

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)



PRESENT:

Mrs. Justice Ayesha A. Malik
Mr. Justice Naeem Akhter Afghan

CPLA NO.4809 OF 2024

[Against judgment dated 26.06.2024 passed by the Islamabad High Court, Islamabad in RFA No.11 of 2013]

Dr. Manzoor H. Qazi, CEO, Shifa International Hospital, Islamabad, etc. ...Petitioners

VERSUS

Dr. Shaukat Ali Bangash ...Respondent

For the Petitioners : Mr. Taimoor Aslam Khan, ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondent : Mr. Abdul Rashid Awan, ASC

Date of Hearing : 29.09.2025

JUDGMENT

Ayesha A. Malik, J.- The judgment impugned before us is dated 26.06.2024 passed by the Islamabad High Court, Islamabad (**High Court**) whereby the regular first appeals filed by both the Petitioners and the Respondent along with cross-objections were dismissed. The High Court upheld the judgment and decree dated 22.12.2012 passed by the Additional District Judge (West), Islamabad, in a suit for recovery of compensation for defamation instituted by Dr. Shaukat Ali Bangash (**Respondent**) under the Defamation Ordinance, 2002 (**Ordinance**) which was decreed to the extent of Rs.2,000,000/- against Dr. Manzoor H. Qazi, the then Medical Director and now Chief Executive Officer, two other members of the Board of Directors and Shifa International Hospitals Limited (**the Hospital**) (both collectively referred to as **the Petitioners**).

2. The undisputed facts in this case are that the Respondent served the Hospital as a contractual consultant¹ from 08.11.1994 until his services were terminated by the Hospital vide letter dated 05.03.2004. Furthermore, the Respondent was also employed with the

¹ Agreements Ex.P-4 and Ex. D-2 (Pages 117 and 246) between the Petitioners and the Respondent.

Shifa College of Medicine (**the College**) as an Assistant Professor and despite his termination at the Hospital, he continued his services at the College until his resignation on 17.06.2004.² Subsequent to the Respondent's termination from the Hospital, Dr. Manzoor H. Qazi addressed a handwritten letter to a 13-member inquiry committee (**Inquiry Committee**) in March 2004 (Ex. P-21) regarding allegations of harassment towards female medical officers and students by the Respondent (**the Letter**), the contents of which were considered as defamatory by the Respondent. As a result, he issued four notices³ under Section 8 of the Ordinance whereafter a suit for recovery of compensation for defamation claiming rupees five hundred million was filed on 10.06.2004 (**the Suit**). The Additional District Judge (West), Islamabad vide judgment dated 22.12.2012 decreed the Suit of the Respondent in the amount of Rs.2,000,000/- with costs, against which the appeal filed by the Petitioners was dismissed vide the impugned judgment.

3. Counsel for the Petitioners argued that both the Trial Court and the High Court failed to consider Sections 3 and 4 of the Ordinance which define defamation and provide for when defamation becomes actionable. He argued that in order to make the claim of defamation actionable, the Respondent had to establish that on account of the Letter, a false statement was made by the Petitioners with the intent to defame the Respondent and that as a consequence of the Letter, the reputation of the Respondent was injured. For this, the Respondent had to prove that the Letter caused serious harm to the reputation of the Respondent for which he argued that there was no evidence before the court. Counsel for the Respondent defended the judgments of the Trial Court and the High Court arguing that there are concurrent findings of fact against the Hospital and based on the evidence produced, the Respondent was able to make out a case of having been defamed and is entitled to the damages awarded. He further argued that during his eight years long tenure with the Petitioners, there had never been any complaint against him nor disciplinary proceedings and that he had an unblemished career which

² Resignation Ex. P-14 (page 137) of the Respondent dated 17.06.2004.

³ Four notices dated 11.04.2004 which were addressed to the Petitioners.

was adversely impacted and prejudiced on account of the defamatory contents of the Letter.

4. The issue before this Court is what constitutes defamation under the Ordinance and what is the threshold of evidence required to establish defamation which then renders defamation actionable in terms of Section 4 of the Ordinance. Specifically in issue is the question as to whether the contents of the Letter were defamatory such that they brought injury to the reputation of the Respondent.

