

gvbnwb (defamation) msµvš-wel t q t` l qvbx cōZKvti i mjbw` 8 weavb cŷqb Kiv
hvq wKbv tmB wel t q AvBb Kvgkŧbi mpcwi k cōt½ mi Kvti i weMZ 13 `ekvL, 1414
e½vā, tgvZvteK 26 GwCŶ, 2007 Lt Zwi tLi t j t cō 214/07 bs cŧi i cwi t cōŶŶtZ
cōZKZ Povš-cōZte` b |

mi Kvti i Dŧj wEZ cŧwU cW Ki t j t` Lv hvq th H cŧi weŧkl Kŧi `yU wel t qi Dŧj wKiv
ntqtŦ- (1) msev` cŧ ev MYgvaŧgi mvŧ_ RwoZ e`w³MŧYi wei`t× `Ŭwewa AvBŧbi Avl Zvq
gvbnwbi gvgj v `vtqi Kiv ntj H e`w³MY `wqZi cvj tbi tŶŶŧ Ah_v nqi wbi wKkvi nb Ges
dj kōZtZ msev` cŧ I Ab`vb` MYgvaŧgi `ŶaxbZv (freedom of press) ŶŶbæŶq, Ges (2)
MYgvaŧgi mvŧ_ msuKŧ-tckvRvex ev Ab`vb` e`w³i tŶŶŧ gvbnwb mµuKŶ AcivaŧK kw`ŧhvM`
Aciva wmwte MY` bv Kŧi DnvŧK t` l qvbx AcKvi (civil wrong) wmwte MY` Kŧi ŶwZcŧY
(damages) cōvŧbi weavb Kŧi gvbnwb msµvš-wel t q t` l qvbx I t dŶR`vix cōZKvti i mjbw` 8
weavb cŷqb Kiv hvq wKbv, tm wel t q mpcwi k cōvb Kiv |

Dctiv³ cōg wel qwU mµuŧK©Avtj vPbvi cōi t×` Ŭwewa AvBŧbi gvbnwb (defamation)
msµvš-499 avivi Dŧj wKiv cōqvRb | Ŭwewa AvBŧbi 499 avivq gvbnwbi msÁv GfŶte cōvb
Kiv ntqtŦ Ũ Ŧth e`w³ Gifc AwfCōtq ev Gifc tRŧb ev Gifc wekŶm Kivi Kvi Y_vKv mtĖj | Kw_Z
ev cŧŧVi Rb` AwfŧcŶ kâvej x ev wPyw` ev `k`gvb Kí g wZŶ mwnvŧh` tKvb e`w³ mµuKŶ tKvb
wb`ver` cŷqb ev cŶkv Kŧi, thiŶc wb`ver` H e`w³i mpvg bó Kŧi, tmŧŶŶŧ tmB e`w³ AZtci
ewŶŶ e`wZµg tŶŶŶmg n e`ZxZ D³ e`w³i gvbnwb Kŧi etj MY` nŧeŦ | Avgvŧ` i Avtj vPbvi
wel qwU tŶŶŶ e`wZµg, t j v GLvŧb Dŧj wKivi cōqvRb tbB |

gvbnwbi gj K_v ntŦQ Aŧb`i mpvg bó Kiv | gvbnwbi Aciva msNUŧbi Rb` cŶkvbv
Acwivh© GKwU wel q | tKvb e`w³ mµuKŶ mpvgbóKvix wb`ver` cŶkv Ki t j B msuKŧ-e`w³
mvaviŧYi tPvŧL tnq cōZcbænb Ges GŧZ H e`w³i mpvg bó nq | msev` cŧ Awemsew` ZfŶte GKwU
„i“ZpY©cŶkv gva`g | hv wKQymsev` cŧi `vb cvq ZvB cŶwKZ etj MY` nq Ges tmRb`B tKvb
e`w³ mµcŧK©Dctiv³ msÁvi AŶfŶ tKvb wb`ver` cŷqb I cwŶKvq cŶkv Kiv ntj tmB
cŶkvbvi Rb` msev` cŧi mµu`K, cŶkvK Ges gyŶKi `vqx nb | mŶsew` Kŧi gvbnwbi AvBb
mµuŧK©I qwKenvj _vKv DwPZ, Kvi Y GKRB gvbŧi i mpvg AvBŧbi tPvŧL Zvi meŧŦtq eo mµuĖ |
KvŧRB tmB mpvg bó Kiv ntj ev Zv tKŧo wŧtq tMŧj Zvi h_vme©B tKŧo wŧtq hv l qv nq |

