

Judge Groarke
16/12/21
11:15am

AN CHÚIRT CHUARDA
THE CIRCUIT COURT
WESTERN CIRCUIT
COUNTY OF GALWAY

IN THE MATTER OF SECTION 28 OF THE EQUAL STATUS ACT, 2000

Record No:- 1111/17

BETWEEN:

AMMI BURKE

PLAINTIFF

AND

NATIONAL UNIVERSITY OF IRELAND, GALWAY

DEFENDANT

APPLICATION TO SET ASIDE JUDGMENT OF THE COURT

1. The Plaintiff herein makes an application to this Court to set aside its judgment in these proceedings delivered Monday 22nd November 2021 at Galway Circuit Court. The Court is referred to the Affidavit of Ammi Burke affirmed on 6th December 2021 which deals with the subject matter herein.
2. The judgment of the Court in these proceedings (and the related proceedings of Isaac Burke, Kezia Burke and Enoch Burke) is based on a series of manifest errors of fact. Chief among these is the finding that a cheque was drawn on the CU account on the 28th of February 2014, a finding that is completely incorrect.
3. **The Court completely misconstrued the financial accounts system used by the Christian Union (the "CU").** It held that the entry in the CU accounts dated 28th February 2014 with payee Snap Printing indicated that a cheque was drawn on that date to that payee. That is an entirely incorrect reading of the entry. The date on the entry refers to the date of the receipt for the flyers. The entry is denoted cheque to show that a cheque was written at a

later date to cover the cost of the flyers. It is normal practice in student society finances to personally accrue expenditure for an item e.g with one's Visa Debit card, and later be reimbursed via cheque from the society account. In fact, this is the only way in which expenditure (apart from bank charges, etc.) was accrued for the CU during the academic year 2013-2014.

4. **The Court incorrectly held that the entry in the CU accounts dated 28th February 2014 was false, fraudulent, fabricated and not the original entry to account for the flyers.**

The entry in the accounts dated 28th February 2014 is the original entry to account for the flyers as entered in April/May 2014 by then CU Treasurer Ammi Burke. It is neither false, fabricated nor fraudulent. It is entered in the same way as every other entry for the 2013-2014 academic year. The Court's findings that this entry was not the original entry for the flyers, that the original entry had been substituted with this entry, and that this substitution was "*done for the purpose of concealing the fact that the sum in question was paid from the CU account to a person who was not a member of CU and, moreover was not even a student in NUIG at the time*" are completely incorrect.

5. **The Court incorrectly held that a cheque was drawn on the CU account in the sum of E325.95 on the 28th of February 2014 made payable to Josiah Burke.** This is completely incorrect. No cheque was drawn on the CU account on the 28th of February 2014. No cheque made payable to Josiah Burke was drawn at any time on the CU account. A cheque was drawn on the 24th of April 2014, made payable to Enoch Burke, for the E325.95 cost of the flyers (see *attached*).

6. **The Court incorrectly held that the flyers in question were designed, printed and purchased at the request of the CU.** The Court made the finding that "*the flyers in question were designed, printed and purchased at the request of CU and CU subsequently paid for them by a cheque drawn on the CU account payable to Josiah [Burke] and details of which were fraudulently stated in the accounts*". Each part of this finding is completely incorrect. Josiah Burke designed, printed and purchased the said flyers on his own initiative. Josiah Burke had an interest in the boycott of Israel (BDS) referendum motion and had set up a Facebook page to encourage students to vote "No". The BDS referendum took place on the 6th of March 2014. The covering of the cost of the flyers with CU funds took place much later and the decision to do so was an afterthought. The cheque that gave effect to this was written on the 24th of April and not on the 28th of February as held by the Court.

7. **The Court incorrectly held that the Plaintiffs sought to mislead the Court on the issue of the flyers.** On the basis of the findings set out above, the Court held that the Plaintiffs “*have sought to mislead the Court on the issue*” of the flyers. The Court stated that the Plaintiffs “*gave misleading evidence for the purpose of evading responsibility*” and cited “*their failure to give a truthful account of the relevant matters even to the present*” as a justification for dismissing their claims. Since the findings set out above are completely incorrect, it follows that these findings, which are of an extremely serious nature, are also completely incorrect.
8. The Court’s judgment of Monday 22nd November 2021 is rooted in the above errors of fact. As such, it is invalid, unjust, contrary to natural justice and fair procedures and not in accordance with law. The above errors of fact are not to be considered an exhaustive list of the factual errors contained in the judgment.
9. On Monday 22nd November 2021, when Isaac Burke informed the Court of its error in finding that a cheque had been drawn on the CU account in the sum of E325.95 on the 28th of February 2014, the Court ordered that Isaac Burke be removed from the courtroom by An Garda Síochána.
10. The errors of fact listed herein were used by this Court to attack the characters and good names of each of the four Plaintiffs. These attacks have been broadcast widely in the national media. The Court was unrestrained in its condemnation of the Plaintiffs. This is a grave miscarriage of justice. In this regard the Court’s attention is drawn to Art. 40.3.2^o of the Constitution: “*The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the...good name...of every citizen*”.
11. It is submitted that this Court has an urgent duty to address this matter and that the only lawful and just remedy in the circumstances is that this Court order that its decision of Monday the 22nd of November 2021 be set aside forthwith and that these proceedings (and the related proceedings of Isaac Burke, Kezia Burke and Enoch Burke) be remitted to the Circuit Court for re-hearing.

AMMI BURKE

16 December 2021

(also on behalf of Isaac Burke, Kezia Burke and Enoch Burke)

Bank of Ireland 

UNIVERSITY BRANCH GALWAY

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Date 24/4/2014

Pay Enoch Burke

Three hundred and twenty five

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CHRISTIAN STUDENTS SOCIETY

Enoch Burke

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Account No.

Enoch Burke

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