5. The legal concept of defamation finds its roots in common law tradition where both libel and slander were actionable torts developed to protect reputation on the presumption that every person has a right to their good name and any statement made knowing it to be false and injurious would give rise to an actionable claim. Historically, English common law did not originally recognise a civil right to reputation. It can be traced back to King Alfred's legal codes (c. 880) which treated slander as a public offence disturbing peace rather than a private injury. These early laws focused on publication rather than truth and prescribed harsh treatments such as tongue cutting or monetary redemption. At this stage, reputation was not considered a personal right rather only an aspect for maintaining social order and peace. It is only until much later that English law began separating the moral wrong of false accusation, the political offence of sedition and the private injury to reputation. The English law of defamation developed under two distinct jurisdictions. From the 11th to 13th centuries, the ecclesiastical courts exercised spiritual authority and treated defamation as a moral disciplinary wrong by requiring public apology or penance as redressal rather than monetary damages.⁴ This move aimed to deter defamation as a sin, not to compensate victims monetarily. Alongside this, defamation came to be treated as a political offence under royal authority. With the enactment of statutes such as *De Scandalum Magnatum* (1275, 1389), the spreading of false news about the nobles or officers of the Crown was made punishable by imprisonment which highlighted the concern for preserving public order and respect for authority rather than personal

⁴ Their jurisdiction was recognised by *Circumspecte Agatis* (1285) which was a statute promulgated during the reign of Edward I which directed the king's judges to allow church courts to hear cases of defamation where money was not demanded, thereby confining them to matters of spiritual correction.

honour. This eventually paved the way for the Star Chamber which was created in the late 15th century and treated libel as an offence likely to provoke disorder or contempt for government. By the early 17th century, the Star Chamber defined libel as a breach of peace by declaring that "*the greater the truth, the greater the libel,*" since even truthful allegations could provoke disorder.⁵ The concern, therefore, was not the truth of the statement but whether its publication might incite discord or contempt for authority. It is this focus on form rather than truth that led to the later criminalization of defamation across the British Empire. After the abolition of the Star Chamber in 1641, the law of defamation began to shift away from a quasi-criminal wrong against the State to a private tort concerned with individual dignity. By the 18th and 19th centuries, the common law drew a formal distinction between libel, which was treated as actionable *per se*, and slander which required proof of actual damage.⁶ The modern-day concept of defamation has shifted from public order to protect individual reputation. This has most famously been discussed in *Sim v Stretch*⁷, where Lord Atkin aptly described defamation as words which tend to *lower [the reputation of] the plaintiff in the estimation of right-thinking members of society*. This test transformed defamation into a private right, focused on personal dignity and reputation, and is a concept that continues to inform Pakistani defamation law even today.

6. The offence of defamation was first provided for in the Pakistan Penal Code, 1860 (PPC) under Section 499 and Sections 501 and 502 which extend liability to the printing, engraving, and sale of defamatory matter, and its punishment is provided for in Section 500 of the PPC as simple imprisonment for a term which may extend to two years, or with fine, or both. Therefore, under Section 499 of the PPC, a person commits defamation if they are *intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person*. Section 499 of the PPC further includes ten exceptions, covering communications made in good faith, such as those made for the public good, to persons with lawful authority, or in the performance of a legal duty. Therefore, the necessary ingredients

⁵ In *De Libellis Famosis* (1606), the Star Chamber held that anonymous written attacks were punishable as criminal libel, even if true, because they threatened public order. The case, reported by Lord Coke, thus established libel as a quasi-criminal offence, distinct from civil slander.

⁶ Colin Rhys. Lovell, "Reception of Defamation by the Common Law, The." *Vand. L. Rev.* 15 (1961): 1051; Van Vechten Veeder, "The History and Theory of the Law of Defamation. I." *Columbia Law Review* 3, no. 8 (1903): 546-573.

⁷ *Sim v. Stretch* [1936] 2 All ER 1237 (HL).

needed to prove criminal defamation include: firstly, that the accused party is accountable for the publication; secondly, the imputation made in the publication is not true; and thirdly, the imputation was made with *mens rea* or knowledge to harm the reputation of the person against whom the publication is made.⁸ The threshold for criminal defamation is high as mere falsity or criticism is insufficient and what matters is that the statement or publication must lower the complainant in the estimation of others. Therefore, the focus is not solely on the existence of defamatory words but on the malicious intent and likely injury to reputation.