gvbnwb GKUv kw-#hvM" Aciva|`Uwewai 500 avivq gvbnwbi kw-+ welq ej v AvtQ th, th e-w³ gvbnwbi Aciva Kiteb wZwb Aby[©] JeQi webvkQ Kviv`tU ev A-[©]tU ev Dfq`tU`Ubxq nteb| GB avivi kw-gvbnwbi Acivtai Rb" mKtj i tQtT cOhvR" nq, tKej gvT mvsew`K ev Ab" tKvb wgvWqvi AšF[®] e-w³ btnb|

501 avivi weavtb ej v ntqtQ th, th e-w³ Ggb tKvb welq gY`Y ev tLv`vB Kti, hv tKvb e-w³ i Rb" gvbnwbKi etj tm Rvtb ev Zvi GBifc wekym Kivi hy³msMZ KviY_vtK, Zvntj tmB e-w³ `JeQi chStgqvT` i webvkQ Kviv`tU ev A-[©]tU ev Dfqwea`tU`wUZ nteb|

502 avivi weavb nj th, th e-w³ gvbnwbi welq m[©]J Z tKvb gY`Z ev tLv`vBKZ e-` gvbnwbi welq m[©]J Z tRtbi wepQ Kti ev weptqi cOve Kti, tmB e-w³ `JeQi chStgqvT` i webvkQ Kviv`tU ev A-[©]tU ev Dfqwea`tU`wUZ nteb|

gvbnwb mspvš-Üwewa AvBtbi 500 avivq wbaWi Z kw-+ weavb mvaviYZ mKj e-w³ i tQtT cOhvR" Kiv ntqtQ| wKš' 501 I 502 avivq ewY² gvbnwb mspvškw-+ weavb msev`cT i m[©]uv`K, cKvkK, gY`Ki ev wepQKvixT` i tQtT cOhvR" Kiv ntqtQ| cOZwU tQtT ej v ntqtQ th, th e-w³ gvbnwbKi welq ev gvbnwbKi welq etj wekym Kivi hy³msMZ KviY_vKv mtEj| Dnv gY`Y, tLv`vB, cKvk ev wepQ Kti tmB e-w³ gvbnwbi kw-+ Avl Zvfj³ nte| AvBb mKtj i Rb" mgvb| 500 avivi kw-+ weavb mvaviTvi tQtT cOhvR" ntj, 501 I 502 avivi weavb mvsew`K, cKvkK, gY`Ki I wepQKvixi tQtT GKBfvte cOhvR" nte| KvTRB 501 I 502 avivq ewY² gvbnwbi Acivtai kw-+ weavb msev`cT ev MYgraTgi mvt_ msuk⁶-e-w³ ev tckvRxexi tQtT cOqM Kiv bv ntj Bnv msweavtbi 27 AbT`Qt` ewY² AvBtbi mgZv m[©]uK² weavb j sNb Kiv nte| AZGe gvbnwbi kw-mspvš-Üwewai 501 Ges 502 avivi weavb ewZj ev mvsew`Kt` i tQtT AKvhRi Kiv msMZ nte bv etj Avgiv gtb Kwi|

