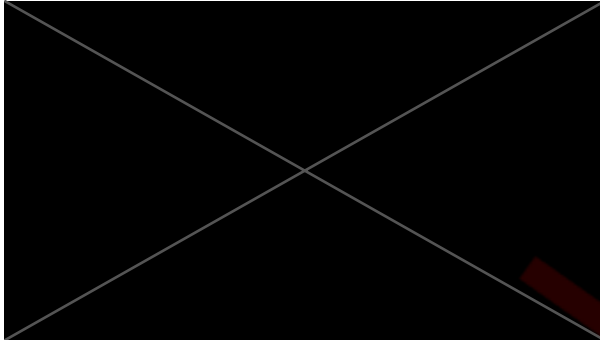


IN THE COURT OF MS. PRABH DEEP KAUR: DJ-05,
SOUTH EAST DISTRICT, SAKET COURTS, DELHI

CS DJ NO. 6574/16
CNR NO. DLSE01-000093-2016

In the matter of :-
Sh. Arun Kumar Gupta



.....PLAINTIFF

Versus

1. HT Media Limited (through editor and publisher)

Hindustan Times House,
18-20, Kasturba Gandhi Marg,
New Delhi -110001

2. Integrix India Private Limited.

Vashishth House, 7/2 & 7/3,
Kalu Sarai Begumpur,
New Delhi -110017

3. Mr. Atul Bansal



4. Mrs. Vidhu Bansal



5. Brig. (Retired) N. Kumar

Integrix India Private Limited.
Vashishth House, 7/2 & 7/3,

Kalu Sarai Begumpur,
New Delhi -110017.

6. Mr. Pavan Du al – Advocate Delhi High Court (Code D375)



7. Mr. Neelesh Misra-Reporter, Hindustan Times

C/o HT Media Limited,
Hindustan Times house,
18-20, Kasturba Gandhi Marg,
New Delhi -110001
email-neelesh.misra@hindustantimes.com

..... DEFENDANTS

Date of Institution : 17.08.2007

Arguments concluded on : 20.05.2025

Date of Judgment : 06.06.2025

**SUIT FOR PERPETUAL INJUNCTION AND DAMAGES OF
RS. 1 CRORE**

JUDGMENT

1. Vide this Judgment, the suit of the plaintiff for perpetual injunction and damages of Rs. 1 crore for defamation of the plaintiff, filed against the defendants has been disposed off. **The Suit has already been settled between plaintiff and defendant no. 2 to 5 vide settlement dated 25.02.2023 and between plaintiff and defendant no. 6 vide order dated 20.03.2023.**

2. The factual background of the case is that:

2.1 Defendant no. 2 is a private limited company and defendant no. 3, 4 and 5 were the directors of defendant no. 2 company. The plaintiff joined defendant no. 2 company as a Director on 01.09.2000 and he resigned from the said post on 05.07.2005. Thereafter, plaintiff started his own company

rendering the services similar to the plaintiff company.

2.2 As per plaintiff, in November-December 2005, six staff members of defendant no. 2 quit the company and five of them joined plaintiff company due to which defendant no. 3 called company on 22.12.2005 and put the allegations of poaching the staff members of defendant no. 2 company. On 27.01.2006 plaintiff got a call from defendant no. 3 about some derogatory email about the plaintiff and the email was deceptive appearing to be written by plaintiff himself to the employees of defendant no. 2.

2.3 On 10.03.2006 defendant no. 2 herein, through its then Director Mr. Ashok Gupta, filed a suit for damages i.e. CS No. 6526/16 titled as M/s Integrix (India) Pvt. Ltd. Vs. Ashok Integrix@yahoo.co.in (hereinafter referred as suit no. I). The defendant no. 6 being an advocate was hired by defendant no. 2 to file the suit. The suit was filed on the ground that a defamatory e-mail had originated from an e-mail account Ashokgintegrix@yahoo.co.in and the said e-mail contained defamatory and derogatory material and allegations against defendant no. 2. In the suit no. I defendant no. 2 herein (as a plaintiff therein) impleaded the Actual allottee / user of I.P Address 61.246.153. 106, c/o Bharti Infotel Ltd., as defendant. During the pendency of the suit-I vide order dated 10.03.2006, Hon'ble High Court of Delhi, directed Bharti Infotel Ltd. (defendant no. 6 therein) to disclose the complete address of the actual allottee/user of the above mentioned IP address.

2.4 Meanwhile, on 05.04.2006, defendant no. 2 (herein) filed another suit for permanent injunction and damages i.e CS

9613/2016 titled as M/s Integrix Pvt. Ltd. Vs. IP Address 61.246.45.254 & Ors. (**hereinafter referred as Suit no. II**). Again defendant no. 6 was hired as a counsel. The allegations in suit no. II were that on 31.01.2006 someone had hacked the website of defendant no. 2 herein and had deleted all the important data and information therein and upon inquiry from service provider i.e. Pugmarks Interweb Pvt. Ltd., they provided the IP address of the hacker as 61.246.45.254 on 24.01.2006 at 02:41:26 GMT. Therefore, the defendant no. 2 herein filed the suit against the IP address as defendant. On 05.04.2006 Hon'ble High Court of Delhi directed defendant no. 2/Bharti Infotel to furnish necessary details including name, address, telephone no., email address and other relevant available information regarding the actual user/person who was allocated the above mentioned IP Address.

2.5 In both suits, Bharti Infotel disclosed that particulars of IP address as "Mr.Arun Kumar Gupta, R/o 1-1622, 2nd floor, Chitranjan Park, Delhi", consequently he was impleaded as defendant in both suits.

3. Averments of plaintiff:-

3.1 As per plaintiff, he had earlier joined Indian Railway Traffic Service (IRTS) in March 1989 and later on, he joined defendant no. 2 company. He was a well known figure in the field of IT Networks and had scholastic achievement. He also described how he contributed in the growth of defendant no. 2 company and then parted his ways from it and started his own company which was growing rapidly.

3.2 Plaintiff asserted that on 29.01.2007, defendant no. 1 published the defamatory news (hereinafter called as impugned

article), written by defendant no. 7. Defendant no. 1 deliberately printed the news about plaintiff without using his name to use it as a specious plea to avoid liability. Even without using the name of plaintiff, the identity of the defamed in the impugned article was intended to be clear to those who have been in touch with the Plaintiff or are aware of business affairs of defendant no. 2 during 2005 and 2006, as well as to networking industry in general.

