

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No.54 of 2024

[Muneeb Butt *versus* Faiq Ali Jagirani]

Dates of hearing : 29.04.2024 and 14.05.2024

Applicant : Muneeb Butt, through Mr. Mukesh Kumar Talreja, Advocate.

Respondent : Present in person.
[Faiq Ali Jagirani]

ORDER

Muhammad Faisal Kamal Alam, J.: This Revision Application is preferred against the Order dated 13.12.2023 passed in Civil Suit No.79 of 2023, dismissing the Application of the Applicant [Defendant] under Order VII Rule 11 of the Civil Procedure Code, 1908 [“CPC”] for rejection of Plaintiff.

2. Succinctly, Respondent is aggrieved of a Post on Social Media Platform, posted from the account of the Applicant on 17.01.2023, but was removed on the next day. A copy of the impugned Publication is available at *page-51*, which reads as under_

“Change Your Lawyer”

Advocate shb Mashallah gaining YouTube subscribers from your case this case will go on until he gets a silver button!

3. Upon notice, Written Statement was filed by the present Applicant, denying the allegations therein and raising the question of maintainability of the Suit.

4. Application under Order VII Rule 11 of CPC and Objections thereto are part of the record [*at pages-139 and 151*].

5. Mr. Mukesh Kumar Talreja, Advocate appearing on behalf of the Applicant, has argued at length and stated that the Complaint is liable to be rejected, because it is filed in violation of a mandatory provision of Special Law – Defamation Ordinance, 2002 [the “**Defamation Law**”] and, in particular, Section 8 thereof, under which a Legal Notice is a pre-requisite for bringing an action [under the Defamation Law], which was not given by the Respondent [Plaintiff] within two months of the impugned Publication. Further contended that the Post was immediately removed followed by an apology, which should have been accepted by the Respondent, but merely to drag the Applicant in a frivolous litigation, the same was not accepted. Cited the following case law to augment his arguments_

- i. **2022 M L D 805**
[*Abdul Bari versus Akhtar Rasheed, Station House Officer, Police Station Airport, Thatta and 5 others*];
- ii. **2021 M L D 252**
[*Shumail Waheed versus Rabia Khan*];
- iii. **Judgment dated 25.03.2025 passed in First Civil Appeals No.S-04 and 05 of 2016**
[*Dr. Bhagwandas and another versus Mashooq Ali Jatoti and others*];
- iv. **A I R 2016 SC 2728**
[*Subramanian Swamy versus Union of India (UOI) and Ors.*]; and
- v. **P L D 2015 Sindh 83**
[*Jano through Attorney versus Bherji*].

6. Respondent [Advocate] himself appeared and argued the matter. While rebutting the contention of the Applicant’s Counsel, has referred to his Legal Notice dated 29.03.2023 and stated that when he acquired the knowledge of the impugned Post / Communication, he served the above Legal Notice followed by the Defamation Suit and, hence, no violation of the Defamation Law is made and thus the complaint could not have been rejected, as correctly decided in the impugned Order. Also filed a complaint

dated 03.02.2023 before the Federal Investigation Agency [“**FIA**”], but no action was taken so far by the FIA.

7. Arguments heard and record perused.

8. The Learned Trial Court has discussed in detail the rival contentions of the Applicant and Respondent, in particular, concerning the date of knowledge and Legal Notice, which is a pre-requisite in terms of Section 8 of the Defamation Law [*ibid*], for filing of defamation action. It is observed in the impugned Order that the only ground available with the Applicant for getting the plaint rejected is to show that it is barred by any Law; that is, the Plaint of the Suit could have been rejected by invoking Section 8 [*supra*]; sending of Legal Notice within two months from the date of the impugned Publication. This aspect has been discussed by the Learned Trial Court, by observing that since the date of knowledge is not admitted in the pleadings as alleged by the Applicant [Defendant], therefore, it has become the question of fact [triable issue], which can only be decided on the basis of evidence, which means that the Plaint could not be rejected on the sole ground (d) of Rule 11 of Order VII of CPC. At this stage, nothing is available, as an undisputed record, which can lead to the upsetting of findings mentioned in the impugned Order.

Judgments cited by the Applicant’s Counsel are distinguishable from the facts of present case, in view of the above discussion.

9. Consequently, no interference is required in the impugned Order as no material irregularity exists. Accordingly, this Revision Application stands dismissed along with all pending application(s), if any. However, there will be no order as to costs.

10. It is clarified that any observation mentioned in this Order is of tentative in nature and must not influence the Trial. However, the Judgment

[if already not passed], can be given of the *sub judice* Suit by learned Trial Court preferably within a period of two [02] months from the receipt of this Order and, in particular, dealing with the issue of date of knowledge and the Legal Notice, which is a mandatory requirement under Section 8 of the Defamation Law [*ibid*].

Judge

Karachi.

Dated: 15.07.2025.

Riaz / P.S.