Dtj wEZ cT Avi I ej v ntqtQ th, msev`cT i ev MYgraTgi mvt_ RwoZ e-w³ MfYi weiT^x gvbnwbi Rb" Üwewai Avl Zvq gvgj v Kiv ntj ZvT` i wPšv I weTeTki`vaxbZv Ges evK&`vaxbZv Z_v MYgraTgi`vaxbZv (freedom of press) Qtbonte gtgmi Kvti i wKU cZxqgvb nt"Q| GB cñt½ ej v tñZ cñti th, wPšv I weTeK`^Q tiTL e-wbô msev`cKvk KivB nj msev`cTtmext` i cOg I cOvb`wqZj| weTeK KLBi tKvb e-w³ weTktli QtwZ mvaTbi wPšv Kiv ev cKvk Kivi K_v ej te bv| Zte Atbi QtwZ mvab m[©]cwK² tKvb welq gtb gtb wPšv Kiti ZvT Zvi tKvb QtwZ nte bv ev GtZ Zvi tKvb gvbnwb nte bv| wKš' hLbB tKvb e-w³ i m[©]cFK wv`vev` m[©]uK² tKvb wgv`v

e³e", cōZte`b ev wj Lb cwl Kvq cKvk Kiv nq ZLb maviY RbMY GiKg mgrPvi cW KiZ Lp Avb` teva Kti Ges GtZ msuké-e³i gvb-ghP vi Acjbxq ¶wZ mwaz nq| cteB Dti Kiv ntqtQ th, GB gvb-mayb I ghP v GKRb gvbli Agj` m³ú` | GUv gy Y I cKvkbvi gva`tg bó Kiv ntj ¶wZM`-e³tk Aek`B `Üwewa AvBtbi Avkq MōtYi mthvM w tZ nte| Freedom of Press Gi A³nj t`tk msNwZ `k`gvb e`wbō ev cKZ msev` cKvk Kiv| GUv tKvb e³ wektli wei`tx AwbóKi ev gvbnwbKi wq_`v welq gy Y ev cKvk Kivi `faxZv bq| G³tjv msev` ev msev` i tKvb welq bq|

Defamation ev gvbnwb m³útk³mvaviYfite ej tZ tMtj ej v hvq th, GUv GKRb gvbli i Pwi` ev gvbm³ (reputation) Gi Dci GKUv gviK Avpugb ev AvNvZ mjo Kiv| GUv GKRb e³i mptgi Dci wq_`v AwfthvM Avivc Kiv| Avtiv ej v hvq th, gvbnwb GKRb e³i gvbm³ (reputation) Gi wei`tx GKw Athš³K, teAvBbx I wq_`v AvNvZ mjo Kiv| cwl Kvq cKvkbvi gva`tg GKRb e³i wei`tx wb`vev` t`tki mKj gvbli KvQ cKvk Kiv nq| dj kōZtZ H e³ mgrR GKRb NpYZ, AcgvbZ Ges ghP vnvbKi (disgraceful) e³ wntmte cwi wPvZ jvf Ktib| Gi dtj H e³ Zvi PvKwi chSavivZ cvti A³ev tKvb Awdpm PvKwi cōBi ev PvKwi tZ c`vbzi t¶t ev e`emv ev tckv cwi Pvj bvi t¶t, GgbwK weevni t¶t I cōZeÜKZv mjo KiZ cvti Ges Gfite GKRb gvbli Rxtbi sense of satisfaction wpiw`tbi gZ webó nq|

cPwj Z AvQ th, GKRb e³i UvKv cqmv ev m³ú` bó ev Pwi ntj wektl ¶wZ nq bv, wKŠ` Zvi mpvg, Pwi` I reputation bó ntj Rxtbi menKQß nwi tq hvq| KvRB cōZ`KUv gvbli i Zvi mpvg ev reputation aviY I i¶Y Kivi Awakvi AvBbMZfite ZvtK cōvb Kiv AvQ| tRtbi tb ev wekym Kivi msMZ KviY _vKv mēj ev tKvb tKvb t¶t B`QvKZfite cwl Kvq gy Y, cKvkb I wep q Kivi gva`tg th tKvb GKRb bvMwi tKi mpvg, gvbghP v (reputation) Rbmg¶¶ ¶beKiv GKUv „i`Zi Aciva wntmte i`ayAvgt` i t`tk bq, cōZ`K t`tkB cwi MwYZ nq Ges GUv GKUv tdSR`vix ¶lgvxb kw`thvM` Aciva| GB kw`+ weKí wntmte Ab` tKvb weavb cōZtekx ivó« fvi Z ev cwlK`vbl we`gvb tbB|

