

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

1st Civil Appeal No.S-06 of 2021

Appellant : Adil Ahmed S/o Gulzar Ahmed Memon,
through Mr. Mazhar Ali Mangan, Advocate.

Respondent : Mst. Marvi D/o Ali Bux Memon *through*
Mr. Ali Azhar Tunio, Advocate.

Date of Hearing : 26.09.2025.

Date of Decision : 26.09.2025.

Date of Reasons : 02.10.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through this appeal, the appellant, feeling aggrieved and dissatisfied by the order dated 10.09.2021 passed by the learned Additional District Judge-II, Kamber, in Civil Suit No. 06 of 2020, assails the said order whereby the plaint filed by the appellant seeking damages and compensation under the Defamation Ordinance, 2002 was rejected under Order VII, Rule 11 of the Code of Civil Procedure, 1908.

2. The precise facts are that appellant was the husband of the respondent/defendant, namely Mst. Marvi. The dispute arose when the respondent instituted a family suit seeking dissolution of marriage by way of Khula, wherein she levelled several serious allegations against the appellant. In the plaint of the said family suit, the respondent alleged, inter alia, that: "soon after the marriage the plaintiff (appellant) changed his attitude and came to his true face as he is suspicious in nature, behaved like a psycho patient and man of loose tamper" The appellant contended that the aforementioned statements, as contained in the plaint of the family suit, are false, and defamatory in nature, causing irreparable harm to his reputation in society. Consequently, the appellant filed a civil suit seeking damages and compensation under the Defamation Ordinance, 2002. He claimed the reliefs: A sum of Rs. 20 million on account of loss of reputation, an amount of Rs. 20 million for mental torture, and Rs. 10 million on account of loss of family honour; thus, the appellant claimed a total compensation of Rs. 50 million (Rs.50,000,000/-). However, the learned trial Court, vide impugned order dated 10.09.2021, rejected the plaint under Order VII Rule 11 CPC, holding

that the plaint did not disclose a cause of action. Aggrieved by such dismissal, the appellant has preferred the instant appeal.

3. In response to the appellant's suit for damages under the Defamation Ordinance, 2002, the respondent filed a written statement, raising preliminary legal and factual objections. She took the specific plea that she is an educated woman, serving as a lecturer by profession, and contended that the appellant himself had used derogatory and defamatory language against her in his written statement filed in the family suit proceedings. According to the respondent, the allegations made by her in the family suit were neither false nor malicious, but were a consequence of the conduct of the appellant, which compelled her to seek dissolution of marriage on the ground of Khula. Along with her written statement, the respondent also moved an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of the plaint. The learned trial Court issued notice to the appellant, who filed objections to the said application. After hearing both parties, the learned Additional District Judge-II, Kamber, allowed the application and rejected the plaint under Order VII Rule 11 CPC.

4. Learned counsel for the appellant contended that the instant matter falls within the ambit of libel, a class of defamation actionable per se, as the respondent made highly defamatory remarks against the appellant in the plaint of the family suit. It was argued that such statements, including allegations that the appellant is suspicious in nature, behaves like a psycho patient, and is a man of loose temper, caused severe damage to the appellant's reputation, subjected him to mental torture, physical agony, and led to a significant loss of honour and esteem within his family. Learned counsel submitted that the trial Court fell into error by observing that the appellant had not challenged the decree passed in the family suit. He pointed out that, in fact, at the time when the plaint was rejected by the trial Court, the family suit was still pending adjudication, and no conclusive findings had been rendered therein. Thus, the trial Court failed to properly appreciate the factual matrix and prematurely concluded that no cause of action existed.

5. Conversely, learned counsel for the respondent raised objections to the maintainability of the appeal. He argued that the legal notice purportedly issued by the appellant was never part of the original record before the trial Court, and as such, cannot be considered at this stage. It was further

contended that the appellant failed to comply with the mandatory provisions of Section 8 of the Defamation Ordinance, 2002, which requires the issuance of a legal notice prior to initiating legal proceedings for defamation. Learned counsel asserted that mere allegations of reputational harm are insufficient to establish a claim under the Defamation Ordinance unless actual loss or damages are duly pleaded and proved. He argued that the statements made by the respondent in the family suit were based on her lived experience and were necessary to establish her grounds for Khula, which was eventually granted; the trial court observed that the decision of the Khulla was not challenged. It was submitted that the suit filed by the appellant is frivolous in nature, filed merely to harass the respondent and exact revenge for the dissolution of marriage. He supported the findings of the learned trial Court and prayed for dismissal of the appeal.

