

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

First Appeal No. S-30 of 2025

[Swai Singh v. Hemraj @ Ghemro and 08 others]

Appellants by : Mir Sarfaraz Ali Talpur, Advocate

Respondents by : Mr.Vilji Rathor, Advocate

Dates of Hearing : 18.05.2026

Date of Decision : 18.05.2026

ORDER

ARBAB ALI HAKRO, J:- This First Civil Appeal under section 96, C.P.C., r/w Section 15 of the Defamation Ordinance, 2002, is directed against the order dated 05.11.2025 passed by the learned Additional District Judge- II, Tharparkar at Mithi in Defamation Civil Suit No.02 of 2025, whereby the plaint was rejected under Order VII Rule 11(a) and (d) C.P.C. The appellant seeks the setting aside of the said order and restoration of the suit for trial on the merits.

2. Briefly stated, the appellant (plaintiff) instituted a defamation civil suit under the Defamation Ordinance, 2002, asserting that he is a respectable citizen of Pakistan, an elected representative currently serving as Chairman of Union Council Jhirmirio, enjoying wide public trust and an unblemished reputation. He pleaded that all the defendants, being political rivals, "have jointly and severally launched a false, baseless and defamatory campaign against the plaintiff and his family through social media platforms (including Facebook), print media and electronic media and that they have leveled unfounded allegations without any evidence, falsely portraying the plaintiff in negative light, damaging his honor, social standing, political image and causing irreparable harm to his reputation in the eyes of the general public. On this foundation he claimed from each defendant Rs.5,000,000 for injury to

reputation, Rs.4,900,000 for mental agony and physical distress and Rs.100,000 for legal expenses, totalling Rs.10,000,000 per defendant. Along with the plaint, the plaintiff relied upon a legal notice dated 29.05.2025 served through counsel under section 8 of the Defamation Ordinance, 2002, wherein it was similarly alleged that the defendants had orchestrated a false, malicious, and defamatory campaign through various media platforms including Facebook, electronic and print media and that such campaign was fabricated and intended to undermine the dignity, reputation and social standing of the plaintiff.

3. The defendants entered an appearance and moved an application under Order VII Rule 11, C.P.C., contending that the plaint did not disclose any cause of action in defamation, that no specific defamatory content from print or electronic media had been pleaded, and that the suit did not fall within the ambit of section 3 of the Defamation Ordinance, 2002.

4. The plaintiff filed detailed objections to the application under Order VII Rule 11, C.P.C., terming it misconceived and frivolous.

5. Learned trial Court, after hearing both sides, allowed the application and rejected the plaint under Order VII Rule 11(a) and (d) C.P.C. In the impugned order, it was observed that the plaint was founded on vague and general assertions of a defamatory campaign and was conspicuously silent on the specific defamatory words used, the dates of their publication or the precise platforms or channels where they appeared. The trial Court held that a defamation claim cannot be built on such nebulous foundations; the precise imputations complained of must be pleaded to allow the court to determine if they are capable of a defamatory meaning and to enable the defendants to respond, and concluded that the plaint did not disclose a cause of action and was not maintainable.

6. Aggrieved, the plaintiff filed the present First Civil Appeal. Upon notice, the respondents have filed written objections to the appeal, supporting the impugned order and asserting that it is lawful, clear, and speaking.

7. Learned counsel for the appellant argued that the trial Court has misapplied Order VII Rule 11, C.P.C. by treating the plaint as vague when, on a meaningful and liberal reading, it clearly sets out the status of the plaintiff, the existence of a coordinated defamatory campaign by named defendants through specified media (social, print and electronic), the nature of imputations (false allegations undermining his honor, political image and reputation), the service of a statutory notice under section 8 of the Defamation Ordinance, 2002 and the resultant mental, social and financial damage. He submitted that at the stage of Order VII Rule 11, the Court is confined to the averments in the plaint and cannot insist upon evidentiary particulars such as exact words, URLs or dates, which are matters of proof. He emphasized that section 3 of the Defamation Ordinance defines defamation broadly as any wrongful act or publication of a false statement that injures reputation or tends to lower a person in the estimation of others and that section 4 makes defamation actionable without proof of special damage. He contended that the plaint, read as a whole, satisfies these ingredients and that the trial Court has, in effect, conducted a mini-trial at the threshold.

