IN THE HIGH COURT OF TANZANIA

DAR ES SALAAM DISTRICT REGISTRY

AT DAR ES SALAAM

CIVIL CASE NO. 143 OF 1998

MR. GEORGE NANGALE AND 2 OTHERS.....PLAINTIFF

VERSUS

SAM KASULWA AND 4 OTHERS.....DEFENDANTS

J U D G E M E N T

KALEGEYA, J.

The plaintiffs, George Nangale (1st Plaintiff), Mrs. Nangale Z. G. (2nd Plaintiff) and Nyanzula origins Tanzania Ltd t\a Links Training Centre (3rd plaintiff) sued jointly and severally, Sam Kasukwa, Jim Godwin, Editor The Express, Media Holding (T) Ltd and National Newspaper Ltd (1st - 5th Defendants respectively) for defamation, claiming among others,

"(a) Damages of Shillings 500,000,000/=
(b) Interest on (a) at 40% per annum from March 1997 to the date of judgement.
(c) Interest on the decretal sum at court rate from date of judgement until payment in full".

The defendants having failed to file their written statement of defences (though served) the plaintiffs were allowed to prove their claims exparte by affidavit hence the present judgement.

In support of their claims the plaintiff submitted two affidavits deponed by 1st and 2nd plaintiffs. In their plaint, the plaintiff claimed that on or about 20th February 1997 at pages 1 and 2 of "the Express" issue No. 406 ISSN 0856 - 3985", the defendants jointly and severally, falsely and maliciously

prepared for publication, edited, printed and circulated an article entitled,

> "Over 1,000 lured as London Beckons' 'shillings wise, Pound foolish' and whose contents, among others run as under,
> "Hundred of young Tanzanians are reportedly falling for lure of better future promised by computer and business studies in Britain. But once there, they get the least they bargained for".
> The conspiracy allegedly revolves around a Tanzanian couple, identified as Mr. and Mrs. Nangale, who run a student placement programme in Dar es Salaam on behalf of a berkshire based Computer training institute, the future Business College".

The relevant article is Ann. A to the plaint. The plaintiff claim that "the tenor, content, manner of heading and position in the newspaper as well as its accompanying cartoonic depiction clearly indicate malice aimed at portlaying (directly, in innmendo and by juxtaposition) the plaintiffs as schemers, criminals, conspirators, evil doers, totally perjured, swindlers who are unfit to hold any responsible office as well as incapable of carrying out their duties and or objects as contained in their memoranda of Association and therefore cannot be counted among the honest members of their respective societies", which picture they disassociate themselves from hence the claim for damages to make good the otherwise positive image of their names which stand tarnished.

Having carefully considered the plaint and its annextures, and the affidavits filed in support thereof the court is of unanimous decision that the article is defamatory and false.

Indeed the excerpts of the article already quoted above, and other parts of the said article paint the plaintiffs, at the least, as conmen, who lure students to part with their money for services which are either non-existent or below the standards

required and expected. And this can further be discerned from other excerpts of that article which run as under,

> "The Nangales and the college are charging their students 1600 sterling (1.6 million) in tuition fees per year, but the Good Samaritan swear that the highest a computer training centre can charge anywhere in the UK is 700 sterling (700,000/=) a year.

At that, what the best computer school charge for a year's course of instruction is exactly what the Nangales charge a single prospective student in "Consultation fee" alone..... Nangale and wife through their links training centre housed in a single studio at the SIDO Hostel along Bibi Titi Mohamed Road boast of being able to provide training opportunities and jobs in the UK".

Clearly, from the above, the plaintiffs' esteem and respect among the ordinary members of our society must have been lowered with a consequence of being shunned away for being tainted with unreliable, dubious, and untrustworthy characteristics let alone being looked upon as conmen. Flowing from that, their business would naturally have been affected for no potential student would again risk dealing with a character of the advertised type.

That settled, next we should proceed on what should be rewarded as recompense for the lost face and business. The plaintiffs claim 500,000,000/= apart from Interest. The gentlemen assessors have each expressed varying views in terms of quantum. They have proposed shs. 80m, 30m and 25m. They have all expressed views that the extent of the plaintiffs' tarnished name deserve to be equally compensated.

I have carefully considered their views and weighed the same with the status of the plaintiffs, the potential in business and the extent of the area covered by the said defamatory publication and I have come to settle on a figure somehow below the propositions opined by the gentlemen assessors.

No doubt, the 1st plaintiff is a person of sound status as portlayed in his affidavit (a holder of a first degree in Agricultural Engineering, a master of science degree in renewable Energy and Master of Business administration, a Technical Manager in Equity Investment Management Ltd, Member of Board of Directors of TIB, and had held various key positions, in Umoja wa Vijana (CCM), Kilombero Sugar coy, Director of the 3rd plaintiff) but his has not established how he reached at shs. 200,000,000/= of his worthness. Apart from the said 1st plaintiff, the 2nd and 3rd plaintiffs have not been sufficiently proved to have a reknown focal attraction both locally and internationally if we put aside the link in business which was subject of the attack by the relevant libellous article. Neither was evidence sufficiently established which show that the 3rd plaintiff has lost business potential to a tune of shs. 150,000,000/= claimed as per affidavit and so is the case with 2nd Defendant.

All in all, I am satisfied that the damage caused by the libellous article to all the three plaintiffs can be atoned by a liberal sum to a tune of ten million shillings which is hereby awarded. As observed by the gentlemen assessors the plaintiffs are also entitled to interest but not commencing from the date when the defamatory article was published but rather from the date of judgement, and the rate is not 40% as claimed (whose basis was not established) but should be at the ruling Bank rate.

Judgement is entered in favour of the plaintiffs in the terms as indicated above with costs.

(L. B. Kalegeya)
JUDGE
16\11\98

Delivered in the presence of the plaintiffs (1st and 2nd) and Mr. Kalolo, today the 16th November, 1998.

AT DAR ES SALAAM
16th November, 1998

(L. B. Kalegeya)
JUDGE