6. Heard the respective arguments of learned counsel for the parties and perused the available material on record.

7. First and foremost, the concept and ingredients of defamation are defined under Section 3 of the Defamation Ordinance, 2002. For ready reference and proper adjudication of the present matter, the said provision is reproduced as under:

3. Defamation.– (1) 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 shall be actionable as defamation.

(2) Defamation is of two forms, namely:–

(i) slander; and

(ii) libel.

(3) Any false oral statement or representation that amounts to defamation shall be actionable as slander.

(4) Any false written, documentary or visual statement or representation made either by ordinary form or expression or by electronic or other modern means or devices that amounts to defamation shall be actionable as libel.

8. The appellant has claimed damages under various heads, including loss of reputation, mental torture, physical agony, and loss of honour in his family. Before proceeding to evaluate whether a case of defamation is made

out, it is necessary to understand the legal line and natural import of the terms relied upon by the appellant.

To begin with, the term "*reputation*" holds a significant place in both law and society. According to **Black's Law Dictionary**, reputation is defined as:

Reputation means – The esteem in which someone is held or the good will extended to or confidence reposed in that person by others, whether with respect to personal character, private or domestic life, professional and business qualification, social dealings, conduct, status of financial standing

The term reputation, both in its legal sense and ordinary usage, refers to the general opinion or perception that members of the public or community hold about a person's character, integrity, and conduct. This understanding encompasses the collective judgment of a person's moral, professional, or social worth, formed over time through interactions, behaviour, and societal feedback. It is a settled principle that reputation is not what a person thinks of himself, but rather, what others think of him.

9. So far as the appellant's claim relating to mental torture and emotional suffering is concerned, it is necessary to examine the scope and meaning of the terms "*mental*" and "*torture*", particularly as understood in legal parlance. For proper clarity, reference may be made to **Black's Law Dictionary**, which defines these terms as follows:

Mental- Relating to or existing in the mind; intellectual, emotional, or psychic, as distinguished from bodily or physical.

Torture- The infliction of intense pain to the body or mind to punish, to extract or confession or information or to obtain sadistic pleasure.

These definitions indicate that mental torture refers to severe emotional or psychological distress, which may not manifest physically but can nonetheless cause serious harm to an individual's well-being.

10. In continuation of the appellant's claim, it is also asserted that he suffered severe "*agony*" as a consequence of the defamatory statements allegedly made by the respondent. To properly appreciate the nature and legal relevance of such a claim, it is important to understand the term agony in its correct legal and contextual sense. According to **Black's Law Dictionary**, the term agony is defined as:

Agony-Violent physical pain or mental dis-tress.

In general terms, agony refers to intense physical or mental suffering, or a state of acute emotional pain. In civil claims, including those grounded in defamation or intentional infliction of emotional distress, the term is often used to express the **depth of harm or trauma** endured by the claimant due to the wrongful conduct of another.

11. As with the term "*honor*", as defined in **Black's Law Dictionary**, that:

Honor – (English Law) A dignity or privilege, degree of nobility, knighthood, or other title that flows from the crown.

Honor is an essential quality that embodies a harmonious blend of respect from others, personal pride in one's character, and solid honesty. It reflects not only how an individual is esteemed within their community but also their internal commitment to truthfulness and moral integrity. This combination forms the foundation of a person's dignity and reputation, which together constitute the core of their honor.

12. In the present case, the appellant has made general and unproven allegations regarding harm to his reputation, mental torture, emotional agony, and loss of honor. However, the plaint is devoid of specific factual details necessary to support such claims. The assertion remains vague and lack the initial particulars required to establish a legally sustainable cause of action. Crucially, the appellant has not mentioned any persons/society before which his reputation was purportedly damaged, whether among the general public, friends, or relatives. In the absence of these vital details, the plaint fails to meet the essential requirements of a civil suit grounded in defamation, mental agony, or financial loss. It is a settled principle that mere bald allegations, without accompanying particulars, do not give rise to a cause of action. Reliance is placed upon the case of **Abdul Bari v. Akhtar Rasheed, Station House Officer, Police Station Airport, Quetta and 5 others (2022 MLD 805)**.