3.3 Plaintiff further alleged that the defendant no. 1 defamed the Plaintiff through this news, by making a motivated statement that the Plaintiff was sacked from the company -defendant no. 2 for financial irregularities. This is blatantly false and baseless, as the Plaintiff was neither sacked for any reason whatsoever, nor committed any financial irregularity while working as co-owner and Director in defendant no. 2 company. In fact, no Director has ever been sacked in defendant no. 2 company, to the knowledge of the Plaintiff. The news further defamed the Plaintiff as it identified the Plaintiff as the offender in a court case and mentioned that the Plaintiff was being prosecuted (despite the alleged court case being a sub-judice civil suit and the Plaintiff not having received any summons in the alleged suit till the date of instituting this current suit by the Plaintiff). This shows that defendant no. 1 and 7 unlawfully conducted trial of the case in press, on the behest of defendants 2 to 6, while no proceedings against the Plaintiff had even started in the referred suit.

3.4 On 29.01.2007, one of the employee of plaintiff handed over the newspaper to plaintiff with implied question. On the same day, Mr. Rakesh Maheshwari called the Plaintiff to inquire

about the news article and some other persons who developed doubts about the integrity of the Plaintiff on reading the news were Mr. Anshul Gupta- ex Raliway colleague of the Plaintiff Dr. Anita Bansal and Dr. Rakesh Bansal- ex Raliway colleagues of the Plaintiff Mr. Ashok Aggarwal- school time close friend of the Plaintiff and an IIT graduate doing his own business Mr. Sanjiv Rohatgi- Friend of Plaintiff and wife, working in NEEPCO Mr. Rajeev Kumar- CEO of Proactive Data Systems Private.Ltd. – a company competing with the defendant no. 2 as well as Darts, the company headed by the Plaintiff. Mr. Diganta Sircar- ex Director of defendant no. 2 and working in similar competing business Mr. Brijesh Aggarwal- Brother-in law of the Plaintiff Many employees of the Plaintiff The Father and the daughter of the Plaintiff.

3.5 On 30.01.2007, Mr. R. K. Malhotra, who is part of the management of defendant no. 2 as Chairman of the merged entity - Silicon Integrix also tried to contact plaintiff but did not talk to plaintiff. The most prominent news published in a national daily must have been read by thousands of people knowing the Plaintiff, and the Plaintiff's reputation must have been seriously injured in their estimation and thus, the damage caused to the Plaintiff by the defamatory acts of the defendants is immeasurable, vast and has wide ramifications.

3.6 The Plaintiff sent a legal notice on 7.02.2007 to defendant no. 1, protesting against the defamatory news item, and claiming damages for defamation. The defendant no. 1 replied to the same and affirmed the publication of article but denied the allegation of defamation and even failed to give the details of any evidence

in support of the article. The defendant no. 1's reply is a farce to cover up the defamation carried out by them on the behest of defendants no. 2 and 6.

3.7 The irreparable damage has been caused to the image of the Plaintiff in the eyes of his personal and professional contacts, by the said acts of the defendants, and their acts also constitute an intimidation and threat to the Plaintiff's business, which has been competing with the business of defendant no. 2. There was a drastic fall in the business order bookings of the Plaintiff's company since the news was published (the monthly business in February and March 2007 was a fraction of the business done on an average in previous few months). The children of the Plaintiff, aged 16 and 13, got scared after reading the news and the daughter even got her school change through the plaintiff. The father of plaintiff stopped visiting the plaintiff.

Plaintiff filed the suit for permanent injunction and damages for Rs. 01 crore.

4. Defence of defendant no. 2 to 6:

Though matter has been settled between plaintiff and defendant no. 2 to 6, however, the defence of defendant no. 2 to 6 is mentioned only to understand the whole controversy properly.

Defendant no. 2 to 6 admitted the filing of cases and factual proposition between parties but they denied the allegations of defamation. Defendant no. 2 to 5 had taken the defence that the alleged news item as soon as was brought to the notice of the defendant No. 3, he immediately sent an email to "The Hindustan Times" stating that the fact "sacked for alleged financial irregularities" were wrongly published. This fact clearly

shows that: (1) they were not aware of the news item prior to the same was published; (ii) the news item was not at their instance or "at their behest as has been alleged by the plaintiff in the plaint; (iii) they immediately reacted against the news bulletin with regard to the factually incorrect part.

Defendant no. 6 had taken the defence that plaintiff had nowhere been named in the said article and plaintiff was in fact, not the subject matter of the said article at all. The present suit had been filed only with a view to cause hindrance in the performance of his professional duties as an advocate. Given the circumstances that the evidence of illegal and unlawful activities of sending defamatory e-mails to as also hacking of websites of M/s Integrix India Private Limited came to the forefront, the plaintiff in the present suit became jittery and panicky. In a state of panic, the present plaintiff filed the present suit for defamation against the defendants. The plaintiff had deliberately not disclosed the complete and comprehensive facts as mentioned above relating to the suits.

5. Defence of defendant nos. 1 & 7 (qua whom the suit is to be adjudicated):

5.1 The impugned article dated 29.01.2007 was authored on the basis of credible information received by Defendant No. 7 from sources with personal knowledge of the matter including Defendant No. 3, which information was further substantiated and corroborated by various documents, including copies of plaints filed by Defendant No. 2 Company against the Plaintiff in suit no. I and II. The Plaintiff had nowhere been named in the said Article. A perusal of the said Article would show that the

Plaintiff was in fact not subject matter of the said Article at all ; and the said Article was about certain new and interesting facts in regard to the (now) legal status of "electronic mails" (e-mails) that the author wanted to bring to the knowledge of the public/readers. Reference was made in the said Article to Defendant No. 2 Company only by way of an illustration; and this was based upon information contained in certain suits pending before the Hon'ble Court and on the basis of information received from a source with close and personal knowledge of the suits and from officers of Defendant No. 2 Company, including from Defendant No. 3.

5.2 In fact the Plaintiff's name was provided to this Hon'ble Court in the said other suits by M/s Bharti Infotel Ltd. (a defendant in one of the other suits pending against the Plaintiff. Furthermore prior to publication of the said Article, the author - Defendant No. 7 - attempted to contact the Plaintiff to obtain the Plaintiff's views and version on the subject matter thereof but the he was unavailable for comment.

5.3 Without prejudice to the foregoing, the said Article was based on substantially true and correct facts; and Defendant No. 7, who authored the said Article was entitled, and in-fact duty bound to report on the subject matter of the said Article which is a matter of serious public interest, concern and importance. The said Article was authored and published bona fide, without any malice or ulterior motive whatsoever and in discharge of the author's public duty as a journalist.