7. At the same time, claims related to defamation were decided as equitable claims under the English common law principles of tort. The paramount consideration in such cases was to see whether the publication contains statements that are harmful to the reputation of a person or otherwise. This concept was inherited by Pakistan as part of the broader law of torts and applied as a matter of justice, equity and good conscience in cases where no specific statutory provision existed.⁹ Even before the enactment of the Ordinance, Civil Courts entertained suits under Section 9 of the Code of Civil Procedure, 1908 (**CPC**), recognizing defamation as a civil wrong actionable in damages. The inherent jurisdiction of the Civil Courts under Section 9 of the CPC, read with the equitable principles derived from English law, allowed plaintiffs to seek compensation for injury to reputation.¹⁰ The codification of the Ordinance supplemented this common law remedy, as a person remains entitled to institute an action for damages in tort alongside the statutory remedy provided under the Ordinance.¹¹ It is important to note that both the civil and criminal defamation remedies operate concurrently rather than exclusively. Courts have consistently affirmed that the two regimes are distinct but coexistent and an aggrieved person may seek civil redress for harm to reputation or pursue criminal prosecution for punishment.¹²

8. The Ordinance is a special law that codifies and consolidates the law of defamation and sets out the rights, liabilities,

⁸ Khondkar Abu Taleb v. The State (PLD 1967 SC 32).

⁹ M. Moosa v. Mahomed (PLD 1959 (W.P) Karachi 378, PLD 1968 SC 25) and Government of Punjab v. Mst. Kamina (1990 CLC 404).

¹⁰ Adeeb Javedani v. Yahya Bakhtiar (1995 CLC 1246) and Capt. Benaras Khan v. Commodore Akhtar Hanif (1988 CLC 1093).

¹¹ Ch. Zulfiqar Ali Cheema v. Farhan Arshad Mir (PLD 2015 SC 134).

¹² Mir Shakeelur Rehman v. Yahya Bakhtiar (PLD 2010 SC 612).

and remedies available for injury to reputation. The relevant sections of the Ordinance are reproduced below:

2. Definitions.- In this Ordinance, unless there is anything repugnant in the subject or context:--

(e) "publication" means the communication of the words to at least one person other than the person defamed and includes a newspaper or broadcast through the internet or other media;

3. Defamation.- (1) Any wrongful act or publication or circulation of a false statement or representation made orally or in written or visual from which injuries 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 of devices that amounts to defamation shall be actionable as libel.

4. Defamation actionable.- The publication of defamatory matter is an actionable wrong without proof of special damage to the person defamed and where defamation is proved, damage shall be presumed.

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;
- (h) the matter is converted by absolute or qualified privilege.

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 power

7. Qualified privilege.- Any fair and accurate publication of parliamentary proceedings, or judicial proceedings which the public may attend and statements made to the proper authorities in order to procure the redress of public grievances shall have the protection of qualified privileges.

9. Remedies.— Where defamation shall be proved to have occurred, the court may pass order directing the defendant to tender an apology, if acceptable to the plaintiff, and publish the same in similar manner and with the same prominence as the defamatory statement made and pay reasonable compensatory damages as general damages with a minimum of Rs.50,000 (Rupees fifty thousand) and in addition thereto, any special damage incurred that is proved by the plaintiff to the satisfaction of the Court :

[Provided that in case of the originator the minimum compensatory damages as general damages shall be three hundred thousand rupees]

As can be seen from the above, defamation is described in Section 3 of the Ordinance as any wrongful act, publication or circulation, of a false statement whether oral or in writing or visual form, that injures a person's reputation. Although the words *injures the reputation* has not been defined under the Ordinance, Section 3 provides for the forms that *injury to reputation* can take such as lowering him in the estimation of others, or ridicules him, or causes him unjust criticism, dislike, hatred or contempt. Hence, as per the law, defamation becomes actionable when the act or statement causes injury to reputation. Where such injury to reputation is established under Section 3 of the Ordinance, the defamation becomes actionable which means that the claimant is entitled to seek damages under Section 9 of the Ordinance, enabling the court to assess the appropriate measure of compensatory or general damages and further allows a claimant to seek special damages which have to be established through evidence. Section 4 of the Ordinance provides that publication of defamatory matter is an actionable wrong without proof of special damage, which means that once the defamation is established then special damages are a natural consequence which flow from it. Accordingly, Section 4 of the Ordinance creates an exception to the general rule under Section 9 of the Ordinance with respect to special damages as the claimant is not required to demonstrate specific financial or material loss. Therefore, once publication of defamatory material is established, liability follows as a matter of law and damages flow naturally from it. The Ordinance also provides for defenses in Section 5 such as truth, fair comment on matters of public interest, and privilege which protects communications made in good faith and without malice. Sections 6 and 7 of the Ordinance deal with privileged statements such that Section 6 of the Ordinance gives absolute privilege to statements

