

Theaker v Richardson [1962] 1 WLR 151

The case examines under what circumstances a publication can be interpreted as libel.

Evidence

Richard wrote a letter to Theaker in which he accused her of adultery and being promiscuous. However, the husband of Theaker opened this letter under the assumption that there was an election address in it. The trial established that the claim of libel was justified because Richardson could have foreseen that somebody else would open the letter.

Problematics

The defendant claimed that he had not anticipated that somebody other than Theaker might open the letter. Thus, Richardson denied the findings of the jury that the letter was an example of “published” libel. It was also assumed that nobody except for Theaker’s husband would have opened the letter. Subsequently, the Court had to determine whether the fact that only Theaker’s husband had read the letter was enough to have it be considered as “published” libel.

Resolution

The Court dismissed the appeal, while the jury’s findings could not be interpreted as perverse. Additionally, the publication of libel in the form of a letter depends on the awareness of the defendants concerning the circumstances which might occur at the place of destination where the libel was addressed. Moreover, unlike the jury, the judge did not recognize that the fact that Theaker’s husband opened and read the letter was something that could happen under ordinary circumstances. The judicial notice did not consider the notion that husbands might read the letters of their wives. Meanwhile, the jury simply recognized the behavior of Richardson as wrongful due to the absence of proof for the claims that he made towards Theaker.

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