5.4 The Defendants did not know the Plaintiff or the other Defendants, either personally or professionally, and the

Answering Defendants have had no concern or dealing with the Plaintiff or with the other Defendants at all; and the Defendants could accordingly have had no possible reason or motive to cause any harm or damage to the Plaintiff or to his reputation; or to have attempted to benefit the other Defendants.

5.5 The said Article was authored by Defendant No. 7 and published in the said Newspaper in the normal and usual course of discharge of the Answering Defendants' duty as responsible journalists. The said Article was authored and published with due care and caution; after adequately verifying and corroborating the information received by Defendant No. 7. There was no element of callousness or negligence involved on the part of the Answering Defendants or any of them in publishing the said Article.

5.6 There is no substance or merit in the Plaintiff's claim in suit. The damages claimed in suit is completely arbitrary, baseless and irrational. The present suit is merely an attempt by the Plaintiff to settle scores with Defendants Nos. 2 to 6 by reason of admitted "unethical (business) rivalry" that existed between the Plaintiff and Defendants Nos. 2 to 6, And in the process, the Answering Defendants have been dragged into the controversy merely to make-out a case.

5.7 As per information provided to the Defendant no. 1 & 7, by Defendants Nos. 2 to 5, the Plaintiff was not contributing to the growth of Defendant No. 2 Company and was instead proving to be a liability for Defendant No. 2. As per information provided to the Answering Defendants by Defendants Nos. 2 to 5, it was the Plaintiff who was indulging in various irregularities,

including financial irregularities, and was for this reason ousted from Defendant No. 2 Company. In the plaintiff, plaintiff admitted to having "poached" several staff members of Defendant No. 2 and to an unethical rivalry having developed between the Plaintiff and Defendants Nos. 3 to 5.

5.8 Defendant No. 7 was shown copies of the plaint of suit no. I and II alleging various wrongdoings referred to in the said Article and upon perusal of the same, defendant No. 7 was satisfied that the "allegations" in question had indeed been made and it was on this basis, namely information provided by the other Defendants coupled with perusal of copies of the plaints in the said suits that Defendant No. 7 authored the said Article. It is denied that the Defendants have defamed the Plaintiff through yellow journalism, as alleged or otherwise or at all.

Additional plea:

5.9 After filing of WS by defendant no. 2 to 6, defendant no. 1 and 7 have taken additional plea that defendant no. 2 to 5 never approached /reacted immediately with regard to the allegedly factually incorrect part of the said Article. The information comprised in the said Article was received by Defendant no. 1 and 7 inter-alia from Defendants Nos. 2 to 5. It is incorrect of Defendants Nos. 2 to 5 to say that they had had no conversation or correspondence with the Defendant no. 1 and 7 prior to the date of publication of the said Article. While the Defendant no. 1 and 7 had had no correspondence or conversation with Defendant No. 6, however, the Defendant no. 1 and 7 acquired information and knowledge of the goings-on in relation to the Plaintiff from a talk/lecture that Defendant No. 6 had given at a public forum

namely at a Press Conference organized by M/s EMC Corporation (a networking company, which deals in products and software that purport to make e-mails secure) at Oberoi Hotel, New Delhi. where he spoke about matters relating to the Plaintiff and Defendant No.2. The reason Defendants Nos. 2 to 5 are now denying the commission of any financial irregularity by the Plaintiff is perhaps because the Plaintiff and Defendants Nos. 2 to 5 have settled their inter-se disputes upon the condition that Defendants Nos. 2 to 5 will not make any statement on the issue of financial irregularity that the Plaintiff had allegedly committed. While the Plaintiff contends there was nothing wrong in his relations with Defendants Nos. 3 to 5 as regards their common business of Defendant No. 2, he fails to give any reason, much less any cogent reason, as to why he suddenly resigned from such business for no cause.

6. Replication.

The Plaintiff has filed replication to the written statement of defendant no. 1 and 7 thereby reaffirming and reiterating the contents of plaint and denying the contents of written statements.

No replication has been filed to the WS of other defendants.

7. From the pleadings of the parties, following issues were framed vide order dated 15.02.2010:-

Issue no. 1: Whether the plaintiff is entitled to a decree of Rs. 1 crore as damages? If so, for whom, from which period and at what rate of interest?OPP

Issue no. 2: Whether the plaintiff is entitled to a decree of perpetual injunction against defendants no.1 & 2/their

employees/agents/successors to restrain them from defaming the plaintiff in any manner? OPP

Issue no. 3: Whether the suit of the plaintiff is not maintainable as there is no cause of action against defendants no.2 to 6? OPD-2 to 6.

Issue no. 4: Whether the present suit is a counterblast to suit bearing CS(OS)

no.436/2006 and CS (OS) no.582/2006 filed by defendant no.2 against the plaintiff? If so, its effect? OPD-2.

Issue no. 5: Relief.

8. Thereafter, matter was fixed for plaintiff's evidence.

a) In order to prove its case, the plaintiff examined himself as PW-1. He has reiterated the facts of plaint in his affidavit Ex.PW1/A. He has relied upon the documents i.e. Ex. P-1 to P-20. He was cross examined by Sh. A.J. Bhambhani, Sr. Adv. with Sh. Sanjiv Behl and Mr. Madhur Dhingra, Ld. Counsels for defendant no. 1 and 7 and Sh. R. M. Sinha, Ld. Counsel for defendant no. 2 to 5 and Sh. P.K. Duggal, Ld. Counsel for defendant no. 6.

b) Further, the plaintiff examined Mr. Israr Babu, Nodal Officer, Vodafone Mobile Services Ltd. as PW-2. He deposed that he has been authorized to depose before this Court as per letter of authority of Vodafone Ex. PW-/2. M/s Essar Mobile Services Ltd. is now known as Vodafone. He deposed that as per the DOT guidelines, they maintain call records for the period of one year only, thereafter, the call records pertaining to mobile phone no. 9811055667 for the period July 2005 to January 2006 are not available in their office. He was not cross examined by

defendants.

c) Plaintiff examined Sh. Sanjeev Rohtagi as PW-2. He tendered his evidence by way of affidavit Ex. PW-2/A. He was cross examined by defendant no. 6 and Sh. Sanjiv Behl and Mr. Madhur Dhingra, Ld. Counsels for defendant no. 1 and 7.

d) Plaintiff examined Sh. Rakesh Maheshwari as PW-3. He has tendered his evidence by way of affidavit as Ex.PW3/A. He was cross examined by Sh. Sh. Sanjiv Behl and Mr. Madhur Dhingra, Ld. Counsels for defendant no. 1 and 7.

e) Plaintiff examined Sh. Anshul Gupta as PW-4. He has tendered his evidence by way of affidavit as Ex.PW4/A. He was cross examined by Sh. Sh. Sanjiv Behl and Mr. Nitin Raj, Ld. Counsels for defendant no. 1 and 7.

f) Further, plaintiff examined Sh. Brijesh Aggarwal as PW-5. He has tendered his evidence by way of affidavit as Ex.PW5/A. He was cross examined by Sh. Sanjiv Behl and Mr. Nitin Raj, Ld. Counsels for defendant no. 1 and 7.

g) Plaintiff examined Ms. Sonal Gupta as PW-6. He has tendered his evidence by way of affidavit as Ex.PW6/A. He was cross examined by Sh. Sanjiv Behl and Sh. Madhur Dhingra and Sh. Harleen Kaur, Ld. Counsels for defendant no. 1 and 7. Thereafter, matter was fixed for defendant's evidence.

