

Judgment Sheet
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Writ Petition No. 34478/2025

Riasat Ali etc.

Versus

Muhammad Sharif etc.

JUDGMENT

Date of hearing:	12.11.2025
Petitioners by:	Mr. Muhammad Iqbal Khan, Advocate.
Respondent No.1 by:	Sheikh Sajid Mahmood, Advocate.

MALIK WAQAR HAIDER AWAN, J:- Through this constitutional petition, petitioners have put to challenge the veracity of order dated 25.03.2025 passed by learned Additional District Judge, Lahore, whereby preliminary objections No. 1 to 3 raised by them in the written statement were dismissed and suit for defamation alongwith damages of Rs. 50,000,000/- on the basis of malicious prosecution (hereinafter called “**the suit**”) instituted by respondent No.1 was held maintainable under the Defamation Ordinance, 2002 (hereinafter called “**the Ordinance 2002**”).

2. The factual matrix of the case is that respondent No.1 instituted the suit against petitioners and one Ghulam Muhammad (not arrayed as petitioner in this petition). Petitioners refuted the averments narrated in the plaint by way of filing written statement wherein they also raised preliminary objections *qua* maintainability of the suit. This constitutional petition emanates from dismissal of preliminary objections No.1 to 3 raised in the written statement.

3. There are three main grounds of attack as argued by learned counsel for the petitioners as follows: Firstly, as per Section 13 of the Ordinance 2002, only learned District Judge, Lahore has the power to hear the suit and learned Additional District Judge, Lahore (who is seized of the matter) is not competent to try the suit. Secondly, learned Additional District Judge, Lahore should have returned the plaint for re-filing the same before the learned District Judge, Sahiwal in terms of the Ordinance 2002 and as such learned Additional District Judge, Lahore wrongly assumed the jurisdiction. Thirdly, since the parties are residents of District Sahiwal and cause of action amongst them arose at District Sahiwal, therefore, the suit should have been filed at District Sahiwal. Learned counsel for the petitioners has placed reliance on judgments reported as Ghulam Hussain and another v. Malik Shahbaz Khan and another (1985 SCMR 1925), Liberty Papers Ltd. and others v. Human Rights Commission of Pakistan (PLD 2015 Supreme Court 42), Syed Mushahid Shah and others v. Federal Investment Agency and others (2017 SCMR 1218), Munsif Khan Advocate v. Mst. Khursheed Begum and 2 others (2013 MLD 1032), Zafar Ali v. Additional District Judge, Pakpattan and another (2017 CLC 45), Wazir Ahmad Khan and 2 others v. Reayat Khan Khattak and 7 others (PLD 2019 Peshawar 135) and Mst. Sardaran Bibi and others v. Town Committee Khuddian through Tehsil Nazim and another (2020 CLC 1630).

4. Contrarily, learned counsel for respondent No.1, while rebutting the arguments of petitioners' side regarding maintainability of the suit, contends that learned Additional District Judge, Lahore is competent to try the suit as Section 19 CPC clearly provides that it is the option of the plaintiff either to institute a suit within the local limits of jurisdiction of the Court where the wrong is done or where the defendant resides. Avers that respondent No.1 is a respectable person and belongs to a noble profession and cause of action arose to him at District Lahore, therefore, the suit was rightly instituted before the

learned District Judge, Lahore, which was entrusted to a learned Additional District Judge, Lahore.

5. Heard. Record perused.

6. First of all, I would like to deal with the submissions of learned counsel for the petitioners *qua* jurisdiction that whether only District Judge could try the suit or the same could be entrusted to Additional District Judge. To delve into the controversy, it would be expedient to reproduce Section 13 of the Ordinance 2002 hereunder:-

The District Court shall have the jurisdiction to try the cases under this Ordinance.

7. It is the assertion of learned counsel for the petitioners that only District Judge can try the suit and Additional District Judge has no jurisdiction to hear cases under the Ordinance 2002. I am afraid this interpretation is not in line with Section 13 of the Ordinance 2002. It is notable that the word “District Court” has been used and not “District Judge”. It seems that learned counsel for the petitioners has confused the words “District Court” with “District Judge”.

