Oh, Jeremy Corbyn! – meaning of tweet about Labour leader held to be defamatory

Laura Murray, the stakeholder manager in Jeremy Corbyn's office at the time, complained on Twitter about a retweet by TV presenter Rachel Riley. The preliminary hearing on meaning was decided on the papers. On the court's reading, the meaning of Ms Murray's tweet was that Ms Riley (a) publicly stated that the then Labour leader deserved to be violently attacked and (b) in doing so, Ms Riley had shown herself to be a dangerous and stupid person who risked inciting unlawful violence. Mr Justice Nicklin found that the first assertion was meant as a statement of fact and the second as an expression of opinion, and that both were defamatory.[1]

Background

Earlier, on 10 January 2019, in response to an egg attack on former British National Party leader Nick Griffin, Guardian journalist Owen Jones tweeted: "I think sound life advice is, if you don't want eggs thrown at you, don't be a Nazi. Seems fair to me."

Then on 3 March 2019, a Brexit supporter threw an egg at Jeremy Corbyn's head while the then Labour leader was visiting his local mosque in Finsbury Park. On the day of the incident, Countdown presenter Rachel Riley retweeted Mr Jones' tweet, adding, "Good advice", followed by an emoji of a red rose and an egg emoji.

In response, Corbyn's senior aide Laura Murray tweeted: "You are publicly encouraging violent attacks against a man who is already a target for death threats. Please think for a second about what a dangerous and unhealthy role you are now choosing to play in public life."

Ms Murray followed her response with a second tweet stating: "Today Jeremy Corbyn went to his local mosque for Visit My Mosque Day, and was attacked by a Brexiteer. Rachel Riley tweets that Corbyn deserves to be violently attacked because he is a Nazi. This woman is as dangerous as she is stupid. Nobody should engage with her. Ever."

Libel claim

Ms Riley considered the second tweet an "appalling distortion of the truth" and sued Ms Murray for damages. She claimed that, at the date of publication of the tweet, Ms Murray had 7,245 followers on Twitter, and that the tweet was then retweeted 1,544 times and liked by 4,738 people. She believed that it would also have been republished via email, WhatsApp and other forms of communication beyond Twitter.

Ms Riley complained that the second tweet was defamatory, contending that the natural and ordinary meaning of the tweet was that she "had publicly supported a violent attack upon Jeremy Corbyn at a mosque by saying that he deserved it", and that she had "shown herself to be a dangerous person who incites unlawful violence and thuggery and is therefore so beyond the pale that people should boycott her and her tweets".

In the alternative, the claimant argued that the term "engage" would be understood by Twitter users to mean any form of Twitter interaction, and so the claimant's meaning was conveyed by innuendo to all or a substantial number of the readers of the tweet.

Defence

[1] *Riley v Murray* [2020] EWHC 997 (QB).

The defendant denied that the second tweet bore the claimant's meaning, contending that the natural and ordinary meaning was instead that:

(a) Following an attack on Jeremy Corbyn by a Brexiteer, the claimant had posted a tweet which meant that Jeremy Corbyn deserves to be violently attacked because he is a Nazi.

(b) It was dangerous and stupid of the claimant to post such a tweet.

(c) As a result, the defendant's followers should not reply or respond to the claimant's tweets on such matters.

The defendant denied the innuendo facts relied on by the claimant, arguing that: "users of Twitter do not use the word 'engage' exclusively to mean 'interact with another user, whether reading their tweets, linking their tweets, retweeting their tweets and so on'. The meaning of the word 'engage' depends on the context in which it is used."

The defendant argued that the tweet was a statement of opinion and provided evidence of context surrounding the tweet, including a reply that read, "Shame it wasn't a brick", arguing that this context indicated the basis for the opinion, and reinforced the defendant's meaning of the tweet.

Ms Murray also denied that the meaning conveyed a defamatory tendency, asserting that it expressed her opinion about the message that Ms Riley had conveyed by the tweet, and that the reader would appreciate that Ms Murray's tweet was simply an expression of her opinion about the claimant's tweet, and that the reader could form their own view of the claimant's tweet.