made in judicial, legislative, or other official proceedings where public interest requires full protection and Section 7 provides qualified privilege for statements made honestly and without malice in the performance of a legal, moral, or social duty. These defenses reflect a balance between the right to reputation which is part of a person's dignity under Article 14 of the Constitution¹³ and the right to freedom of expression provided under Article 19 of the Constitution. In *Liberty Papers Ltd.*¹⁴ this Court clarified that defamation, whether spoken or written, violates the dignity of a person as guaranteed by the Constitution, and every person is bound to respect the honour and reputation of others and any malicious act amounts to a breach of this constitutional protection. Therefore, the defences ensure that speech made truthfully, fairly or in good faith is protected while also holding a person liable where the words are false or harmful. These sections collectively balance the right to reputation with the right of free speech such that free speech does not become a license to injure the reputation of others and at the same time protecting the right to reputation does not limit fair comment, opinions or the truth from being stated. The underlying consideration is to maintain the balance between personal dignity and public discourse. Finally, Section 9 of the Ordinance empowers the court to award general, special, or aggravated damages and to order an apology or retraction as part of restorative relief. As per law, the remedy of one appeal is available against the decision of the Trial Court and the CPC and the Qanun-i-Shahadat Order, 1984 (**QSO**) are both applicable.

9. The jurisprudence under the Ordinance has over time clarified the essential ingredients to prove defamation claim being that: firstly, there should be a defamatory statement that harms the claimant's reputation in the eyes of a reasonable person; secondly, there should be a reference to the claimant in the statement which clearly identifies or refers to him and thirdly, that there must be publication of the statement such that it was communicated to at least one other person other than the claimant. Therefore, as a first step the particulars of the defamatory statement must be specifically pleaded with respect to the specific words complained of, the context of the

¹³ The Constitution of the Islamic Republic of Pakistan (**Constitution**).

¹⁴ *Liberty Papers Ltd. v. Human Rights Commission of Pakistan* (PLD 2015 SC 42).

statement made, and the resulting injury to reputation. Courts have stressed that vague assertions or generalized grievances are insufficient and that pleadings and evidence must clearly demonstrate how the language caused harm to reputation. However, the interpretation of defamation by courts has remained inconsistent. Some judgments describe defamation as requiring *falsity, publication, malice, and direct attribution*, treating falsity and malicious intent as essential ingredients. Others, relying on the statutory wording of Section 3 of the Ordinance, have treated injury to reputation itself as the defining element. This has blurred the line between the presence of falsity and the presumption of injury, and between malice as a condition of liability and good faith as a statutory defence. Furthermore, the distinction on the standard of proof and liability between civil and criminal proceedings has been blurred, which has resulted in the application of criminal concepts such as *imputation or publication in a large gathering or false allegations* to civil claims, thereby raising the evidentiary burden beyond what the Ordinance requires.¹⁵ The inconsistencies across precedent show that courts are still trying to separate the criminal roots of defamation from its present form as a civil wrong, which must be judged on the civil standard of proof being the balance of probabilities.

10. The core issue in a suit for defamation is the *injurious character of the statement made such that it must cause harm to reputation*. As per Section 3 of the Ordinance, injury to reputation may take the form of lowering a person in the estimation of others, exposing them to ridicule, or causing unjust criticism, dislike, hatred or contempt. Therefore, the question for the court is how the statement would be understood by a reasonable member of society and whether, in that person's view, it is capable of diminishing the claimant's reputation. In this context, it is the specific words used which are relevant such that the claimant must show that the words used are capable of causing reputational injury. The test is therefore an objective one, focusing on how the words would be perceived by others rather than how they were personally understood by the claimant. The truthfulness of the statement itself is not relevant at this stage as the question is not whether the words are true but whether, taken at face

¹⁵ Muhammad Akram v. Farman Bi (PLD 1990 SC 28).

value and in their natural meaning, they are capable of injuring the reputation of the claimant. Injury to reputation, in this context, is not limited to monetary or measurable loss. It signifies the loss of self-esteem, confidence, or social standing that a person enjoys within their community and consequently, impairs the claimant's standing amongst reasonable members of society. Once impaired, it affects not only personal dignity but also professional credibility. The harm, therefore, lies in the diminished regard with which the claimant is viewed by reasonable members of society. Where the words are capable of bearing a defamatory meaning, the law proceeds on the basis that injury to reputation follows.

