 2010 cannot be interpreted to be facts and as such they cannot be defamatory.

Counsel for the 4th defendant submitted that the broadcast / publication made by the 4th defendant are not defamatory of the plaintiff and it did not affect the plaintiff's reputation in any way. In the case of ***Namuyiga Nambowa vs. The New Vision Printing & Publishing Corporation & another H.C.M.A. No 220 of 2003,*** court stated *that the plaintiff has to prove to the satisfaction of the court that he or she has suffered reduction in her reputation or esteem in as far as the right thinking members of the society were concerned by adducing evidence from other colleagues from members of the society who knew the plaintiff before the publication of the words complained of.*

The published statement must be having a tendency to defame. In relation to the instant case, the plaintiff presented 3 (three) witnesses including himself, his mother and his former student who did not even know when he started and completed his university studies. Plaintiff's witness number three (3) did not even know his age and when he joined and completed his university education. PW2 and PW3 gravely contradicted their witness statements/ evidence in chief during cross examination rendering them unreliable and not worthy of any credit.

4th defendant's counsel further submitted that the 4th defendant discharged its statutory duty to relay news as received without alteration. The news anchor merely communicated a statement that had been made by the 1st defendant, then the Makerere University Vice Chancellor on radio talk show at radio Sapientia

and at the university press conference. The 4th defendant as a broadcasting corporation was merely broadcasting what Makerere University vice chancellor then had said. The alleged publication is a true reflection of what transpired between Makerere University and the plaintiff. Furthermore, it is our humble submission that the broadcast is a fair comment on a matter of public interest since the 2nd defendant is a public institution and the entire republic of Uganda is affected by decisions taken by the 2nd defendant in discharge of its obligations.

The 4th defendant discharged its statutory duty to relay news as received without any addition. In the book of the law of defamation in Canada authored by ***R. Brown-2007;*** comprehensively sets the defence of a fair comment out as follows at page 62; *"Such comments are protected by a qualified privilege if they are made honestly, and in good faith, about facts which are true on a matter of public interest. The comment must be made on a matter of public interest. It could be of public interest because of the importance of the person about whom the comment is made or because of the event, occasion or circumstances that give rise to the opinion.* In case of ***Re Makow vs Winnipeg Sun 2003MBQB@56,*** court stated that *"everyone has a right to comment on matters of public interest provided he does so fairly and honestly and such comment, however severe is not actionable . In order to be successful, the defendants must meet the following criteria;*

a) *The words objected to must be a comment and not a statement of fact.*
b) *The comment must be fair.*
c) *The comment must be on a matter of public interest.*

Counsel for the 4th defendant finally submitted that the 4th defendant merely published a comment on a matter of public interest. The plaintiff was an important personality working with a public institution and the vice chancellor had made the suspension public when he appeared at radio Sapientia. The 4th defendant merely made a comment on a matter of public interest. In the premises, he prayed that this honorable court be pleased to find that the broadcast published by the 4th defendant is/was not defamatory of the plaintiff and the plaintiff did not adduce sufficient evidence to the required standard of proof to prove that he was defamed.

DETERMINATION

A defamatory publication is the publication of statement about a person that tends to lower his reputation in the opinion of right thinking members of the community or to make them shun or avoid him. *See John Patrick Machira v Wangethi Mwangi and anor KLR 532*

And also Defamation is the act of harming the reputation of another by making a statement to a third person. The wrong of defamations consists in the publication of a false and defamatory statement concerning another person without lawful justification. ***<u>Black's Law Dictionary 9th Ed. pages 479 and 480.</u>***

The test used to determine whether a statement is capable of giving defamatory meaning was discussed in the case of ***<u>A.K. Oils & Fats (U) Ltd v Bidco Uganda Limited HCCS No. 715 of 2005</u>*** where Bamwine J (as he then was), relied on ***<u>Sim v Stretch [1936] 2 ALL ER 123 A.C.</u>***, where Lord Atkins held that the conventional phrase "***<u>exposing the plaintiff to hatred, ridicule and contempt</u>" is probably too narrow. The question is complicated by having to consider the person and class of persons whose reaction to the publication is the test of the wrongful character of the words used. He proposed in that case the test: "<u>would the words tend to lower the plaintiff in the estimation of the right thinking members of society generally</u>?*** This position has been adopted with approval in Uganda in ***<u>Honourable Justice Peter Onega v John Jaramoji Oloya HCCS No. 114 of 2009</u>.***

I have carefully reviewed the evidence and the submissions, however the aspect I would like to expound on is qualified privilege, which defence only operates to protect statements which are made without malice regardless of where one is

discharging a legal, moral or social duty. ***see; Winfield and Jolowicz on Tort, 15th Edition, 1998, CH 12, pg. 390 – 461 or Michael A Jones, Textbook on Torts, Seventh Edition, 2000, ch 13, pg 495 – 534, Reynolds vs Times Newspapers Ltd (1999) 4 ALL ER 609 & Loutchansky v Times Newspapers (QBD, 27 April 2001)***

Considering the evidence adduced in court by the parties, it is no doubt that the according to the press conference held on 7th February 2011 by the 1st defendant on Radio Sapientia, the statement transcribed and exhibited P.E 6, when read it may appear defamatory in nature but it has to be understood in the circumstances surrounding the case since 1st defendant compared the mental problem of the plaintiff having originated from the plaintiff's father or in simple terms it is genetical.

