

FREDERICK A. KUNKLE, PLAINTIFF AND APPELLANT, VS. THE CABLENEWS-AMERICAN AND NORBERT LYONS, DEFENDANTS AND APPELLEES.*G. R. No. 16488. February 08, 1922*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-16488/>**STREET, J.:**

This action was instituted in the Court of First Instance of the city of Manila by the plaintiff, Frederick A. Kunkle, to recover of the defendants, the Cablenews-American, a daily periodical published in the same city and of Norbert Lyons, as editor, the sum of P20,000 as damages for an alleged libel against the plaintiff published in the columns of said periodical. Upon hearing the cause, his Honor, Judge Simplicio del Rosario, absolved the defendants from the complaint, and the plaintiff appealed.

It appears that at the time of the incident which gave rise to the present action, the plaintiff was in the service of the city of Manila as policeman; and while acting as such in the early hours of the morning of October 15, 1918, he picked up a drunken female on the streets who commonly went by the name of Mrs. Fuller (alias Mrs. Ward). The woman resisted arrest, with insults to the officer, and escaped into her house. From there she called up by telephone the editorial office of the Cablenews-American, where the defendant Norbert Lyons was then on duty as editor, and poured into his ear a story of her grievances in such a way as enlisted his editorial sympathies. The result was that on the next morning there appeared in the columns of the Cablenews-American under the heading "Hun Cop Attacks American Woman" a news item of a highly sensational flavor as follows:

"At three o'clock this morning, just before going to press, the Cablenews-American was informed by Mrs. M. M. Ward who keeps a store at 51-61 Orozco, of a fiendish assault upon her by a German policeman whom she had twice reported as a German to the military authorities.

"As Mrs. Ward was entering her home, having gone out to buy some matches to light the gas for a sick baby, according to her story, she was pounced upon by the policeman who punched her face, tearing her mouth and knocking her senseless. The man had been waiting in the doorway for her. He informed her that he was punishing her for having reported him to the authorities."

In its issue of the following day the sensation indicated in this article began to show signs of deflation, but the additional information was given to the public that the arrest of Mrs. Ward had been effected by a policeman of the Meisic precinct, and that, instead of being a German, he was born in Minnesota. It was also stated that the officer in question had filed two charges against the woman, namely, one for being drunk and another for resisting arrest. In neither of these items, nor in any subsequent publication was any mention made of the name of the plaintiff as the policeman supposedly guilty of the misbehavior described in the item of October 15, 1918.

The only testimony presented in behalf of the plaintiff was that of Kunkle, who described the conditions under which the arrest was made by him in the course of his duty as a policeman of the city, and said that the article complained of as libelous referred to him. The only witness for the defense was Norbert Lyons, himself one of the

defendants, who told how he received the information on which the item complained of was based. He also stated that the woman who spoke to him over the telephone was unknown to him by the name of Ward, and that she did not give him the name of the policeman about whom she complained.

The imputations contained in the publication complained of are undoubtedly of a defamatory nature, but there is no proof before us which would sustain an award of damages. The reason is that there is nothing in the publication from which a reader of the alleged libel could connect the imputations of said libel with the personality of the plaintiff, and no third person was introduced as a witness for the plaintiff to testify that he had recognized, or could have recognized, the plaintiff as the person referred to in the publication. In this connection it must be remembered that the female informant assumed a fictitious name in communicating with the defendant Lyons, and the only descriptive word used by her about the plaintiff was that he was a German, which was false.

It is true that anyone conducting a special investigation into the matter could have discovered that the plaintiff Kunkle, on the date mentioned, had attempted to arrest a woman on Calle Orozco, and it might have been inferred that he was the policeman to whom reference was made in the publication. But that fact could not be ascertained from the publication itself.

It will be noted that no special pecuniary damage is alleged or proved, as that the plaintiff by reason of the publication of this defamatory matter had lost his position as a policeman in the employment of the city; nor is it shown that he has suffered, or could have suffered, in the esteem of others by reason of this publication. Under these circumstances a court would not in our opinion be justified in awarding any sum whatever in the character of pecuniary compensation for the wrong supposedly done.

The gist of the actionable injury in libel and slander consists exclusively of the impairment of the reputation of the injured party. It is not the direct wrong to the individual that constitutes the actionable tort. For this reason proof of publication is always essential. That is, the defamatory matter must appear to have been given out under conditions that third persons may understand it as applicable to the injured party. And this fact must appear as an essential ingredient of the plaintiff's case.

In section 11 of Act No. 277, it is declared that the person libeled shall be entitled to recover in a civil action not only the actual pecuniary damages sustained by him but also damages for injury to his feelings and reputation. But the right thus given to recover for injury to wounded feelings assumes the consummation of the offense, that is, that a libel has been published under conditions that make it actionable. The plaintiff Kunkle testified in this case that he recognized himself as the person referred to in the libel. But this is not sufficient. The addressing of defamatory words directly to the person concerned, and to none other, does not constitute an actionable libel. Hot words of abuse, or words of insult, which pass between parties to a personal altercation and which are not heard of others, supply no ground for an action for slander. By analogy, defamatory matter which does not reveal the identity of the person upon whom the imputation is cast, affords no ground of action unless it be shown that readers of the libel could have identified the personality of the individual defamed.

In a case somewhat analogous to that now before us, the Supreme Court of California once said: "That the matter therein stated is libelous per se, is not disputed. But to enable the plaintiff to maintain an action on it, it is essential not only that it should have been written concerning the plaintiff, but also that it was so understood by at least some one third person." (*De Witt vs. Wright*, 57 Cal., 578.)

The judgment must be affirmed, and it is so ordered, with costs against the appellant.

Araullo, C. J., Johnson, Malcolm, Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.