8. Conversely, learned counsel for the respondents supported the impugned order and submitted that the plaint is a classic example of vague and conclusionary pleading, devoid of the essential material facts necessary to constitute a cause of action in defamation. He pointed out that nowhere in the plaint or the annexed legal notice are the allegedly defamatory words reproduced, nor are any specific posts, broadcasts, dates, channels, or publications identified; the plaintiff merely alleges a “false, baseless, and defamatory campaign” without stating what was said, by whom, when and in what context. He argued that under section 3 of the Defamation Ordinance, 2002 and the settled law on pleadings, the plaintiff must plead the precise imputations complained of so that the Court can assess whether they are capable of a defamatory meaning and the defendants can meaningfully

respond. He further submitted that the plaintiff, being an elected Chairman of a Union Council, is a public figure who must tolerate a higher degree of criticism and political comment and that the material placed on record, including the police inquiry, shows that the dispute is essentially political and that the plaintiff himself has previously levelled false allegations of criminality against the respondents. He maintained that the trial Court correctly exercised its jurisdiction to weed out a still-born suit at inception, in line with the principle that futile litigation should not consume judicial time.

9. Heard and perused the record.

10. The starting point is the well-settled scope of Order VII Rule 11, C.P.C. The rule empowers the Court to reject a plaint, inter alia, where it does not disclose a cause of action or where the suit appears from the statement in the plaint to be barred by any law. The Supreme Court has consistently held that for the purposes of Order VII Rule 11, the Court must look only to the averments contained in the plaint, read as a whole and not to the defence or extraneous material; that the plaint must be given a meaningful, not merely formal, reading; that if, even assuming all averments to be true, no cause of action is disclosed, the plaint may be rejected and that this is a drastic power to be exercised sparingly, but to be exercised where the suit is still born and continuation of proceedings would be an abuse of process.

11. Turning to the statutory framework, section 3 of the Defamation Ordinance, 2002 defines defamation as “any wrongful act or publication or circulation of a false statement or representation made orally or in written or visual form which injures the reputation of a person, tends to lower him in the estimation of others or tends to reduce him to ridicule, unjust criticism, dislike, contempt or hatred.” Sub- sections (3) and (4) distinguish slander (false oral statement) and libel (false written, documentary or visual statement, including by electronic means). Section 4 declares that the publication of defamatory matter is an actionable wrong without proof of special damage, and section 9

provides for remedies, including an apology and compensatory damages. Section 8 requires that, before action, the plaintiff must, within two months of the defamatory matter coming to his notice, give fourteen days' written notice specifying the defamatory matter complained of. It is thus evident that the actionable wrong is anchored in a "false statement or representation" which is published or circulated, and that the plaintiff must identify, at least in substance, the statement or representation said to be defamatory.

12. In the law of pleadings, it is equally settled that a plaint must contain a concise statement of the material facts on which the plaintiff relies, but not the evidence by which they are to be proved. In defamation, the material facts ordinarily include: the precise words or imputations complained of (or their substantial gist), the reference to the plaintiff, the mode and occasion of publication and the manner in which such words are alleged to be defamatory. While absolute verbatim reproduction may not always be necessary, especially where the material is voluminous or in a foreign language, the plaint must nonetheless convey with reasonable particularity what was said or published, by whom and when, so that the Court can assess whether a cause of action in defamation is disclosed. The defendant can know the case he has to meet.

13. Examined against this standard, the plaint in hand is notably sparse on particulars. It asserts that the defendants "have jointly and severally launched a false, baseless and defamatory campaign through social media platforms (including Facebook), print media and electronic media" and that they have "levelled unfounded allegations without any evidence, falsely portraying the plaintiff in a negative light." However, it does not set out a single sentence, phrase or even the gist of any specific allegation said to have been made by any particular defendant. It does not identify any specific Facebook post, account, programme, newspaper item, date or channel. The legal notice annexed to the plaint is in the same general terms, complaining of a "false, malicious and defamatory campaign" but again without reproducing or identifying any concrete statement.

The plaint thus pleads the conclusion “defamatory campaign” without pleading the material facts that constitute that conclusion.