8. It would be imperative to mention here that at the time of promulgation of the Ordinance, 2002, the legislature employed the expression “District Judge” in Section 13. Subsequently, through the Defamation (Amendment) Act, 2004 (IX of 2004), the said expression was substituted with the words “District Court”. The erstwhile text of Section 13 of the Defamation Ordinance, 2002 (before amendment) is reproduced hereunder for reference:-

Trial of cases. – No court inferior to that of the District Judge shall have jurisdiction to try cases under this Ordinance.

9. In the above backdrop, it can safely be inferred that the legislature deliberately replaced the term “District Judge” with “District Court” in order to address the increasing pressure of work

upon the District Judge, who is simultaneously burdened with substantial administrative responsibilities.

10. To deal with the point in issue, Section 6(2) of the Civil Courts Ordinance, 1962 (hereinafter called "**Ordinance 1962**") is also relevant which is reproduced below for ready reference:-

An Additional District Judge shall discharge such functions of a District Judge as the District Judge may assign to him, and in the discharge of those functions he shall exercise the same powers as the District Judge.

11. Bare perusal of the afore-referred provisions clearly demonstrates that difference between District Judge and Additional District Judge is only to the extent of administrative powers. To my mind, when District Judge assigns certain functions to Additional District Judge, he exercises the same powers as of District Judge.

12. When Section 13 of the Ordinance 2002 and Section 6(2) of the Ordinance 1962 are read together, it comes to light that Additional District Judge generally exercises the same powers as of District Judge except administrative functions. To clarify further, it can safely be said that no doubt District Judge is competent to try the cases instituted under the Ordinance 2002 but in the same way, when he assigns the cases to Additional District Judge, he also becomes fully competent to adjudicate upon the cases. In the above backdrop, when it has been concluded that Additional District Judge is competent to proceed with the suit, the question of return of plaint does not arise at all.

13. Last but not the least, according to Rule 2(ii) of Part-A of Chapter 14 of Volume I of the Rules and Orders of the Lahore High Court, Lahore, *an appeal from a decree or order of a District Judge or Additional District Judge exercising original jurisdiction lies to the High Court* which clearly visualizes that the courts of District Judge and Additional District Judge are the same in terms of judicial business and for assailing the orders of both the courts (i.e. District Judge and

Additional District Judge), the appropriate forum is this Court. Moreover, Rule (3) of Part-G of Chapter 1 of Volume IV of the Rules and Orders of the Lahore High Court, Lahore is relevant in this regard which elucidates that *once the functions of a District Judge have been assigned to an Additional Judge, the Additional Judge exercises, in the discharge of those functions, the same powers as the District Judge himself. It is only in respect of the functions actually assigned to him, however, that the Additional Judge enjoys these powers; and the functions so assigned, will, as a general rule, be purely judicial functions.* From the above, a safe inference can be drawn that while performing judicial functions, there is no difference between the courts of District Judge and Additional District Judge.

14. Now coming to the contention of learned counsel for the petitioners that the suit could be filed at District Sahiwal, keeping in view the abode of the parties and the place where the cause of action arose. I would like to refer to Section 19 CPC in this regard which is reproduced hereinbelow:-

Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

15. The afore-referred provision makes it crystal clear that it is purely the plaintiff's choice to institute a suit for compensation in the local limits of either Court, where the incident has taken place or where the defendant resides or carries on business. The purpose of said provision is to give the plaintiff flexibility to choose a convenient or appropriate forum and to prevent the defendant from evading liability simply by living or working in another jurisdiction. In terms of paragraph No.18 of the plaint, respondent No.1 was residing at District

Lahore and cause of action arose to him at Lahore, therefore, there was no impediment to institute the suit at District Lahore.

16. As regards the judgments referred to by learned counsel for the petitioners, the same are not helpful for him being outcome of distinguished facts.

17. Upon a careful consideration of the facts and law, it is observed that learned counsel for the petitioners has not been able to highlight any illegality, legal infirmity, perversity or jurisdictional defect in the impugned order, therefore, this constitutional petition fails and the same is **dismissed**.

(MALIK WAQAR HAIDER AWAN)
JUDGE

Signed
18.11.2025

Abis Ali

APPROVED FOR REPORTING

JUDGE