11. In assessing whether the language used amounts to actionable defamation, there are two relevant tests; the reasonable person test and the seriousness of impact test. Under the reasonable person test, what is to be looked at is how a reasonable member of society would understand the words in their natural and ordinary meaning. This is an objective standard which is not based on how the claimant interpreted and perceived the words but focuses on the public perception of reasonable members of society rather than the claimant's personal understanding or subjective sense of grievance. The words must be such that they are capable of lowering the claimant's reputation in their eyes thereby causing injury to reputation. Once the injurious nature of the statement is established under the reasonable person standard, a court must then apply the seriousness of impact test to determine whether the injury to reputation is so severe and its impact is so severe and lasting that they cause real injury to reputation. The United Kingdom Supreme Court has clarified that the test of serious harm requires proof as a matter of fact that the publication caused or was likely to cause serious damage to the claimant's reputation, and that this assessment depends not merely on the inherent tendency of the words to cause injury, but on their actual impact in context meaning the tangible impact on how others viewed the claimant. Such impact may be established either by direct evidence such as corroborative testimonies showing that colleagues, clients, or acquaintances altered their opinion or behaviour towards the claimant or by reasonable inference drawn from factors such as the scale and credibility of the publication, the gravity of the allegation,

the claimant's social or professional position, and the probability that the statement would have reached and influenced persons who knew the claimant.¹⁶ Therefore, the inquiry into seriousness turns on whether, in its actual context, the statement made a real difference to the way the claimant is regarded, rather than resting on a hypothetical or presumed injury. Together, both tests enable a court to determine whether the statement made was in fact actionable defamation.

12. Keeping the two tests in mind, the *burden of proof* lies on the *claimant* to establish through evidence the actual words used, the context in which they were spoken or written, the persons to whom they were communicated, and how those words were understood by reasonable members of the claimant's community, family, or professional circle. The claimant must further explain, through testimony or surrounding circumstances, the meaning and significance attached to the words and the extent to which they affected reputation such as for instance, whether the claimant was avoided or people questioned their integrity or competence. At the same time, the court must give due consideration to the defendant's position and any defences raised in justification of the publication. Under the Ordinance, the defendant may seek to establish that the words were true or that they constituted fair comment on a matter of public interest. These defences shift the inquiry from the capacity of the words to injure reputation of the claimant to the lawfulness and good faith of their publication. The defendant's burden is to bring material on record sufficient to show that the statement was made within the bounds of the legal protection given in the law. In this respect, the statutory defences under the Ordinance operate as a safeguard against misuse of the law and preserve the space for truthful, fair, and responsible expression, ensuring that defamation law protects reputation without restricting legitimate speech. Having regard to the above, the court must then evaluate both sides of the record objectively and determine, on the balance of probabilities, whether it is more likely than not that the words were published, referred to the claimant, and caused reputational injury in the eyes of reasonable members of society. Where the court so finds, defamation is deemed established and actionable, and the claimant becomes

¹⁶ Lachaux v Independent Print Ltd ([2019] UKSC 27).

entitled to damages. Conversely, where the defendant succeeds in proving that the statement was made truthfully, fairly, or in good faith, the claim fails.

13. Averting to the case at hand, the Respondent, in his plaint, asserted that he is a highly educated and qualified medical professional. He alleged that Dr. Manzoor H. Qazi wrote the Letter which contained allegations of sexual harassment against him and circulated it amongst the members of the Inquiry Committee knowing the contents to be *incorrect* and with the intent to *defame* him. Consequently, the Respondent claimed that he was seriously *perturbed, shocked* and remained under *mental stress*, and that his family developed a *very bad impression* of him, thereby making the entire situation *embarrassing* for him. To prove the assertions made in his plaint, the Respondent appeared as his sole witness. In the documentary evidence, he produced; the Letter, documents relating to his educational qualifications,¹⁷ records of professional excellence,¹⁸ appointment letter and termination letter from the hospital,¹⁹ appointment and resignation from the College,²⁰ and a letter issued by the Dean of the College exonerating him of all allegations of sexual harassment.²¹ Conversely, the Petitioners in their written statement, admitted that the Letter was written but denied its defamatory nature, asserting that it was presented before the Inquiry Committee which was already investigating an earlier inquiry into the allegations of harassment. Dr. Manzoor H. Qazi and the Company Secretary of the Hospital testified before the Trial Court and in documentary evidence relied on a letter written by the Respondent to the Chairman of the Committee.²² We now proceed to assess whether the courts below have rightly applied minimum evidentiary threshold being the reasonable person test and the seriousness of impact test to the case at hand.

14. The entire dispute revolves around the Letter which was handwritten by Dr. Manzoor H. Qazi. For ease of reference, the contents of the Letter are reproduced below:

"Dear members of the Committee,

¹⁷ Bachelor Degree and Medical Certificate Ex.P-1, Ex.P.2 and Ex.P-3 (pages.114-116 of paper book)

¹⁸ Letters of appreciation and good performance Ex.P-7 to Ex.P-11 (pages.129-133), and Ex.P-23 (page. 243 of paper book).

