

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Miscellaneous Civil Appeal No.25 of 2022

[Bherji v. Federation of Pakistan and 03 others]

Appellant by : Mr.Velji Rathore, Advocate

Respondents by : Nemo

Date of hearing : **14.10.2026 & 19.10.2026**

Date of Decision : **19.10.2026**

O R D E R

MUHAMMAD HUMAYON KHAN, J.- This civil appeal under section 15 of the Defamation Ordinance, 2002 (the **Ordinance**) is directed against the order dated 28.05.2022 passed by the learned III-Additional District Judge, Hyderabad, in Defamation Suit No. 36 of 2021. By that order, the application filed by respondents No. 2 to 4 under Order VII Rule 11, C.P.C. was allowed and the plaint was rejected.

2. The appellant was serving as a Chemist with the Oil and Gas Development Company Limited (**OGDCL**) at its Kunnar LPG Plant and Oil Field near Tando Jam. The plaint states that he was not promoted and in that connection, approached this Court in C.P. No. D-291 of 2010. He also pursued contempt proceedings when the order made in that petition was not complied with and later filed C.P. No. D-692 of 2017 on the same subject. He alleged that the respondents thereafter harassed and humiliated him to pressurize him to withdraw those proceedings. In particular, he pleaded that on 05.01.2018 he was handed a transfer order posting him to Nashpa Oil Field and was directed to leave charge immediately; that his request for leave to attend to his mother's eye treatment was not entertained and that although this Court suspended the transfer order in C.P. No. D-72 of 2018, he was not allowed to sign the muster roll until 31.01.2018. On these allegations, he claimed Rs.20,000,000 as damages for defamation, mental torture and agony.

3. The procedural history is relevant to one of the submissions made in appeal. The plaint was first presented before the learned V-Senior Civil

Judge, Hyderabad, as F.C. Suit No. 204 of 2018. On 11.03.2019, it was rejected on the ground that section 13 of the Ordinance vested jurisdiction in the District Court. Civil Appeal No. 75 of 2019 was dismissed by the learned VI-Additional District Judge, Hyderabad, on 05.09.2019, who also observed that the plaint disclosed no cause of action. In Civil Revision Application No. S-182 of 2019, this Court, by order dated 30.11.2020, set aside the orders below on the agreed footing that, if the court lacked jurisdiction, the plaint should be returned under Order VII Rule 10, C.P.C. for presentation to the competent court. The plaint was accordingly returned on 11.01.2021, presented before the learned District Judge, Hyderabad and transferred to the trial court, where it was registered as Defamation Suit No. 36 of 2021.

4. Respondents No. 2 to 4 filed a written statement and an application under Order VII Rule 11 C.P.C. The appellant filed a counter-affidavit. The trial court read the plaint as a whole and found that the grievance concerned the appellant's service, including his transfer and related treatment. It further found that the plaint did not identify any false statement or representation or its publication, that could injure the appellant's reputation. The application was therefore allowed and the plaint rejected.

5. Learned counsel for the appellant contended that the plaint had not been read in its proper perspective. He submitted that the appellant was a highly qualified officer, a writer and a person of standing in his community; that the abrupt transfer to a remote oil field, refusal of leave, denial of a customary farewell, the use of abusive words by the Field Manager in the presence of colleagues and the refusal to permit the appellant to sign the attendance register for several weeks exposed him to ridicule and lowered him in the estimation of others. According to counsel, the allegations amounted to slander under section 3(3) of the Ordinance. He further argued that whether the words were spoken and what effect they had were matters to be determined on evidence at trial.

6. I have heard learned counsel for the appellant and examined the material available on the record. No one appeared on behalf of the respondents.