14. Learned counsel for the appellant urged that such particulars are matters of evidence and that at the Order VII Rule 11 stage the Court should not insist upon them. With respect, this submission conflates material facts with evidence. The exact URL of a post, the identity of every viewer or the technical metadata may indeed be evidentiary, but the words complained of, their substance, and the occasion of publication are material facts which must be pleaded. Without them, the Court cannot even prima facie determine whether the alleged statements are capable of a defamatory meaning, whether they fall within any statutory defence (such as fair comment or truth) or whether they are protected by privilege. Nor can the defendants meaningfully traverse the allegations or raise appropriate defences. To permit a defamation action to proceed based on a bare allegation that the defendants have run a "false and defamatory campaign" through unspecified media would expose defendants to a roving, undefined inquiry, contrary to the discipline of pleadings.

15. The appellant has relied on the broad language of section 3 of the Defamation Ordinance, 2002 and on the principle that damage is presumed under section 4. Those provisions, however, do not dispense with the requirement to plead the wrongful act or publication with sufficient particularity. Section 8, in fact, reinforces this by requiring that the pre-action notice must “specify the defamatory matter complained of.” The notice on record does not do so; it mirrors the generalities of the plaint. This omission is not a mere technicality; it goes to the root of the cause of action.

16. It is also material that the plaintiff is an elected Chairman of a Union Council and, by his own showing, a political figure. The trial Court observed that "by virtue of being an elected political figure, he occupies a public office and must expect a higher degree of public criticism and scrutiny" and that the plaint does not plead facts that could arguably lift the case from the realm of

protected political discourse to actionable defamation with malice. While this observation should not be taken to mean that public figures are without remedy in defamation, it underscores that, in such cases, the line between robust political criticism and defamatory falsehood must be carefully drawn, which in turn requires clear and specific pleadings. The more general and conclusionary the pleading, the greater the risk that the Court will be asked to police political speech in the abstract, which the law does not contemplate.

17. The appellant has also invoked authorities cautioning that rejection of the plaint is a drastic power to be exercised sparingly and that Courts should lean towards adjudication on merits. That principle is unexceptionable and has been kept in view. However, it co-exists with the equally important principle that "still-born suits should be buried at their inception" to save the Court and the parties' precious time. Where, even on a liberal and benevolent reading, the plaint fails to disclose the basic material facts constituting the cause of action, the Court is not only empowered but obliged to reject it rather than subject the parties to a futile trial.

18. In the present case, I have consciously applied a liberal and meaningful reading to the plaint, taking into account the annexed legal notice and the narrative of political rivalry. Even so, the absence of any pleaded defamatory statement, whether verbatim or in substance, remains fatal. This is not a case where the cause of action is discernible but imperfectly articulated; it is a case where the cause of action in defamation, as defined by section 3 of the Ordinance, is not pleaded at all beyond bare conclusions. To allow the suit to proceed in such circumstances would be to permit litigation on the basis of general grievance rather than a legally cognizable wrong.

19. As to Order VII Rule 11(d), C.P.C, the trial Court has also referred to the suit as not maintainable. Strictly speaking, there is no express statutory bar under the Defamation Ordinance, 2002 that would, on the face of the plaint, attract clause (d); the real ground here is clause (a), namely, absence of a

disclosed cause of action. To that extent, the reference to clause (d) in the impugned order is surplusage and does not affect the ultimate conclusion.

20. For completeness, it may be observed that nothing in this order should be read as endorsing or rejecting the factual narrative advanced by either side regarding budget inquiries, police complaints, or social media exchanges. Those matters lie outside the narrow compass of Order VII Rule 11, which is confined to the sufficiency of the plaint. The dismissal of this appeal rests solely on the legal insufficiency of the pleadings in the defamation suit.

21. In the result, the impugned order dated 05.11.2025, to the extent that it rejects the plaint under Order VII Rule 11(a) C.P.C, is found to be in consonance with law and does not warrant interference. The reference to clause (d) is of no practical consequence and is accordingly treated as redundant. The First Civil Appeal is, therefore, dismissed. In the circumstances of the case, there shall be no order as to costs.

JUDGE

Adnan Ashraf Nizamani