9. During PE, on 25.02.2023, the suit was disposed off as settled qua defendant no. 2 to 5 and on 20.03.2023, suit was disposed off as settled qua defendant no. 6. Matter remained pending qua defendant no. 1 and 7 only.

10. Defence evidence on behalf of defendant no. 1 and 7:

10.1 In defence, the defendant examined Sh. Arun Pathak as

DW-1. He tendered her evidence by way of affidavit **Ex.DW-1/A** thereby reiterating the defence taken in the written statement. He has also relied on the documents i.e. copy of power of attorney dt. 28.04.2023 which is Ex. DW-1/1(OSR). He was cross examined at length by plaintiff.

10.2 In defence, the defendant no. 7 examined himself as DW-2 Sh. Neelesh Misra. He tendered his evidence by way of affidavit **Ex.DW-2/A** thereby reiterating the defence taken in the written statement. He was cross examined at length by plaintiff. Thereafter, matter was fixed for final arguments.

11. Final arguments addressed by plaintiff and Sh. Sanjeev Behl with Sh. Madhur Dhingra, Ld. Counsels for the defendant no. 1 and 7 have been heard.

Both the parties have also filed written arguments which reiterated the arguments addressed before the Court and same are not reproduced **here** in verbatim for the sake of brevity but will be dealt alongwith the findings upon issues at the relevant stage. Record has been carefully perused.

12. Plaintiff has relied upon the following judgments:

- i. *"Newstead v. London Express Newspaper Ltd". [1940] 1 KB 377;*
- ii. *"M/s Frank Finn Management Vs. Mr. Subhash Motwani & Anr", CS (OS) 367/2002, date of decision 12.09.2008;*

13. Ld. Counsel for defendant no. 1 and 7 have relied upon the following judgments:

- i. *"Mahaveer Singhvi Vs. Hindustan Times Limited and Ors, CS (OS) 2033 of 2007", decided on 31.05.2007;*
- ii. *"Rajagopal Vs. State of TN and Ors (1994) 6 SCC 632;*
- iii. *"Ram Jethmalani Vs. Subramaniam Swamy", (2006) 87 DRL 60;*
- iv. *"Bennett Coleman Co. & Ors. Vs. Union of India & Ors.", (1972) 2 SCC 788;*
- v. *"Indian Express Newspapers (Bombay) Pvt. Ltd. & Ors. Vs. Union of*

India & Ors”. (1985) 1 SCC 641;
vi. “Sanjoy Narayan, Editor in Chief Hindustan & Ors. Vs. Hon’ble High Court of Allahabad through Registrar General”, 2011 (9) Scale 532;
vii. “Ram Jethmalani Vs. Subramaniam Swamy, Suit No. 2724, decided on 03.01.2006;
viii. “Crop Care Federation of India Vs. Rajasthan Patrika (Pvt) Ltd. & Ors., CS (OS) 531/2005, decided on 27.11.2009;
ix. “Macris vs. Financial Conduct Authority”, 2017, UKSC 19;
x. “Raman Namboodiri, Chumaramkandathu Mana Vs. Govindan Nair s/o Kottukunnathu Ittichiri Amma”, Criminal Appeal No. 99 of 1962, decided on 05.07.1962;
xi. “Government Vs. Gopal Bandu Das”, Govt. Appeal No. 1 of 1922, decided on 01.03.1992;
xii. “Rustom K. Karanjia and Another Vs. Krishnaraj M.D. Thackersey and Ors”, Appeal No. 20 of 1965 and suit no. 319 of ??, decided on 22.07.1969;
xiii. “R. Rajagopal @ R.R. Gopal & Anr. Vs. State of T.N. and Ors.”, (1994) 6 Supreme Court;

14. My issue-wise findings are as follows:-

Issues no. 3 & 4

Issue no. 3: Whether the suit of the plaintiff is not maintainable as there is no cause of action against defendants no.2 to 6? OPD-2 to 6.

Issue no.4: Whether the present suit is a counterblast to suit bearing CS(OS) no.436/2006 and CS (OS) no.582/2006 filed by defendant no.2 against the plaintiff? If so, its effect? OPD-2.

Both the issues are dismissed being infructuous as the suit has already been settled between plaintiff and defendant no.2 to 6.

15. Issue no. 1: Whether the plaintiff is entitled to a decree of Rs. 1 crore as damages? If so, for whom, from which period and at what rate of interest?OPP

Issue no. 2: Whether the plaintiff is entitled to a decree of perpetual injunction against defendants no.1 & 2/their employees/agents/successors to restrain them from defaming the plaintiff in any manner? OPP

Both the issues are taken up together since they are interlinked involving common discussion and finding on the one will have bearing on the other. The burden to prove issue nos.1 and were placed upon the plaintiff.

16. Admittedly, plaintiff joined defendant no. 1 company in the year 2000 and resigned in July 2005. On 10.03.2006 defendant no. 2 filed one civil suit in which the allottee/user of one IP address was impleaded as a defendant and thereafter on 05.04.2006 defendant no. 2 again filed another civil suit on the same pattern wherein allottee/user of one IP address was impleaded as a defendant. In both the matters, upon Court directions, Bharti Infotel, who was also a defendant in both the suits, had disclosed the name and address of plaintiff herein as a user /allottee of those IP addresses, after which plaintiff herein was impleaded as a defendant in both the suits. Admittedly, on 29.01.2007 defendant no. 1 and 7 have published the impugned article, written /reported by defendant no.7.