Freedom of Press ev wPŠ` I wetetKi `faxZv m³útk³ej v cōqvRb th, evsj vt`k msweavtbi 39 Abt`Q` wPŠ` I wetetKi `faxZv Ges cōZ`K bvMwi tKi fve cKvtKi `faxZv Ges msev` ct`i `faxZvi wōqZv cōvb Kiv ntqtQ, wKŠ` GKB m³ GB mKj `faxZvi Awakvi Uv GKB Abt`Q` i Avl Zvq wefbcvte h_`v Rbk;Lj v, kvjxbZv ev `bwZKZvi `¶_wKsev Av`vj Z

Aegvbbv, gvbvnb ev Aciva msNUtb cŕi vPbv mæúŕK AvBtbi Øviv Avtiwcz hy³msMZ evav-ibtla mvtctŕ tŕvM Kivi K_v ejv ntqtQ| GUv GKUv vekRbxb bwiZ (universal principle) th tKvb AwakiB absolute ev j vMvgnxb bq| KvtrB wšv, weteK, five cKvk ev msev`cti i vaxbZv absolute ev j vMvgnxb bq| j vMvgnxb evK&ev five cKvtki vaxbZv GKUv j vBtmY ntq hvte Ges tmRb`B Avgvt`i msweavtbi Awakisk tgšij K AwakiKB hy³msMZ AvBtbi Øviv mæve× (restricted) Kiv ntqtQ| G cŕt½ GUv ejv GKvšeŕqvRb th, wšv- l weteK i vaxbZv evK&l five cKvtki vaxbZv ev msev`cti i vaxbZv KLtbvB GKRB e`w³ ev tKvb e`w³ tMvöxi mpvg, ghPv ev (reputation) iŕv Kivi vaxbZv webó KiZ cvite bv| Freedom of speech, expression and freedom of press cannot overstep or damage a person's right to maintain and preserve his/her reputation.

ersj vt`tki D`P Av`vj tZ `Üwewa AvBtbi 501 l 502 aviv msweavtbi 39 Abt`Qt`i cwi cšK, GB gtgŕKvb ivq cŕvb Kiv ntqtQ etj Avgvt`i Rvbn tbB|

GLvtb Dtj E-Kiv cŕqvRb th, tKvb ŕwZKi ev AwóKi ev Akvj- wclq mæŕj Z tKvb wi tcvU© ev tKvb cwi Kv ev mvgwqKtZ wj Lb, gj Y, cKvk, eUv ev wewwq BZ`w 1974 mbi wtkl ŕlgZv AvBtbi 16 l 17 avivi AvlZvq wewfbæcKvti i l wewfbætgqv`i kw`thvM` Aciva wQj, wKš` msev`cŕt mext`i `vexi tŕŕtZ 1991 mbi 18 bæŕ AvBb Øviv GB `Bw aviv wtkl ŕlgZv AvBb t_tK ewZj Kiv ntqtQ| GLb msev`cŕt gvbvnbKi ev ŕwZKi msev` ev cŕZte`b cŕqb l cKvtki wai`tx cŕZKvti i Rb` i agvŕ `Üwewa AvBtbi 501 Ges 502 GB `Bw avivi wcarbB wew`gvb AvtQ| GQvov gvbvnb mspvšAb` tKvb ŕsmæcY©AvBb (statute) Avgvt`i t`tk ej er tbB| A_P Bsŕ vŕÜ Defamation Act of 1952 bvtg GKw cYŕ½ AvBb wew`gvb AvtQ|

“Newspapers are subject to the same rules as other critics, and have no special right or privilege, and inspite of the latitude allowed to them, they have no special right to make unfair comments, or to make imputations upon a person's character, or imputations upon or in respect of a person's profession or calling. The range of a journalist's criticism or comment is as wide as that of any other subject, and no wider. Even if in a sense newspapers owe a duty to their readers to publish any and every item of news that may interest them, this is not such a duty as makes every communication in the paper relating to a matter of public interest a privileged one”. (Mitha Rustomji Murzaban vs. Nusserwanji Engineer, (1941) 43 Bombay LR 631).

"Just because something interests the public, it is not necessarily in public interest to publish it". (London Artists Ltd. vs. Littler, (1968), 1 WLR 607, 615).