¹⁹ Agreement/Termination Letter Ex. P-4 (page.117) and Ex. P-12 (page.134 of paper book).

²⁰ Appointment/resignation from the College Ex. P-6 (page. 128) and Ex. P-14 (pages.137 of paper book).

²¹ Letter of exoneration Ex. P-13 (page.135 of paper book).

²² Letter of Chairman of Inquiry Committee Ex. D-1 (pages.244-245 of paper book).

AA.

I have the following information of concern regarding Dr. Shaukat Bangash.

Names of the individuals are known to the Chairman of Committee Dr. Afridi.

(1) In 1997, shortly after he [the plaintiff] joined Shifa, father of female Medical Officer, assigned to her, complained that the consultant is harassing her daughter. She is asked to stay alone in his office, with door closed and indecent conversation takes place. When I asked Dr. Bangash, he said that, this is not true; that I am a friendly kind of person, we eat together and snack together in my room, she misunderstood me. However, that girl resigned and never come back.

December 2001

(2) I.D Medical Officer assigned to him suddenly resigned. The details of this incident is in the two attached letters. I wanted to investigate this further, requested another senior consultant to interview the girl. She told the consultant that nothing happened and she is leaving on her own.

Summer 2003 - one day

(3) Medical Officer Dr. Ayesha could not be found on her duty place in ICU and nowhere in Hospital. Another M.O told to Dr. Umer Waheed Coordinator Medical Education that she is at Dr. Bangash house doing some research work. On this information Dr. N. Khokhar suspended Dr. Ayesha for not being present on duty in ICU, Dr. Shaukat Bangash forced Dr. N Khokhar to take back this suspension order. The girl later on resigned, when I asked reason, she would not give reasons.

Summer 2003.

(4) Few days later, I went to visit him in his office for some Hospital work. His door was closed and he was sitting and talking to a female Medical Officer, I did later on told him that he should keep this door open when he has a female in his room. Complained by a female Medical Officer who appeared severely shaken and emotionally torn apart. Complaint enclosed. This information is confirmed by other sources, other fellow Medical Officer. She also shared her feelings with at least those three consultants of Shifa the same day.

(5) During investigation of above, it was found out that there are other problems regarding this individual.

2003

(6) Final year student of college of SCM. He somehow was able to black mail her into paper marriage. Kept the E-mail, tapes. Had extended physical relations with her.

When she got engaged to another person and refused to continue relation with Dr. Bangash. Dr. Bangash approached her Fiancé (Mungaiter) showed him all the E-mails and other information about paper marriage, the engagement of the girl broke. Dr. Bangash also tried to seek help of another Medical Officer in this process (She gave all this information to me and other senior Doctors of Hospitals few days ago). When asked why you girls did not inform us before. Their reply was that every Junior Doctor knew and we thought you (Senior) also know and do not want to do anything about it, because he is your friend. He keeps on telling everybody that Dr. Qazi, Dr. Khalid Aslam and Dr. T.A. Shah are my friends and we all have dinner together.

March 2004

(7) Shifa Female Medical Student last year and house Jobber now. Dr Bangash asked her to come to his house to do some college project. After couple of visits, she became uncomfortable. Asked Dr. Uzma what to do. She was told to take some male

medical student with you to his house and finish the project as soon as possible. After coming back from Hajj and even after his termination from Hospital, Dr. Bangash is calling her repeatedly on her mobile to come to her house and finish the project. She is scared.

(8) He frequently throws lavish parties and invites female M.Os, when other Senior consultants of Shifa and their families are invited also. Later on, he tells them that these all are my friends and no body will listen to you if you complain against me.

(9) During investigation, one of our consultant who knows him from Khyber, said that his character was similar when he was student and that present behaviour of Dr. Bangash was not a surprise to him. He did say that he is my family friend.

2003

(10) Another consultant of Shifa told her that her cousin was a final year student of Shifa last year. She told our consultant that Dr. Bangash was holding hand of female Medical student in his office and they did not like this. They complained to our consultants who informed Dr. Amin.

All the information has been shared with some of the consultants of this committee in the past couple of days. There may be some other information available but we did not actively open up the investigation process keeping in mind the sensitivity of the issue - especially females and their families."

(emphasis supplied)

It is settled law that the facts admitted need not to be proved²³ and therefore the authorship of Dr. Manzoor H. Qazi is and the direct attribution to the Respondent is proved through admission of Dr. Manzoor H. Qazi in his written statement as well as in his testimony under oath. However, we find that both the Trial Court and High Court held that the Letter is defamatory without applying the correct evidentiary standards that is the reasonable person and seriousness of impact standards. In this context, both courts proceeded to assess the veracity of the allegations without determining whether, in fact, the statement made was of an injurious nature, such that it caused reputational injury to the Respondent.

