

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision No. S – 87 of 2019

(Moulana Shahzado Dreho v. Province of Sindh & others)

Date of hearing : 26.08.2024

Date of decision : 26.08.2024

Applicant Moulana Shahzado Dreho, present in person.  
Mr. Ahmed Ali Shahani, Assistant Advocate General Sindh.

## J U D G M E N T

**Zulfiqar Ahmad Khan, J.** – This civil revision application is filed against concurrent findings of the Courts below where plaint in F.C. Suit No.78 of 2018, filed by the applicant / plaintiff for declaration and damages against the respondents was rejected under Order VII Rule 11, CPC by the trial Court (learned Illrd Senior Civil Judge, Sukkur) vide its order dated 08.08.2018, which was challenged through Civil Appeal No.85 of 2018, and the same was dismissed by the appellate Court (learned Additional District Judge-IV (Hudood), Sukkur) vide judgment and decree dated 12.01.2019.

2. The controversy commenced in the year 2018, when applicant / plaintiff filed the aforesaid Suit with the following prayer:

- A. *Declare that the report & statement of the defendant No.5 to 7 are malicious with collusively of private persons mentioned in CP No. S-494/2018 before Honourable High Court Sukkur Bench & other private persons behind the curtain power full persons are involved in this ugly task causing damage in terms of character, reputation, pangs, money cash and professional income, mental agony, trouble, torture and harassment, insult and defamed to the plaintiff.*
- B. *That the plaintiff estimate his damages due to malicious proceeding in CP No. S-494/2018 and defamation for the above mentioned injuries as follows:-*

*B(i). Damages for character, mental and body, pain, disrespect and loss of the reputation, defamation and career at Rs.10,0000000/- (Ten Crore) each.*

*B(ii). Costs.*

*B(iii). Any other equitable relief/loss.*

3. It reflects that the trial Court being not satisfied with the contention of applicant / plaintiff regarding maintainability of the Suit, rejected the plaint under Order VII Rule 11, CPC vide order dated 08.08.2018, which order was maintained by the appellate Court vide its judgment and decree dated 12.01.2019; hence, this revision application has been filed.

4. Perusal of the record shows that the applicant filed a Constitutional Petition bearing No. S-494 of 2018 before this Court, and in that petition, SSP Sukkur and SHO SITE, Sukkur, being respondents No.5 and 7, filed a report and a statement, respectively. It is alleged that the report of SSP Sukkur was the reflection of the report of DSP SITE, Sukkur, who was respondent No.7 in that petition. The whole case of the applicant / plaintiff is based upon the said report and statement, which he claimed are false and fabricated, and were filed to mislead the Court. On one hand, the applicant / plaintiff is seeking declaration with regard to aforesaid report and statement to be malicious and collusive of private persons and on the other hand, he is seeking damages on account of alleged malicious proceeding in C. P. No. S-494/2018 and defamation.

5. Regarding the alleged report and statement, the trial Court has held as under:

*“4- Even otherwise, the purported report and statement have been filed before the honorable High Court. The plaintiff does not assert that same have been held by the honorable Court as, as the plaintiff asserts. Unless the same is done, this Court cannot give any sort of observation in the matter before the honorable Court and, thus, the declaration sought for is not maintainable. Moreover, the matter before the honorable High*

*Court has been filed by the plaintiff and the defendants have, therefore, not prosecuted him therein.”*

6. The above observations made by the trial Court reflect that the Constitutional Petition, which the applicant / plaintiff is claiming malicious proceeding, was itself filed by the applicant / plaintiff and the respondents / defendants, prosecuted by the applicant / plaintiff, had only filed a report and/or statement certainly after the notice of the Court. Moreover, whether this Court in that petition had given any importance to the statement so filed by the respondents / defendants and held that the same was filed with malicious intent, nothing has been shown by the applicant / plaintiff in this regard. Hence, *prima facie*, the applicant / plaintiff has no case to establish that the alleged report and statement of the respondents / defendants went beyond what was necessary for their defense and were made with the intention to harm his reputation.

7. Moreover, under Section 13 of the Defamation Ordinance, 2002, no court inferior to that of the District Judge shall have jurisdiction to try cases under this Ordinance. Hence, the learned trial Court has rightly held that defamation suit is exclusively cognizable by the District Court. In the case of *Pakistan Herald Publications (Pvt.) Ltd. and 2 others v. Karachi Building Control Authority through Controller of Buildings (2012 CLD 453)*, a Division Bench of this Court held as under:

*“8. The Defamation Ordinance, 2002 on its reading shows that it is a special law made by Federal Government on the subject of defamation creating special remedies and also provide for specific Court for trial of cases and appeal. It has conferred jurisdiction for trial of cases under the Ordinance on the District Court.”*

8. Following the dicta laid down in the aforesaid case law a Single Bench of this Court in the case of *Khadim Hussain and 12 others v. Gul Hassan Tiwano and 3 others (2013 CLD 981)*, has held as follows:

*“12. In view of my above finding, the contention of the learned counsel for the appellants that the Suit for defamation ought to have been filed by the respondents before the District Judge and not before the Senior Civil Judge appears to be correct. Resultantly, the Senior Civil Judge had no jurisdiction to adjudicate upon the Suit, and the contention of the learned counsel for the appellants in this behalf is also correct. Therefore, the entire proceedings before the Senior Civil Judge, being coram non iudice, were void ab initio.”*

9. Moreover, in another case of Azhar Chaudhary v. Residents Executive Committee through President and another (2007 YLR 2231(1)), it was held that defamation suit is to be tried by District Court in terms of Section 13 of the Defamation Ordinance, 2002.

10. I have gone through the orders of the Courts below and find that the same were rendered after considering all material as well as legal aspects of the case. Both the Courts below have passed well-reasoned and conclusive order(s) / judgment(s), which need no interference in revisional jurisdiction. Therefore, the instant civil revision application preferred against the concurrent findings of the Courts below for the reasons detailed above, merits no consideration and the same is accordingly **dismissed**.

Above are the reasons of my short order dated 26.08.2024.

J U D G E

Abdul Basit