17. The plaintiff has filed the suit for damages for defamation on written statement/ libel. As quoted in the judgment of *Ram Jethmalani* (relied upon by defendant no. 1 and 7) as follows:

105. A good name is worth more than good riches. (Shakespear's Othello, Act-II, Scene III, pp.167):-

*Good name in man and woman,
dear my Lord Is the immediate jewel of their souls;
Who steals my purse, steals trash;
Its something nothing;
T'was mine, t'is, and has been slave to thousands;
But he that filches from me my good name,
Robs me of that which not enriches him
And makes me poor indeed”.*

Thus, every man has a right to have his reputation

preserved inviolate. This right of reputation is acknowledged as an inherent personal right of every person as part of the right of personal security. It is a jus in rem, a right good against as the world. A man's reputation is his property, more valuable than other property. The wrong of defamation protects reputation and defences to the wrong, viz. truth and privilege protect the freedom of speech. The existing law relating to defamation is a reasonable restriction on the fundamental right of freedom of speech and expression conferred by Article 19(1)(a) of the Indian Constitution and is saved by clause (2) of Article 19. The wrong of defamation may be committed either by way of writing, or its equivalent, or by way of speech. The term 'libel' is used for the former kind of utterances, 'slander' for the latter. Libel is a written, and Slander is a spoken, defamation. A defamatory statement is a statement calculated to expose a person to hatred, contempt or ridicule, or to injure him in his trade, business, profession, calling or office, or to cause him to be shunned or avoided in society. A libel is a publication of a false and defamatory statement tending to injure the reputation of another person without lawful justification or excuse.

18. In the present suit, plaintiff has filed the suit on the averment that defendant no. 1 and 7 have published the defamatory news article which was a false statement and plaintiff was easily identifiable to the news article and it damaged the reputation of plaintiff.

19. In a suit for damages on the averments of defamation, plaintiff is required to prove following things: (i) Defamatory statement – The statement must be the one that would harm the

reputation of the plaintiff in the eyes of right thinking members of the society, leading them to shun or avoid the individual; (ii) Publication – The defamatory statement must be communicated to a third party, not just the plaintiff themselves; (iii) Reference to the plaintiff – The statement must be understood by a reasonable person as referring to the plaintiff, even if not explicitly named.

20. Before going ahead, the impugned article is reproduced for the sake of convenience.

Get smart, email with care

Neelesh Misra

New Delhi, January 28

All those who flirt on e-mail, send confidential company information, or send hate mail about their bosses from anonymous IDs, stop right there. The humble e-mail is bouncing back. In the seven years after the country passed its information technology law that made e-mails legal documents, there has been almost no awareness and compliance - and few seemed to care. But that is all changing, with e-mails at the heart of a series of new Indian lawsuits. "People are extremely flippant and casual. People do not realise that it can have serious legal repercussions," said Pavan Duggal, an expert on internet-related laws. The costs are heavy. Under Indian laws, offenders can be imprisoned for a maximum of 10 years and may have to pay a penalty of up to Rs. 1 crore. Employees of Integrix, a networking company, recently received an e-mail, purportedly from one of its directors, promising help to pass a crucial certification examination without sitting for it – "for a consideration". The e-mail was traced back to an Internet Protocol (IP) address that provides the exact location of a computer. Bharti, the service producer, released the IP address on a court's instructions - showing that the e-mail had come from a former company director, sacked for alleged financial irregularities. He is now being prosecuted after the e-mail was admitted as evidence. The case also set a new precedent - the Delhi High Court allowed Integrix attorney Duggal to sue an anonymous person identified only by his IP address, before his identity was revealed. But Indian laws require a complex set of requirements to prove that e-mails have not been tampered with. Until now, "it was driven by corporate governance, not law of the land," said Manoj Chugh, South Asia chief of the US-based EMC, whose company helps archive e-mails in keeping with Indian laws. Companies are swiftly realising the need to archive mails - EMC's customer base grew from 350 to 500, between May and December last year, Chugh said.

21. From the perusal of admitted facts and the impugned article, it is clear that defendant no. 1 and 7 have reported the news article that the article was published about the issue of misuse of email and lack of awareness regarding prevalent law. The purpose of news article has been duly explained by defendant no. 7, who entered into witness box as DW-2, during his cross examination. The relevant portion of his cross examination is as follows:

“Q-15: The court case papers remain in the custody of Court and do not come in public domain except some orders. Can you specify which papers of which Court case were seen by you?”

A: As far as I can remember, I was working on a story to raise awareness among the general public regarding the responsible use of emails. Although, the Indian IT Act had been passed several years ago I felt that it was not adequately known among the general public that an email was now being recognized by law as a legal document. When I started doing my research my attention was drawn to several public sections at technology conferences and industry conclaves where experts were now beginning to discuss the digital field that India swiftly entering into just like the perils of irresponsible use of artificial intelligence are not adequately known today and the perils of the irresponsible manners of commenting on social media were not known until a few years ago, India was then in an era where emails were often not being responsibly used although they were legal tender. As part of my research I consulted an expert who was then seen as a leading and knowledgeable expert in the field of Cyber matters and information technology. His name was Mr. Pawan Duggal. When I raised the question as to whether any such transgressions had been brought to India's Courts that were related to emails he told me that the Hon'ble High Court of Delhi had been extremely progressive on matters related to digital affairs and technology and pointed me to a case related to a company called Integrix. For the first time, he then told me, any Court in India had issued notices to an email id as against a person and the court had asked the service provider Bharti Telecom to reveal the name of the person who had purportedly sent the said email. This was part of another case but many months before I wrote the story it had been informed to the Court that the said email had been received from a user identified as the Plaintiff. Both, printed copy of the said email and the information that it purportedly came from the plaintiff as well as other records including balance sheets allegedly signed by the plaintiff and other court papers that I do not fully recollect, were shown to me by Sh. Pawan Duggal. As part of additional research I spoke to other employees of Integrix and made that a part of my process of writing the report. While the said email and the name of the plaintiff were already part

of Court documents and in the public domain for a long time, I did my best as a responsible journalist by not mentioning the name of the plaintiff as the alleged sender of the email, and very carefully using the words "purportedly" and "alleged" in the two relevant lines. This is part of global journalistic practice and the use of the two words very clearly crisply and explicitly informed the reader that these are allegations, claims, and hence not proved in any Court of law."

22. Arguments of plaintiff that allegations in suit no. I and II were false:-

22.1 It has been argued on behalf of defendant no. 1 and 7, they are not supposed to verify the truth of allegations made in suit no. I and II. The Court is in agreement with respect to the same and the existence of allegations, verified through the orders of the Court, are sufficient to report the matter. Therefore, the arguments of the plaintiff to prove or show that even the allegations in suit no. I and II were false, are immaterial to decide the controversy in hands because in the present suit issue before the Court is whether defendant no. 1 and 7 caused the defamation to the plaintiff by publication of the impugned article and it contained false assertions. Therefore, the arguments addressed by the plaintiff to prove that the allegations in suit no. I and II were baseless and were part of larger conspiracy against the plaintiff, are liable to be discarded being irrelevant to decide the suit in hand.