15. The Respondent specifically pleaded in paragraph 12 of the plaint that Dr. Manzoor H. Qazi circulated the Letter to the Inquiry Committee. However, while appearing as PW-1, he improved his version by stating that the Letter was circulated to students and the general public as well. It is a general rule that evidence beyond pleadings must be disregarded.²⁴ Moreover, this new assertion is unsupported by any evidence or witness testimonies, therefore, the

²³ Rehmat v. Zubaida Begum (2021 SCMR 1534) and Nazir Ahmad v. M. Muzaffar Hussain (2008 SCMR 1639).

²⁴ Muhammad Aslam v. Muhammad Anwar (2023 SCMR 1371), Pak Suzuki Motors Company Limited v. Faisal Jameel Butt (2023 CLD 934).

circulation of the Letter only to the extent of the members of the Inquiry Committee is not disputed given that he himself admits to the Letter. Hence, the intended addressees of the Letter are the members of the Inquiry Committee, who were reading the Letter under a specific official mandate. This means that the views or reactions of others such as the Respondent's family, friends, or the general public are immaterial, as the Letter was neither addressed nor shown to them, and there was no evidence of its publication and circulation beyond the Inquiry Committee. Both the Trial Court and High Court misconstrued the context of the Letter as its language clearly demonstrates that the Letter was written to convey *information of concern* to the Inquiry Committee regarding multiple incidents of harassment of female medical officers and students by the Respondent. Seen objectively, a reasonable member of the Inquiry Committee would not perceive the Letter as defamatory as it was within the mandate of their work as an Inquiry Committee to consider the information placed before them. More importantly, there is no dispute as to the fact that the Inquiry Committee was looking into allegations of harassment against the Respondent as the contents of the Letter clearly state that most of the information is already before the Inquiry Committee. Hence, the information so placed was in accordance with the official function of inquiry against the Respondent. Accordingly, the evidence before the Trial Court and High Court did not meet the reasonable person standard, as the relevant reasonable persons in this case were the members of the Inquiry Committee performing an official function in furtherance of which the Letter was written. Similarly, there was no material before the Trial Court and High Court establishing that the words used in the Letter diminished the Respondent's reputation in their estimation.

16. Next, we proceed to assess the seriousness of the impact test. To reiterate, in order to assess the seriousness of the impact, the court requires evidence of serious damage to reputation. To make this assessment, the Trial Court had to look at a combination of factors which included the extent of the circulation of the Letter, the claimant's pre-existing reputation, the audience to whom the statement was communicated and the surrounding social or professional context. As to circulation, the Letter was addressed and circulated amongst the

restricted readers of the Inquiry Committee, thereby precluding any sort of wider public exposure. It is therefore clear that the Letter was addressed to an internal committee tasked with examining workplace conduct; its tone and purpose were consistent with the procedural framework of an inquiry rather than a defamatory campaign. The recipients were not members of the general public but officials bound by confidentiality and professional duty, who were expected to treat such communications as part of an administrative process. Furthermore, there were no injurious words, no evidence of reputational harm, and no act capable of lowering the Respondent's standing in the eyes of reasonable members of society. To describe such an internal communication as defamatory is entirely inconsistent with the record. It is extraordinary that both the Trial Court and the High Court overlooked this fundamental point as this is an omission that strikes at the very root of any claim for defamation. Hence, in the absence of any injurious material or proof of impact, the internal inquiry proceedings as to harassment could not be deemed injurious for the purposes of establishing actionable defamation, an element which was totally ignored by the Trial Court and High Court. Therefore, the Respondent failed to set out a case for injury. Notably, the Respondent neither pleaded nor proved that he was treated with lesser regard or as a person of diminished standing by the Inquiry Committee, the only body to whom the Letter was shown and whose members knew him in a professional capacity, by reason of its contents. In sum, the allegations of injury whether reputational or psychological remain unsubstantiated on the evidentiary record. This clearly demonstrates that the Letter had no tangible or serious impact on the Respondent's personal or professional life, and that his case fails to meet the seriousness of impact test as well.

