

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

1st Civil Appeal No. S-07 of 2023

Mohammad Shafique s/o late Nazeer Ahmed Lakhair

Vs.

Muhammad Khan s/o Asadullah and another

Appellant : Mohammad Shafique s/o
late Nazeer Ahmed Lakhari
through Mr. Ghulam
Mohammad Barjeo,
Advocate

Versus

Respondent No.1 : Mohammad Khan s/o
Asadullah

Respondent No.2 : Asadullah s/o Sabgatullah

through Mr. Abdul Rehman
A. Bhutto, Advocate

Date of Hearing : 04-03-2024

Date of Judgment : 19-11-2025

JUDGMENT

JAWAD AKBAR SARWANA, J.: Through this order, I would like to dispose of 1st Civil Appeal filed against the impugned order dated 21.03.2023, passed by VIth-Additional District Judge, Larkana in Defamation Suit No.01/2023

2. Learned counsel for the Appellant/Plaintiff submits that a WhatsApp Group titled “Lakhair Ithad WhatsApp Group” circulated certain defamatory comments against the Claimant, who resides in Taluka Dokri, District Larkana. He alleged that these defamatory comments were made by Defendants Muhammad Khan and Asadullah, who reside in Taluka K.N.Shah, District Dadu. He contends that the trial Court wrongly returned the plaint on the grounds of territorial jurisdiction, whereas under section 19 C.P.C.,

the Plaintiff has the right to agitate whatever claim the Plaintiff wishes, and he should have been given the right to prove it. He relied on the Judgment of the Supreme Court of Pakistan reported as PLD 2015 S.C 42.

3. During the course of arguments, this Bench queried learned counsel for the applicant/plaintiff regarding the point of limitation, specifically that the Claimant had alleged that defamatory comments accrued lastly on 26.01.2023 and subsequently, learned Counsel for the Appellant had submitted a Legal Notice dated 05.01.2023 and filed proceedings before the trial Court on 06.03.2023 but on perusal of the Plaint, it transpires that there was no documentary evidence available on record in relation to the above mentioned three dates. There was no date stamp on the “WhatsApp Messages” attached with the plaint as Annexure “F”, Page-35 and the Legal Notice also did not mention the date of the defamation. Therefore, the requirements of Section 8 of the Defamation Ordinance, which mandates that the claimant should file his case within two months from the date of publication and mandatorily issue notice within 14 days of publication of the defamation, are not found. The missing information is critical to bring the defamation suit within the framework of the law, but no information is available on record concerning the same. This shortcoming is material, and without it, the defamation suit could not be sustained.

4. Additionally, the WhatsApp messages, which are the basis of the suit, did not mention that they were circulated and/or published within “Lakhair Ithad WhatsApp Group”. There was no reference to the Lakhair Ithad WhatsApp Group in the WhatsApp messages attached to the plaint. Counsel could only point out the name of one Nazir Ahmed Lakhair, who was referenced in one of the WhatsApp messages. The rest of the messages only had a time stamp with no firm dates of when such material was published within the group. This, too, was important from the perspective of calculating the timeline for filing the defamation suit. Even otherwise, the core ingredient of “publishing” of the defamatory content was/is missing

based on the documents available on record. A defamation could not have been born in a closed WhatsApp group, which was not accessible to the general public. Hence, the trial Court rightly nipped the suit in the bud.

5. Given the above, I do not find any irregularity or defect in the impugned Order dated 21.03.2023, which is based on the reasons stated in the said Order, and in addition to the reasons which have been articulated herein by me, the challenge raised by the appellant cannot be sustained. Consequently, the 1st Civil Appeal filed by the appellant-plaintiff is hereby dismissed.

J U D G E