"Investigative journalism does not enjoy any special protection. Therefore, when newspapers publish accusations of criminal guilt against a person as a result of their investigation, they do so at their own risk and they do not enjoy any qualified privilege." (Grobelaor vs. News group Newspapers Ltd. (2001) 2 All ER 427 (CA)). (taken from Ratanlal and Dhirajlal's The Law of Torts, 24th edition reprint 2004) p -270).

GKRb mŕsew`K wġ_v gŕbnwbKi welq cġvk Kiġ KLġbvB weġkl mġeav cvl qvi AnaKvix nġeb bv, KviY Zvġ i cġvkZ e³ġe` mŕaviY RbMY weġġm `vcb Kġi, KvġRB mŕsew`KMY Zvġ i Kvġm³uv`bKvġj wġ_v mŕev` cġvk bv Kivi tġġġ mRvM `wó t`qvUv Zvġ i epĒi KZĒ | gŕbnwb mŕp³vš`Űwewa AvBġbi weavbej x electronic media Ges print media ev Ab` tKvb MYgva`g mKġj i tġġġB cġhvR` nġe | KviY Zviv t`ġki tKv_vq wK NġUġQ ev wK NUġZ hvġ`Q, wK fivj KvR nġ`Q ev wK g` KvR nġ`Q G mewKQB mŕev` cġġi cvZvq wġ wLZfvġe Ges electronic media ġZ wŰwF c`ġq cġkġ Kġi, ġi wŰi gva`ġg cġvi Kiv nq, cġġK ev leaflet G cġvk Kiv nq Ges mŕaviY RbMY G,ġjv Lp AvMġ mnKvġi t`LġZ, iġġZ I coġZ _vġK | mġZivs mKj wġwqvi mŕsew`Kivl cyġK, leaflet iPwqZv I cġvkKiv Zvġ i th tKvb mŕev` ev cġZġe`b cġqb I cwiġkb Kivi cġeġġó cwiġvġb mZKZv Aeġ ġb Kiteb, KviY th tKvb iKg gŕbnwbKi e³e` ev cġZġe`b t`Lv gvġ G,ġjv e`w³ t_ġK e`w³ġZ QovġZ _vġK Ges GġZ mŕwġe`e`w³i meġvk nġq hvq |

Dġj wLZ cġġi wġZxq welq A_ġ gŕbnwb m³cwKZ AcivaġK kw`ġhvM` Aciva wntmġe MY` bv Kġi GUvġK civil wrong wntmġe MY` Kġi ġwZcġY (damage) c`vġbi weavb Kiv cġġġ GUv ejv cġqvRb th Avgvġi t`ġk defamation ev gŕbnwb mŕp³všwelġq `Űwewa AvBġbi (1860 mġbi 45 bs AvBb) Gi 21 Aa`vġqi Ašġ³ aviv 499 t_ġK aviv 502 chšweavbej x e`ZxZ Ab` tKvb mŕwewaex AvBb (statutory law) we`gŕv ġbB hw` I Bsj`vġŰ Defamation Act, 1952 bvġg GKwU cYġ³ AvBb we`gŕv AvġQ | Zġe Avgvġi t`ġk defamation ev gŕbnwbi Rb` t`I qvbx `vqexZv welġq settled principle we`gŕv iġġQ | Zvġj GB th gŕbnwbi Rb` Dchġ³ tġġġ ġwZcġġYi gvġj v`vġqi Kiv hvq | Defamation ev gŕbnwb fviZ Ges cwK`vġbi `Űwewa AvBb Abġhvq GKUv tġšR`vix Aciva Ges GB gŕbnwbi Rb` t`I qvbx `vqexZv m³ŰwKZ tKvb

G weI tq bZb tKvb AvBtbi cŸqb ev we`"gvb AvBtbi cwi eZ⁸ ev mstkvaŸbi tKvb cŸqvRbxqZv
tbB etj Avgiv gtb Kwi |

Wt Gg, Gbvgyj nK
m`m"-2

wePvi cwiZ tgv tmi vRj Bmj vg
m`m"-1

wePvi cwiZ tgv vdv Kvgvj
tPqvi gvb