Hearing

A preliminary hearing was conducted by Nicklin J on the parties' written submissions.

First, the judge noted that the assessment of the single natural and ordinary meaning of words is wholly objective, and that neither the meaning the publisher intended to convey, nor the meaning the readers actually understood the publication to bear is relevant.[2] He was critical of "a creeping tendency, under the guise of alleged 'context', to attempt to adduce evidence extrinsic to the words complained of on the issue of the natural and ordinary meaning".

He accepted that the context of the publication is very important when ascertaining meaning (and fact/opinion), but noted, after reviewing the main authorities on the point (including *Monroe v Hopkins*)[3], that "context" should be understood quite narrowly in this sense. So, in assessing the relevant context for the tweet, Nicklin J held that the following material can be taken into account when assessing the natural and ordinary meaning of a publication:

"(i) **matters of common knowledge**: facts so well known that, for practical purposes, everybody knows them;

(ii) **matters that are to be treated as part of the publication**: although not set out in the publication itself, material that the ordinary reasonable reader would have read (for example, a second article in a newspaper to which express reference is made in the first or hyperlinks); and

[2] *Charleston v News Group Newspapers Ltd* [1995] 2 AC 65, 70.

[3] [2017] 4 WLR 68.

(iii) **matters of directly available context to a publication**: this has a particular application where the statement complained of appears as part of a series of publications – e.g. postings on social media, which may appear alongside other postings, principally in the context of discussions."

For Nicklin J: "The fundamental principle is that it is impermissible to seek to rely on material, as 'context', which could not reasonably be expected to be known (or read) by all the publishees."

Decision

Describing it as a "a straightforward case", Nicklin J ruled that the natural and ordinary meaning of the second tweet was:

(1) Jeremy Corbyn had been attacked when he visited a mosque.

(2) The claimant had publicly stated in a tweet that he deserved to be violently attacked.

(3) By so doing, the claimant had shown herself to be a dangerous and stupid person who risked inciting unlawful violence. People should not engage with her.

The judge considered paragraphs (1) and (2) to be statements of fact, and paragraph (3) to be an expression of opinion. He rejected the submission by Ms Murray's lawyers that a reasonable reader would understand the reference to "deserves to be violently attacked" to be an expression of opinion, considering that argument to be "untenable", with or without the elaborate argument based on "context", and finding that the second sentence was a simple factual statement and would be understood as such. In any event, Nicklin J rejected the claimed "context": none of the alleged contextual material was presented, hyperlinked or referenced in the tweet, so that the hypothetical reader could have read it, and so the offending tweet was self-contained, and it would have been read on its own in the timelines of the defendant's followers.

Applying the principles set out in *Allen v Times Newspapers Ltd*,[4] Nicklin J found that the imputation that the claimant had publicly supported a violent attack on someone is plainly defamatory, as such conduct would substantially and adversely affect the attitude of other people towards the claimant (or have a tendency to do so). And even if paragraph (3) had stood alone, the description of the claimant as "dangerous" and "stupid" would also have been defamatory, although, in the judge's view, the gravity of the defamatory meaning was "largely supplied by the allegation of fact rather than the expression of opinion based upon it". As such, paragraphs (2) and (3) were both defamatory at common law.

Given his findings on the natural and ordinary meaning of the tweet, the claimed innuendo meaning added nothing, even if the supporting facts could be established. In relation to the meaning of the word "engage", the judge commented that, even if certain Twitter users did understand the term "engage" in a Twitter-specific way, this was not materially different from the natural and ordinary meaning in the tweet.

Comment

While the decision was ultimately "straightforward", this judgment contains an instructive analysis of the leading modern authorities on the legal principles that govern the determination of meaning in the law of defamation, and, in particular, as it applies to social media. It boils those down into a useful checklist for the limited forms of "context" that can be taken into account in assessing the natural and ordinary meaning of an online post.

[4] [2019] EWHC 1235 (QB).

The ill-considered wording used in the tweets also serves as a cautionary tale for anyone tempted to sling eggs by Twitter.

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