22.2 The relevant issues in suit no. I and II can be looked upon here i.e.

In suit no. I:

(i) Whether the IP address 61.246.153.106 as on 27" January 2006 at 03:22:47 GMT was allotted to Defendant No.6? OPP

(ii) Whether on 27 January 2006 any mail was sent at all from

the IP address 61.246.153.106 and was it received at all by the Plaintiff? OPD-6

(vi) Was the Plaintiff justified in arraying Defendant No.6 initially as an anonymous person? OPD-6

In suit no. II:

(2) Whether the defendant No. 3 had hacked into and had disfigured and deleted the website of the plaintiff viz. www.integrifixindia.com? Onus on plaintiff and defendant No. 3.

22.3 Admittedly, plaintiff had settled the present suit as well as suit no. I and II with defendant no. 2 to defendant no. 6, therefore, plaintiff had lost the right to contend that the allegations in suit no. I and II were false as the truthfulness or falsehood of the allegations were in issue in those suits which have been disposed off as settled and now those issues cannot be adjudicated by the Court in the present suit.

22.4 Similarly, the objection of the plaintiff with respect to reporting of the pending suit is not maintainable because defendant no. 1 and 7 being persons from press/media, have constitutional rights to report even the pending matter and therefore, there is no denial of the arguments addressed by defendants with respect to constitutional rights of the press and duties. From the tone and tenor of the impugned article, it is clear that nowhere defendant no. 1 and defendant no. 7 had given their verdict nor they had declared plaintiff as guilty, rather they had informed the public at large that information given by Bharti Infotel had been believed by the Court.

23. Objections of plaintiff to the words “a former company director sacked for alleged finance irregularities:

23.1 The plaintiff has stressed upon the fact that he has resigned from defendant no. 2 company and he was never sacked nor there were allegations of financial irregularities against the plaintiff as reported in the impugned article.

23.2 On the other hand, defendant no. 1 and 7 have taken the plea that there were allegations of financial irregularities between plaintiff and defendant no. 2 to 6 and defendant no. 1 and 7 have been dragged into the controversy merely to make out a case.

23.3 I have perused pleadings as well as ordersheet of both suit no. I and II. Surprisingly, in both the complaints, defendant no. 2 company had categorically stated that “plaintiff herein had resigned from the company and there were no allegations of financial irregularities against the plaintiff herein nor it was mentioned that plaintiff was sacked /removed as stated in the impugned article. Further, from the perusal of record of suit no. I and II it is clear that till the publication of impugned article on 29.01.2007, there was nothing on record in the judicial record of both suits alleging any financial irregularities committed by the plaintiff herein while he was a director in the defendant no. 2 company.

23.4 Further, defendant no. 1 and 7 have taken the plea that the impugned article was published on the basis of information received by them and due care and caution was taken before publication of the article and defendant no. 7 had verified and corroborated the information received by him.

Admittedly, defendant no. 1 and 7 have not disclosed the exact source of information nor they have filed any document or any other record from where they gathered the information that

plaintiff herein was “sacked for alleged financial irregularities”. As far as DW-1 is concerned, he admittedly had joined the office of defendant no. 1 in 2012 i.e. after filing of the suit, therefore, he can't personally verify the facts of the impugned article.

23.5 Further, defendant no. 7 has been cross examined and during cross examination he has deposed that :

“Q-20: In the additional written statement filed by you, it has been mentioned that the defendant no-3 provided the credible information which is being denied by him in the written statement filed by defendant no-3, jointly alongwith defendant nos 4 and 5 and representative of defendant no-2. Can you specify what is the credible information which was not owned up by defendant no-3 which you had not reason to disbelieve as also referred in para 7 of your affidavit filed today?”

A: It is not my place to comment on the written statement of other defendants. As regards the information that I needed to write the larger story on the possible misuse of emails by the general public due to lack of knowledge of laws, I have detailed in previous replied how I received information related to one such illustrative case that was then ongoing.

There was lot of sparring between the plaintiff and Integrix including defendants no. 3 to 5, through their attorney defendant no.6. While that might have been for the then-ongoing legal squabble between the plaintiff and defendants, it was of no interest for my piece. What was of interest to me was only the details that are relevant to the responsible use of email, and those are only details published in two paragraphs of the larger story. There were allegations flying in the air related to the ongoing legal battle between the plaintiff and members of the Integrix company, but this was redundant and irrelevant to me. Some of these members made allegations of financial irregularities against the plaintiff, showed me Court orders and some balance sheet that they alleged were related to the plaintiff. However, none of this was relevant to the information based articles I was working on, and hence neither the information the plaintiff mentions, nor his name, nor any other gory details of the on-going legal proceedings were made part of the story.

Q. 25. In reply to question no.23 above, you have mentioned that the other defendants showed you copies of balancesheet and told you about financial irregularities allegedly committed by the plaintiff. Do you have any evidence about the other defendants having told you this thing or any other evidence in your possession which can prove that the plaintiff committed any financial irregularities as a Director of defendant no.2 company.

Ans. I had no interest in the then-ongoing legal battle between members of Integrix and the plaintiff. I understand that you have made allegations of financial irregularities against them and in the course of my research with defendant no.6 and other members of Integrix which may or may not have included some or all of its Directors, similar allegations were made against

the plaintiff. All of this was none of my business, therefore, I focused on the subject of the story and used the words "purported" and "alleged" while mentioning any of these related allegations. This is the global norm in Journalism that tells readers or viewers that the claim is just that - a claim, and allegation, not proved in the Court of law.

Q. 66. Did defendant no. 6 or other defendants produce any document in evidence of the plaintiff or any other former director having being sacked from integrix?

A. As far as I can recollect, there seems to have been an email purportedly received from the plaintiff claiming that he was "kicked out" of integrix. This was part of court papers then shown to me.

Q67. What was the date of the press conference organized by M/s EMC Corporation as mentioned in the news?

A. I do not recollect.

Q68. Did defendant no. 6 share the various items of information with you after the talk or lecture during this conference or before it?

A. I do not recollect the chronology.

Q68. With reference to the alleged financial irregularities which according to you were the basis of legal proceedings between the plaintiff and defendant no. 2, do you have detail of any specific irregularity that was informed to you or came to your knowledge?

A. This was neither the subject of my story nor of my interest.

These allegations were made in interviews that might or might not have included all the defendants.

Q69. I put it to you that in para no. 11 of your affidavit you have averred that the defendant no. 6 has taken a false stand in his WS that he has not provided any information to you, however, in the WS of defendant no. 6, defendant no. 6 has nowhere stated that he has not provided any information to you and thus, your averments in para no. 11 of your affidavit are false. What you have to say?...

