



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 15 May 2014

FIRST SECTION

Application no. 32058/13
Aleksey Anatolyevich NAVALNYY
against Russia
lodged on 9 April 2013

STATEMENT OF FACTS

The applicant, Mr Aleksey Anatolyevich Navalnyy, is a Russian national, who was born in 1976 and lives in Moscow. He is represented before the Court by Mr D. Gaynutdinov, a lawyer practising in Moscow.

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant is an opposition politician, advocate and well-known blogger. He has gained prominence in Russian and international media, exposing corruption in the Russian Government and in the ranks of the ruling United Russia party.

In its December 2011 issue, the Russian edition of the Esquire magazine ran a long interview with the applicant under the heading “Rules to Live By. Aleksey Navalnyy”, which contained the following statements:

“**There are members of United Russia** who in general would seem appealing to me. Yet, if you have joined United Russia, you must be a thief. If you are not a thief, you are at least a crook because you use your name to cover up for other thieves and crooks ...” (emphasis in the original)

In March 2012, a certain Mr S., member of United Russia since 2006, sued the applicant in defamation, claiming that the applicant had accused him of theft.

On 4 June 2012 the Lyublinskiy District Court of Moscow granted Mr S.’s claim, finding as follows:

“The general meaning of the statements in the impugned extract is such that anyone who has fulfilled the condition of joining the United Russia party is a thief. The impugned statement can give an ordinary reader the impression that anyone who has joined the United Russia party is either a thief or a crook who covers up for other crooks and thieves. The defendant has actually accused any member of the United Russia party of having committed a dishonest act, unlawful actions or having engaged in wrongful or unethical conduct ...

... The defendant phrased the statement in an offensive manner that undermines the honour and dignity of any member of the party. The semantic purpose of the impugned extract is to form a negative public image of anyone who is a member of the said party ...

The statements which the defendant disseminated are statements of fact because they are phrased in the affirmative form and can be tested for veracity ...

The court considers that in the instant case the defendant overstepped the limits of justified and reasonable criticism.

The contested information does not correspond to reality.

... The court did not see any evidence showing that any individual who joined United Russia has committed a dishonest act or a crime. Nor did the court see any evidence showing that at the time [of his interview] the defendant had at his disposal credible information that any member of the party, including the plaintiff, committed the above-mentioned dishonest acts or crimes and that the defendant attempted to verify that information ...

The defendant's arguments to the effect that the contested statement is an opinion and a value judgment is unfounded because, by virtue of applicable legal provisions, the freedom of thought and expression should not be an instrument for a violation of the rights of others; it follows that an expression of opinion on any subject is not a ground for exempting the person who dissemination such information from responsibility in the event that [its dissemination] caused prejudice to the constitutional values, such as honour, dignity and the business reputation ...

According to the oral and written statements by the plaintiff, the defendant's wrongful actions caused him moral suffering: the plaintiff is an older man, he has not committed any dishonest acts or crimes in his entire life, he does not consider himself to be a thief"

The District Court ordered the applicant to pay Mr S. 30,000 Russian roubles (RUB) in respect of non-pecuniary damage and RUB 200 in court fees and to publish a copy of the judgment in his blog.

On 10 October 2012 the Moscow City Court rejected the applicant's appeal, endorsing the findings of the District Court.

On 29 April 2013 a judge of the Moscow City refused leave to appeal to the cassation instance.

COMPLAINTS

The applicant complains under Article 10 of the Convention about a violation of his right to freedom of expression.

QUESTIONS TO THE PARTIES

Was there a violation of Article 10 of the Convention? Did the domestic courts applied standards which were in conformity with the principles embodied in Article 10? (see, among others, *Reznik v. Russia*, no. 4977/05, § 45, 4 April 2013, and *OOO Iypress and Others v. Russia*, nos. 33501/04, 38608/04, 35258/05 and 35618/05, §§ 71, 74 et passim, 22 January 2013)?