

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

CA 152/1998 (F)

DC Badulla 1677/91/M

H.T.M. Kaleed
Passara.

Petitioner

Vs.

M.U.M. Seiyadu
No: 325,
Kelin Weediya,
Passara.

And Others

Respondents

C.A. Appeal No. 152/98 (F) - D.C. Badulla No. 1677/91/M

Before : **K.T. CHITRASIRI, J.**

Counsel : Parties are absent and unrepresented.

Decided on : 04.12.2012.

K.T. Chitrasiri, J.

Parties are absent and unrepresented. On several occasions both parties were absent and unrepresented despite the fact that several notices had been sent to the parties informing them that this matter has been fixed for argument. They have not responded to any of those notices. Accordingly Court decides to consider the available material before Court and to make a decision thereto.

The plaintiff-appellant filed action claiming damages in a sum of Rs. 500,000/- from the defendant-respondent on the ground that the respondent had assaulted the plaintiff- appellant in public, causing harm to his dignity and reputation. Learned District Judge having considered the evidence adduced before Court dismissed the plaint by her judgment dated 27th October, 1988. Being aggrieved

by the said decision of the learned District Judge, plaintiff-appellant filed this appeal and sought to set aside the judgment. In that, the plaintiff-appellant also had sought to grant him the relief that had been prayed for in his plaint filed in the District Court of Badulla.

In the aforesaid appeal dated 7th April 1998, the plaintiff-appellant basically had complained of the way in which the learned District Judge considered the evidence led before Court. I have carefully looked at the judgment of the learned District Judge. She in her judgment had considered the cause for the alleged dispute between the two parties. In that she had come to the conclusion that the injuries caused to the plaintiff-appellant may have been due to the barbwire carried by himself near the premises occupied by the defendant-respondent. She also had considered the reason, for not imposing punishment on the defendant-respondent in the action instituted in another Court. Also, it is stated in the impugned judgment that the reason for instituting this action was a dispute over the boutique occupied by the respondent. Learned District Judge also had stated that no other witnesses were called by the plaintiff-appellant to support the incident.

The aforesaid reasons adduced by the learned District Judge, would show that she had considered the evidence led in Court carefully according to law. I do not see any error on the part of the learned District Judge, of the manner in which she had considered the evidence and the decision that she had arrived at in the end. In these circumstances, I am not inclined to interfere with the decision of the learned District Judge. Accordingly, I decide to dismiss the appeal with costs.

Appeal dismissed with costs.

JUDGE OF THE COURT OF APPEAL

/mds