

EX PARTE WARD (IN RE BOSCH v. WARD).

1908. March 17, 19. MAASDORP, C.J., and FAWKES and
WARD, JJ.

Practice.—Pleading.—Exception to declaration.—Slander.—Defamatory interpretation.

Where a declaration alleging slander was excepted to on the ground that there was no cause of action, in that the words complained of were not *per se* slanderous, and could not be interpreted to bear the meaning placed upon them in the innuendo, *Held*, that as the words were not absolutely incapable of a defamatory interpretation, and as they might by evidence be shown to have been applied to the plaintiff, the exception must be overruled.

In an action of damages for slander the declaration alleged that the defendant had falsely and maliciously at a public meeting spoken and published of the plaintiff the following defamatory words: "The reception you have given to Dr. Ramsbottom to-night proves to me that not one of you believes in that vile and diabolical charge" (meaning a charge of seduction brought against Dr. Ramsbottom). "I would stake my life and everything I have got on Dr. Ramsbottom's innocence."

The innuendo alleged by the declaration as contained in these words was that the defendant meant that the plaintiff had committed the crime of attempted extortion and had falsely accused Dr. Ramsbottom of seduction with intent to obtain money unlawfully from him.

The defendant now excepted to the declaration on the ground that it disclosed no cause of action in that the words alleged to have been spoken and published were not *per se* slanderous, and could in no way be so interpreted as to bear the meaning sought to be placed on them by the plaintiff.

De Jager (with him *Brebner*), for the excipient: The charge referred to in the declaration was made by one Johanna Maria van Wijk against Dr. Ramsbottom, and the words alleged
O.R.C. '08.

to have been used could not possibly have referred to the respondent.

Turner (with him *Rorich*), for the respondent: This is not a matter for exception, as it is a question of evidence, and the Court will only allow the exception if the words can be shown to be impossible of application to the respondent. See *Knoesen v. Theron* (13 C.T.R. p. 812).

MAASDORP, C.J.: The only words that can in any way be regarded as defamatory are the words "vile and diabolical" as applied to the charge made against Dr. Ramsbottom. We are of opinion that they are not wholly incapable of a defamatory meaning, and it is possible that they may be proved to apply to the plaintiff; this may appear from the evidence, and it may be shown that the words mean more than at the first glance they appear to do.

FAWKES and WARD, JJ., concurred.

Excipient's Attorneys: *Botha & Titley*; Respondent's Attorney: *C. A. Evenwel*.