7. Order VII Rule 11 C.P.C. authorizes rejection of a plaint where, among other grounds, it does not disclose a cause of action. At this stage, the plaint must be read as a whole. The court does not decide disputed questions of fact or weigh the parties' evidence; nor does it ordinarily test the plaint against the written statement. At the same time, the plaintiff's assertions are not accepted mechanically: the pleaded facts must, if taken at face value, disclose a legally recognizable cause of action. This approach is stated in **Haji Abdul Karim and others v. Messrs Florida Builders (Pvt.) Ltd. (PLD 2012 SC 247)** and was reiterated by the Supreme Court in **Misree Khan and others v. Abdul Ghafoor and others (PLD 2025 SC 24)**.

8. The order dated 30.11.2020 in Civil Revision Application No. S-182 of 2019 does not determine the present question. It was made on the parties' agreed proposal that the plaint be returned if the court then seized of the matter lacked jurisdiction. This Court did not examine or decide whether the plaint disclosed a cause of action in defamation. Once the plaint was presented before the competent court, the respondents were entitled to seek its rejection under Order VII Rule 11 C.P.C. and the trial court was required to decide that application on the plaint itself. The earlier order, therefore, did not prevent such consideration.

9. Section 3 of the Ordinance makes actionable a wrongful act or the publication or circulation of a false statement or representation, oral, written or visual, which injures a person's reputation or tends to lower that person in the estimation of others or to expose the person to ridicule, unjust criticism, dislike, contempt or hatred. The Ordinance recognizes slander and libel as forms of defamation; slander concerns a false oral statement or representation. Accordingly, a plaint founded on slander must identify, at least in substance, the words complained of and plead the circumstances in which they were spoken and communicated. Those are material facts, not matters that can be left entirely for evidence.

10. The plaint, as summarized in the impugned order and available on the record, pleads the transfer, refusal of leave, direction to report at Nashpa and the appellant's alleged exclusion from the muster roll. It does not state what defamatory words were allegedly spoken, who spoke them, to whom they were communicated or when and where they were uttered. Nor does it plead a particular false written or visual statement. The administrative acts described may have caused the appellant distress or given rise to a service grievance; but as pleaded, they do not identify a defamatory statement or publication that injured his reputation within the meaning of the Ordinance.

11. The memorandum of appeal refers to abusive words allegedly used in front of colleagues and to other incidents said to have caused humiliation. Those assertions cannot cure the omission in the plaint. The application under Order VII Rule 11 C.P.C. had to be decided on the pleading as it stood before the trial court. Further, even the grounds of appeal do not set out the words complained of or the material circumstances of their alleged communication. A general description that abusive words were used does not enable the court to assess whether the words were false and defamatory or to identify the case the respondents would have to meet.

12. The submission that the matter should have proceeded to evidence does not answer this deficiency. Evidence may establish material facts that have been pleaded; it cannot supply the essential facts omitted from the plaint. In an action based on slander, the substance of the alleged words and the occasion and audience of their utterance are necessary to define the claim. A bare assertion of humiliation, without an identified defamatory statement or publication, does not disclose a cause of action under the Ordinance.

13. The result is the same if the pleaded facts are taken as true and considered together. They would show that the appellant was transferred, that his request for leave was refused, that he was directed to report at Nashpa and that he was not permitted to sign the muster roll for a period.

They would not establish, even prima facie, that the appellant was subjected to a wrongful act that injured his reputation or lowered him in the estimation of others. Nor do they disclose any false oral statement of the kind alleged in appeal. The Court is not deciding the legality of those service-related acts; it is only determining whether the plaint, as framed, disclosed a cause of action in defamation.

14. The suit was framed as one for damages under the Ordinance. No separate cause of action for damages arising from the employment relationship is set out in the plaint. The appellant's grievance about promotion, transfer, leave and attendance cannot, by itself, be converted into an action in defamation by describing the treatment as humiliating. The question whether any service remedy is available is not before this Court in this appeal.

15. For these reasons, the trial court correctly concluded that the plaint did not disclose a cause of action in defamation and was liable to rejection under Order VII Rule 11(a) C.P.C. No misreading of the plaint or error warranting interference has been shown. The appeal is **dismissed** and the order dated 28.05.2022 is maintained. There shall be no order as to costs.

JUDGE

AHSAN K. ABRO