17. Although the Respondent failed to satisfy the two essential tests required to sustain a claim of actionable defamation, this Court nevertheless deems it appropriate to examine this element due to the emphasis of the Trial Court and High Court regarding malice which was not required. Intent, though often the most difficult aspect to establish, may be inferred from the surrounding circumstances and the overall context in which the communication was made. Therefore, it was for Trial Court and High Court to carefully examine the contents

of the Letter in the context of the defense taken by the Petitioners to determine whether any malicious intent to defame the Respondent can genuinely be inferred, which they omitted to do. As discussed earlier, the Letter reflects certain pieces of information by Dr. Manzoor H. Qazi to the inquiry Committee. He himself has specifically mentioned in the Letter that:

'There may be some other information available but we did not actively open up the investigation process keeping in mind the sensitivity of the issue - especially females and their families.'

(emphasis supplied)

The Letter acknowledges the *sensitivity of the issue* and its impact upon female complainants and their families. During his cross-examination, Dr. Manzoor H. Qazi specifically explained that he had written the Letter himself in order to maintain confidentiality. The Trial Court, however, misinterpreted this explanation and reached an illogical conclusion of malice. The Trial Court made this inference from the statement of the Respondent that since correspondence is usually typed out, the fact that the Letter was handwritten meant that malice was established. The mere fact that the Letter was handwritten cannot be construed as evidence of *mala fide* intent rather it reflects the writer's sense of responsibility and the careful manner in which he sought to handle a matter of such sensitivity. Both the Trial Court and High Court dismissed the defense of the Petitioners on the ground that the female doctors who lodged complaints were not produced to prove the truthfulness of information have resorted to nothing but an absurd approach. We are of the opinion that the Trial Court and High Court overlooked the requirements of the Protection against Harassment of Women at the Workplace Act, 2010 (**Act**) which governs instances of workplace harassment wherein confidentiality is a strict requirement throughout inquiry proceedings. Under Section 4(3)(a) of the Act, the statements and other evidence acquired in the inquiry process shall be confidential. Further Section 4(3)(d)&(e) of the Act requires that adverse action shall not be taken against the complaint or the witnesses and that the Inquiry Committee should ensure that the employer or accused shall not create any hostile environment for the complainant so as to pressurize them from freely pursuing a complaint. Summoning the victims or compelling disclosure of their identities in such cases would not only undermine the integrity of the

inquiry process but also places the victims in an unfair and vulnerable position thereby becoming a means of secondary harassment which exerts undue pressure on the victims and defeats the very purpose of protective inquiry mechanisms. In the instant case, the Respondent has neither denied in his pleadings nor in his testimony the fact of the Inquiry Committee and the pending inquiry. Hence, it was not for the Trial Court and High Court to assess the veracity of the harassment allegations. The Trial Court and High Court have also completely overlooked that the Respondent himself produced Ex.P-13 dated 01.04.2004, a letter addressed to him by Mr. Muhammad Amin being the Dean of the College (**Dean**) that itself reveals that an inquiry concerning the Respondent on allegations of sexual harassment was pending, and that the Dean had called certain individuals in that connection. Thus, even if Ex.P-13 is considered in evidence, it supports the Petitioners' version that complaints of harassment were indeed pending.

18. Having considered the entire record, it is clear that the Respondent failed to establish the necessary ingredients of actionable defamation. On the balance of probabilities, the Letter in question was a confidential communication made by Dr. Manzoor H. Qazi to the Inquiry Committee and its purpose was limited to reporting information of concern relating to workplace conduct. The contents of the Letter, read as a whole, do not highlight any intent to malign or humiliate the Respondent but reflect a *bona fide* effort to discharge a professional duty. The Respondent's claim of reputational injury is unsupported by any evidence, as were his claims of psychological or professional harm which were totally unsubstantiated. Conversely, the Petitioners' defence of good faith finds support in both the correspondence and the surrounding circumstances. The record reveals that the Respondent was already facing multiple complaints of sexual harassment, and the Letter merely compiled and communicated those allegations to the competent forum. The Petitioner's conduct was consistent with an honest and responsible act within the scope of an internal inquiry process. Accordingly, when weighed on the balance of probabilities, the Petitioners' version inspires greater confidence. Hence, we find that the Respondent failed to demonstrate any actionable injury to his reputation. The Letter, being a privileged

communication made in good faith and within institutional procedure, does not constitute defamation in law. It is, therefore, held that the Petitioners succeed, and that no case of actionable defamation or injury to reputation stands established on the evidentiary record.

19. Under the circumstances, this Civil Petition is converted into an appeal and allowed. The impugned judgments passed by the High Court and Trial Court are set aside.

JUDGE

Islamabad
29.09.2025
*Azmat/Uzma Zahoor RO/Nurayn Qasim**
'Approved for Reporting'

JUDGE