

TORT

Defamation – Article criticising Chief Minister – Whether Chief Minister has *locus standi* to sue for defamation – Freedom of speech and expression – Federal Constitution, article 10(1)(a)

Utusan Melayu (Malaysia) Berhad v Dato' Sri Diraja Haji Adnan bin Haji Yaakob

[Rayuan Sivil No: W-02(IM)(NCVC) - 1396-08/2015], Court of Appeal

Facts The respondent is the Chief Minister of Pahang (“Chief Minister”), whilst the appellant is a publisher of a mainstream newspaper. The dispute arose when the appellant published an article (“the Article”) criticising the respondent’s administration as Chief Minister. The respondent alleged that the content was libellous and malicious. He subsequently sued the appellant at the High Court claiming damages and an apology. The High Court judge found that the respondent had *locus standi* to institute the action on the basis that the action was initiated in his personal capacity, as the respondent’s name was cited without “Chief Minister” as his official title. The appellant appealed to the Court of Appeal.

Issue The main issue was whether the respondent lacked the *locus standi* in initiating and maintaining the present action for defamation.

Held In allowing the appeal, the court held that the principle in *Derbyshire County Council v Times Newspapers Ltd*¹ applies where it was decided that, in a free democratic society, the public should be able to criticise a governmental body, and that refraining from doing so would be contrary to public interest and the freedom of speech. This principle protects the right to free speech and expression under article 10(1)(a) of the Federal Constitution that encompasses the right of citizens to discuss the public affairs and state administration of the Government and its officials. Thus, the respondent in the present case did not have *locus standi* to initiate and maintain the present suit in his capacity as Chief Minister.

ZUL RAFIQUE & partners
{JUNE 2016 \ 01339430}

¹ [1993] 1 All ER 1011