

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Civil Revision Application No.S-23 of 2026

(*Dr. Bhagwano @ Bhagwandas Vs. Mumtaz Ali*)

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

01. For orders on CMA.No.233/2026. (U/A)
02. For orders on office objection "A".
03. For orders on CMA.No.142/2026. (E/A)
04. For orders on CMA.No.143/2026. (S/A)
05. For hearing of main case.

19.03.2026

Mr. Muneer Ahmed Khokhar, Advocate for the applicant.

=.=.*=.*=.*=.*=.*=.*=.*=*

This Civil Revision Application is directed against the order dated 12.11.2025, passed by the learned IV-Additional District Judge, Larkana, whereby the application under Order VII Rule 11, C.P.C., filed by the defendant/applicant in Suit No.01 of 2024 (Re: Mumtaz Ali v. Dr. Bhagwandas) was dismissed.

Learned counsel for the applicant submits that the learned trial Court, while passing the impugned order, has not properly considered the grounds taken in the application for rejection of the plaint. He submits that in view of Sections 5(c) and 6 of the Defamation Ordinance, 2002, the suit is barred by law and, therefore, the plaint was liable to be rejected. He further contends that, as per paragraph No.3 of the plaint, the allegation against the defendant/applicant is that on 02.04.2024 he posted a statement on his Facebook account leveling certain allegations against the plaintiff/respondent, on the basis whereof the present suit has been filed. Learned counsel further submits that in the written statement he has specifically denied the said allegation and has pleaded that no cause of action has accrued to the plaintiff to file the suit. He argues that the learned trial Court was under a legal obligation to reject the plaint. Lastly, he prays that the instant Civil Revision Application may be allowed.

I have heard the learned counsel for the applicant and perused the impugned order as well as the material available on record. The relevant portion of the impugned order reads as under:

"04. I have heard the both sides and perused the material available on the record. Learned counsel for defendant has filed this application under Order VII Rule 11 CPC mainly on the ground that the suit is not maintainable as there is no material available in the plaint which give rise legal cause of action. It is well settled principle of law that for purpose of rejection of plaint under Order VII Rule 11 C.P.C the averments and allegations made in a plaint are to be examined, and if upon bare perusal thereof, and assuming the same to be correct, a cause of action spell out from such plaint, then the same cannot be rejected. Plaintiff has filed instant suit for damages under defamation ordinance 2002. Plaintiff has mainly averred in plaint that on stated date defendant falsely written post on his Facebook ID where defamatory material and ridiculous language to lower the prestige of plaintiff with scandalous picture shown in injured condition. In the said post defendant leveled the false allegation against the plaintiff that he is not allowing the demarcation of the property. The defendant leveled these false allegations against the plaintiff in order to malice him. These averments made in plaint do disclose cause of action. Question that these averments comes within the meaning of defamation as defined in Section 3 of the Defamation Ordinance, 2002 cannot be determined in summarily manner as the same requires recourse of evidence. So for as case laws cited by the learned counsel for the defendant, it is humbly submitted the facts and circumstances of the same are distinguished from the present matter".

The principal contention of the learned counsel for the applicant is that the suit is barred under Sections 5(c) and 6 of the Defamation Ordinance, 2002. Sections 5 and 6 are reproduced as under:

5. Defences. In defamation proceedings a person has a defence if he shows that,

- (a) *he was not the author, Editor, Publisher or printer of the statement complained of;*
- (b) *the matter commented on is fair and in the public interest and is an expression of opinion and not an assertion of fact and was published in good faith;*
- (c) *it is based on truth and was made for public good;*
- (d) *assent was given for the publication by the plaintiff;*
- (e) *offer to tender a proper apology and publish the same was made by the defendant but was refused by the plaintiff;*
- (f) *an offer to print or publish a contradiction or denial in the same manner and with the same prominence was made but was refused by the plaintiff;*
- (g) *the matter complained of was privileged communication such as between lawyer and client or between persons having fiduciary relations; and*
- (h) *the matter is covered by absolute or qualified privilege.*

Emphasis is added

6. Absolute privilege. Any publication of statement made in the Federal or Provincial legislatures, reports, papers, notes and proceedings ordered to be published by either House of the Parliament or by the Provincial Assemblies, or relating to judicial proceedings ordered to be published by the Court or any report, note or matter written or published by or under the authority of a Government, shall have the protection of absolute privilege.

Explanation. In this section legislature includes a local legislature and court includes any tribunal or body exercising the judicial powers.

A bare reading of Section 5 shows, that it provides certain defences available to a defendant in defamation proceedings, including the plea that the statement is based on truth and made for public good. Such a plea is essentially a mixed question of law and fact, which requires evidence for its determination and cannot be adjudicated at the stage of Order VII Rule 11, C.P.C. Similarly, Section 6 relates to absolute privilege, which is confined to specific categories such as legislative proceedings, judicial proceedings, or publications made under lawful authority. Prima facie, the alleged Facebook post, as pleaded in the plaint, does not fall within the ambit of absolute privilege. Therefore, the provisions relied upon by the applicant do not, on the face of the plaint, render the suit barred by law so as to attract clause (d) of Rule 11 of Order VII, C.P.C. Reliance is placed on *Muhammad Saleemullah v. Additional District Judge, Gujranwala (PLD 2005 SC 511)*.

It is well settled that for deciding an application under Order VII Rule 11, C.P.C., the Court is required to confine itself to the averments made in the plaint alone, which are to be presumed correct, without reference to the defence set up by the defendant. If, on a plain reading of the plaint, a cause of action is disclosed, the plaint cannot be rejected. Any question requiring examination of disputed facts or determination of defence pleas falls outside the scope of Rule 11 and is to be adjudicated after recording evidence. In this context, there is a clear distinction between non-disclosure of cause of action and absence of cause of action. The former attracts Order VII Rule 11(a), C.P.C., whereas the latter pertains to failure of the claim on merits despite such disclosure and can only be determined after evidence. In the present case, the plaint specifically

alleges publication of defamatory material by the defendant causing injury to the reputation of the plaintiff, which prima facie constitutes a cause of action; thus, the case does not fall within the ambit of Rule 11, C.P.C. Reliance is placed on *Haji Mitha Khan v. Muhammad Younus (1991 SCMR 2030)* and *Muhammad Shabir v. Mst. Faraha Bibi (2010 CLC 1603)*.

The scope of revisional jurisdiction under Section 115, C.P.C., is limited and can only be exercised where the subordinate Court has exercised jurisdiction not vested in it by law, failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. The impugned order reflects that the learned trial Court has applied the settled principles of law governing Order VII Rule 11, C.P.C., and has exercised jurisdiction vested in it in accordance with law. No jurisdictional defect, illegality, or material irregularity has been pointed out which may warrant interference by this Court.

In view of the foregoing, this Court finds no infirmity, illegality, or material irregularity in the impugned order passed by the learned trial Court. Consequently, this Civil Revision Application is dismissed in limine, along with listed applications, if any. It is, however, clarified that the learned trial Court shall decide the suit strictly in accordance with law on the basis of the pleadings and evidence of the parties, and any observations made herein are tentative in nature and confined only to the question of rejection of plaint under Order VII Rule 11, C.P.C.

JUDGE