13. Furthermore, the appellant has asserted claims of mental agony, mental torture, and trauma; however, such assertions, in the absence of cogent reasons, cannot be sustained. It is a well-established principle of law that the burden of proof in cases involving such questions lies squarely upon the person who alleges it. Mere subjective feelings of discomfort or emotional upset do not suffice to legally establish mental agony or torture. This Court in

the case of **Mahmooda Tapal and another v. Standard Chartered Bank (Pakistan) Limited and 5 others (PLD 2021 Sindh 28)** elucidated such aspect.

14. In the context of civil claims, general damages are often awarded by applying the rule of thumb; therefore, it becomes essential to understand this terminology. The term rule of thumb is an established idiomatic expression, not codified in any statute or formal legal doctrine, but often invoked in both legal reasoning and general discourse to denote a general principle or practical guideline. General damages refer to compensation awarded for losses that cannot be easily measured in monetary terms; courts are required to exercise judicial discretion to arrive at just figure. It is in this discretionary space that courts often resort to the rule of thumb, that is, a practical, experience-based standard used to assess damages equitably, guided by the facts and circumstances of the particular case, the nature and extent of the injury alleged, the status and background of the parties, and where applicable, judicial precedents involving similar factual matrices. However, this rule of thumb evaluation does not permit arbitrary awards. The claimant must first establish a prima facie case, supported by credible proof of the injury suffered, even if not precisely measurable.

15. The appellant has failed to fulfill the essential ingredients required under the law of defamation, particularly as defined under the Defamation Ordinance, 2002, to establish any actionable claim for damage to reputation. The record reveals that the specific words allegedly used such as calling the appellant short-tempered, psychologically unstable, or suspicious in nature cannot, in isolation, be classified as defamatory in the legal sense, especially when considered within the context of a matrimonial relationship. Such expressions, even if uttered, are not rare during strained marital relations and may reflect temporary emotional states, rather than a deliberate or malicious attempt to publicly defame. Furthermore, the context is critical. The parties were husband and wife, and the respondent had instituted a family suit for dissolution of marriage by way of Khula, in which certain allegations were made. The appellant has failed to rebut or respond to those specific paragraphs in the family court proceedings, which weakens his stance and raises questions about the veracity of his current claims. Support is drawn from the case of **Razia Sultana v. Shahid Durrani (2012 CLC 503)**.

16. Section 10 of the Defamation Ordinance, 2002 also expressly incorporates the application of the Civil Procedure Code, thereby empowering Courts to adjudicate defamation suits in accordance with the procedural framework of the CPC. For ease of reference, Section 10 is reproduced as under:

10. Code of Civil Procedure and Qanun-e-Shahadat Order to apply.- The Code of Civil Procedure, 1908 (Act No. V of 1908) and the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984) shall mutatis mutandis, apply to the proceedings under this Ordinance.

17. It follows, therefore, that all procedural remedies available under the CPC, including the remedy under Order VII, Rule 11, are fully applicable to suits filed under the Defamation Ordinance. In the present case, the plaint lacked the necessary ingredients to disclose a cause of action and failed to meet the legal threshold required for a claim of defamation. Accordingly, the suit could have been conclusively decided at the preliminary stage, through rejection under Order VII, Rule 11 CPC, as was rightly done by the learned trial Court. By invoking this provision, the Court not only acted within its jurisdiction but also advanced the legislative intent behind Rule 11, which is to prevent the unnecessary burden of frivolous litigation and judicial time where the suit, on its face, does not disclose a cause of action. In this regard, reliance is placed on the judgments reported as **Kazim Ali vs Ishaq Ali, PLD 2022 Balochistan 66**, **Abdur Rashid vs S. Fida-ur-Rehman Shah, PLD 2017 Peshawar 19**, **Shahzada v. Khairullah and others, 2012 CLC 773** and **Abdul Bari v. Akhtar Rasheed and others, 2022 MLD 805**.

18. Keeping in view the foregoing reasons, discussion, and the facts and circumstances of the case, no ground is made out to warrant interference with the verdict of the learned trial Court. Accordingly, the appeal stands dismissed with no order as to costs. These are the detailed reasons for the short order dated 26.09.2025.

JUDGE