....It is wrong to suggest that the former director of Integrix referred in the news was not sacked. It is wrong to suggest that the former director of Integrix referred in the news separated from integrix through resignation. It is wrong to suggest that there was no allegation by any other defendants or any one else made to me against the plaintiff/ former director Integrix referred in the news for having committed any financial irregularity..."

23.6 Thus, from the perusal of cross examination of defendant no. 7/DW-2, it is clear that defendant no. 1 and 7 have failed to point out even a single document from the record of suit no. I and II to prove that defendant no. 1 and 7 got the information from the Court's order that plaintiff herein was sacked from defendant no. 2 company for alleged financial irregularities. Further, defendant no. 1 and 7 have not produced even any other

document or evidence from where they had received the above mentioned information. They have not produced the balance-sheets which were shown to defendant no. 7 with respect to financial irregularities alleged caused by plaintiff.

23.7 Further, defendant no. 1 and 7 have taken the plea that they got to know about the facts of the impugned article from the conference /workshop conducted by defendant no. 6. However, interestingly, defendant no. 1 and 7 have not disclosed the exact date, time, month and year of the said conference. This Court can understand that at the time of DE, DWs could not have remembered the relevant information as DE was recorded approximately after 17 years from the publication of the article. However, defendant no. 1 and 7 have not given these details even in the written statement which was filed immediately after filing the suit. Defendant no. 1 and 7 could have called defendant no. 6 to prove their averments but they had not done so.

24. Further, defendant no. 7 had pointed out towards the email dated 27.01.2006 which was subject matter of the suit no. I and it was stated that in the said email it has been written that plaintiff herein was kicked out and thus, the defendant no. 1 and 7 have published the article, containing substantial truth.

The relevant portion of the said email as follows:

*“.....As you all know, i was kicked out of INTEGR*X as a consequence of bad behaviour, that kick realised that what i am worth.....”*

In the above mentioned portion, it is nowhere written that plaintiff was sacked for alleged financial irregularities and all that is written, is “kicked out due to bad behaviour”. By no stretch of imagination, bad behaviour can be equivalent to

financial irregularities.

25. Further, it is mentioned in the article “under Indian law”, offenders can be imprisoned for a maximum of ten years and may have to pay a penalty upto Rs. 01 crore”. Further, the impugned article stated that “he is now being prosecuted after the email was admitted as evidence”.

Now as per plaintiff, it has been portrayed in the reporting that he was being prosecuted for a criminal case while no criminal case was pending against him and even the information with respect to punishment of imprisonment upto ten years and fine upto Rs. 1 crore is a false information.

As far as this plea is concerned, it can be said that the article had gone too far and it was not proper reporting of the matter, however, the benefit of substantial truth can be given to defendant no. 1 and 7 because mentioning of imprisonment in the article seems in hands with the propose and the purpose of the article appears to create an awareness in the public. Moreover, there is no denial to the fact that the information provided by Bharti Infotel was admitted by the Court, consequent to which plaintiff was impleaded as defendant in suit no. I and II. Though the word prosecuted has been used wrongly as it was a civil litigation and not the criminal case, however, the statement contains substantial truth and in the sequence of incidents mentioned in the article, mentioning of imprisonment seems just.

26. **Objections as to the identity of the plaintiff in the impugned article:**

Further, defendants have taken the objections as to identity of the plaintiff not being disclosed in the impugned article.

Defendant no. 1 and 7 have taken the plea that Court records and orders were already in public domain, therefore, the information that in the suit filed by defendant no. 2, plaintiff had been traced /identified on the basis of IP address, was also in public domain and there cannot be any dispute that article just highlighted the information already available in public domain. It has been further argued that plaintiff has also examined the witnesses who were already aware of the court cases and that is the only reason they could co-relate the impugned article to the plaintiff.

As far as this plea is concerned, admittedly all the witnesses examined by the plaintiff admitted during cross examination that they were aware about the Court cases filed against the plaintiff and that is why they could co-relate the impugned article to the plaintiff. However, the issue is that after publication of the impugned article which alleged that plaintiff /former director of the company was sacked for alleged financial irregularities, all those PWs have questioned the integrity of the plaintiff and raised a suspicion over the plaintiff for withholding the information of sacking for alleged financial irregularities. The moment they questioned the plaintiff on the basis of averments made in the impugned article, the damage had been caused to the reputation of the plaintiff in the eyes of people who knew about the plaintiff's case. Moreover, defendant no. 1 and 7 cannot blow hot and cold together because at one hand they are saying that they had not named the plaintiff in the article and there were other directors too who had left the defendant no. 2 company and therefore, plaintiff cannot be identified and on the

other hand, they are saying that the factum of filing of two suits by defendant no. 2 against the plaintiff was already within public knowledge and only those who knew about the cases of plaintiff could co-relate the impugned article with plaintiff.

27. Plaintiff has replied upon the judgment of “*M/s Frank Finn Management Vs. Mr. Subhash Motwani & Anr*”(Supra) it was held that :

“20. I find that in a case where the plaintiff alleging defamation is not named, it is incumbent upon such a plaintiff to establish that the persons/people who knew him, understood the impugned article to be referring to him, in spite of him being not so named in the impugned article. Unless the said fact is established, there can be no claim for defamation inasmuch as without the persons knowing the plaintiff connecting the allegedly defamatory allegations to the plaintiff, even if the allegations are per se defamatory, the plaintiff cannot sue. In this regard, it is immaterial whether the plaintiff understood the libel as referring to him or that the defendants, in fact, intended the libel to be directed to the plaintiff. Publication, i.e. communication to a third party, is the essence of defamation. Without a person other than the plaintiff and the defendant becoming privy to the libel, the same is not actionable.

29. The statements aforesaid, culled out, undoubtedly are defamatory. The aforesaid imputations undoubtedly are of disparagement of the business and reputation of the entity referred to therein. It has been held in [Union Benefit Guarantee Company Ltd v Thakorlal P. Thakor & Ors](#) AIR 1936 Bombay 114 that even a corporation, as the plaintiff herein is, can complain of defamation and [in that case](#) an action at the instance of the insurance company was allowed in respect of a libel which suggested that the company was started and carried on by adventurers who filled their pockets at the costs of ignorant/poor. The Senior counsel for the plaintiff by referring to the text books above quoted has argued that in the case of a libel as compared to a slander, there can be defamation per se and there is no need to examine any person to depose that in his opinion the reputation of the plaintiff fell or was affected. Reliance in this regard is placed on [John Thomas v Dr K Jagdeesan](#) (2001) 6 SCC 30, [Sadasiba Panda v. Bansidhar Sahu](#) AIR 1962 Orissa 115, [Cadbury \(India\) Ltd. v. Dr. M.C. Saxena](#) 83(2000) DLT 592 and [Shri Ram Singh Batra v. Smt. Sharan Premi](#) 133 (2006) DLT 126. There is merit in the aforesaid submissions of the senior counsel for the plaintiff. I have already found the contents of the article to be libelous and/or defamatory and I hold that the plaintiff was not required to examine any witness in whose esteem the plaintiff may have fallen.”