The 1st defendant in his witness statement stated that; "*during the 7th February 2011 press conference, I was asked the following question by one of the journalist*; ***We understand that the reason why Dr. Matovu had been suspended from the faculty of Economics and Management, was because of his unbecoming behavior and unprofessional conduct towards his colleagues at the faculty. We are also aware that his father had mental health issues. Could this be related?***

In response he stated that; *Mental health in the developed world is taken very seriously and given the same attention as other illnesses so as Vice Chancellor I was going to propose to the University Council to ensure that all staff of the University including the Vice-Chancellor were to be examined for mental health checkups and those found with mental issues would be assisted*."

The plaintiff's mother PWIII testified that she heard the following words:

"….there is a man we call Joseph Wasswa who has been a lecturer in the faculty of economics and management, which is now the college of business and management sciences. This man Wasswa Matovu has a mental problem. When you look at the New Vision of March 9th 2009, his father Tebyasa Matovu, the former Mayor of MAsaka, also had a mental problem. And when this time we observe this Matovu here at Makerere, he also has similar problem. We have decided that in order to help him, he should step aside,

so that we assess him. We shall also take him to Butabika. We shall also take him to other hospitals like Mulago so that they examine him properly……"

And the following day on the afternoon news on UBC TV, it was again reported, quoting the defendant's utterances, as follows;

"Meanwhile, a lecturer at Makerere, Dr. Wasswa Matovu has been suspended until further notice due to concerns about his mental health stability, consistency and undermining his duties at the campus"

Indeed the mother (PWIII) advised the plaintiff to seek medical attention because she is aware of a family history of mental problems.

Once a statement is capable of being interpreted as an assertion of fact, the question will be whether it imputes any moral fault or defect of personal character. The statements made about the plaintiff's mental status were premised on his family background of the father should be understood only in that context. The plaintiff's mother also got worried because in her testimony because there is a family history of mental issues.

In ***Lubanga v Dr Ddumba CACA No.11 of 2011, the Court of Appeal affirmed Justice Kibuuka Musoke's*** holding in the High Court that being mentally ill is a natural trend of life as the word "illness" per se does not defame anybody in the absence of extrinsic evidence showing injurious meaning or effect, this decision was upheld by the court of Appeal.

The words spoken by the 1st defendant were false but not defamatory; it would not amount to defamation. These were *bona fide* statements and did not amount to defamation. The statements were based on the facts truly stated and the inference drawn must be honest and reasonably warranted by such facts. The plaintiff was indeed suspended and the circumstances where to be investigated.

The plaintiff's lawyer tried to dissect every statement made by the plaintiff in order to get the inferences out of context and it was a way of getting back to the defendant since he had suspended. Statements and words must be understood in context in which they are said and used. The plaintiff tried to take advantage of the situation by riding on the statements that he was ridiculed and that the

students are saying he is a rumour monger or they think he has a mental problem.

The test for determining if a statement is defamatory in nature is an objective one, i.e it is based on the view of the "ordinary reasonable person" who is not unduly suspicious or avid for scandal. The judicial perspective of how the ordinary reasonable man views particular statements or words essentially determines the defamatory nature or otherwise of the impugned statement.

The court has to examine the allegedly defamatory statements as whole and not picking out words to infer defamation like what the plaintiff has attempted to do. This would help the court to take into account the context in which the allegedly offending words were used in the publication. See ***Charleston v News Group Newspapers Ltd [1995] 2 AC 65 at 70***

The suspension letter was indeed in existence and an inquiry was to be conducted or carried out. The plaintiff had gone to court to stop the said investigation and his complaint was that the letter was written in contempt of court order which the plaintiff stated was not aware of. When it was brought to his attention as the Vice-Chancellor, the same was retracted.

However, the 3rd & 4th defendants were fulfilling their social duty of informing the public about the suspension of the plaintiff having their source of information being the Vice Chancellor of Makerere University where the plaintiff was employed. The reporting about the plaintiff was done in public interest since whatever happens at Makerere as a national University is matter of national interest and the public ought to know. That explains how the information was disseminated by way of a press briefing.

I therefore find that the plaintiff was not defamed. This suit is dismissed with no order as to costs.

I so Order.

Dated, signed and delivered by email & WhatsApp at Kampala this 18th day of May 2020

SSEKAANA MUSA
JUDGE