Thus, clearly in every industry, people do recognize each other and it is only that particular industry of the plaintiff which

is the concern of the plaintiff. The defendant no. 1 and 7 cannot take the plea that the publication of impugned article had no impact over the reputation of the plaintiff because admittedly, the people from the same industry i.e. networking industry could have easily recognized that the article is about the plaintiff only. For example, defendant no. 7 is a reporter and general public might not be much aware about his name and fame but any article published with respect to him, will have a definite impact over the people belonging to his industry i.e. press industry.

28. Defendant has relied upon some judgments.

28.1 In the case of *Raman Namboodiri, Chumaramkandathu Mana (Supra)*, the Apex Court has observed :

4. *The description could, therefore, well fit in with the appellant's son and the accused has proved through Dw. 1 that it was the appellant's son who was questioned by the Police on 4-8-61. It is unnecessary to decide whether the case of the accused sought to be proved through Dw. 1 is true or not. If the words complained of contain no reflection on a particular individual or individuals, but may equally apply to others belonging to the same class an action for defamation will not lie. The defamatory matter to be actionable must be such that it contains an imputation concerning some particular person or persons whose identity can be established. It is unnecessary that the person whose conduct is called in question should be described by name. It is sufficient if on the evidence it can be shown that the imputation was directed towards a particular person or persons who can be identified. In this case the imputation complained of was directed against the Adhikari and it is impossible in my opinion, upon the facts disclosed to ascertain with any degree of certitude who that Adhikari is, whether it is the appellant or whether it is his son”.*

28.2 Similarly, in the case of *Crop Care Federation of India(supra)*, Hon’ble Supreme Court of India has held that:

“19. It is a settled position that when it is written that "all lawyers are liars" or "all religious heads are simulators", no particular person occupying that position can sue the writer unless he can establish that the words were pointed at him. (Ref Union Benefit Guarantee Company Ltd. v. Thakorlal P. Thakor, AIR 1936 Bom 114; Eastwood v. Holmes, (1858) 1 F&F 34). On the other hand, if a defamatory statement is made referring to a certain group of people, e.g. tenants of a particular building,

then such tenants against whom the statement is made will generally be able to sue. (See Browne v. DC Thomson, (1912) SC 359).

The thin line of difference between the two types of cases is that in the latter type the plaintiff can be identified as the target of the alleged defamation, while in the former he cannot be so identified. The present case falls into the first category and thus no action against the defendants lie in favour of the plaintiff.”

28.3 Clearly, both the above mentioned cases are not applicable to the facts in hand. Clearly, in the present case, new article was not referred to a particular class, not even too a group of people, rather it was targeted to plaintiff only. Two cases were reported and plaintiff was impleaded as a defendant in both the suits and the facts were in public domine as per admission of defendants only, however, one false fact was added that “he was sacked for alleged financial irregularities”.

29. Qualified privilege and Fair comments:

Further, defendant no. 1 and 7 have taken plea that they enjoy the qualified privilege and have the defence of fair comments and therefore, plaintiff is required to establish the malice against the defendant which plaintiff could not establish.

As far as this plea is concerned, both these benefits can be given to the defendant no. 1 and 7 when there are no allegations or imputation with respect to integrity of a person. For example as discussed already when plaintiff objected to the use of word “prosecuted” against him and the mention of imprisonment in the impugned article, the Court gave the findings that defendant no. 1 and 7 being the person from press enjoy the liberty to report the matter and despite they being gone too far, no adverse inference can be drawn against them. However, reporting in the article that plaintiff was sacked for alleged financial irregularities without

any substance or material to give that opinion, is equivalent to character assassination for which no benefit can be given to the defendant no. 1 and 7.

30. Further, during evidence defendant no. 7 deposed that he gathered the information from official of defendant no. 2 company and they alleged that plaintiff was involved in financial irregularities. However, defendant no. 7 has not produced anything to corroborate his plea and there is no reason coming forward why defendant no. 7 published the unofficial allegations of employees /officials of defendant no. 2 company while on the record defendant no. 2 has nowhere made any such allegation in both the previous suits that plaintiff was sacked for alleged financial irregularities.

31. **No Malice in publication of impugned article:**

Defendant no. 1 and defendant no. 7 have taken the plea that the impugned article was published in larger public interest and there is no element of malice which plaintiff has been able to prove against them except mere bald allegations.

It has been held in the case of *Mahaveer Singhvi Vs. Hindustan Times Limited and Ors*, relied upon by defendant no. 1 and defendant no. 7 that :

“47. In essence, any statement which has a tendency to injure the reputation of the person or lower him in the estimation of members of the society results in loss of reputation and is consequently defamatory.

52. The law of defamation in the civil context provides that even the words spoken without ill-will, may be actionable and in such cases the malice is implied in the act of speaking or publication. This kind of malice is called "legal malice" or —malice in law. It is said to exist in speaking defamatory matter without legal excuse, because such words are spoken wherein the law implies malice. Thus, the legal malice is a fiction which is implied from the circumstances.

53. The Apex Court in the case of S.R. Venkataraman vs. Union of India,

(1979) 2 SCC 491, explained that in civil proceedings, actual malicious intention need not be established as the „malice in law“ is assumed from the commission of a wrongful act. Reliance was placed on Viscount Haldane“s reasoning for the presumption of „malice in law“ in *Shearer and another v. Shield*, 1914 AC 808 which reads as under:

—A person who inflicts an injury upon another person in contravention of the law is not allowed to say that he did so with an innocent mind; he is taken to know the law, and he must act within the law. He may, therefore be guilty of malice in law, although, so far the state of his mind is concerned, he acts ignorantly, and in that sense innocently.¶

54. Thus, in Civil proceedings, the malicious intention of a person making an imputation is immaterial; when a statement is untrue and is defamatory by its very nature as there is a presumption of —Malice in Law.

55. Given the presumption of —Malice in Law, what needs to be considered is the nature and extent of injury to invite an action for defamation. Fundamentally, injury to the reputation being the gist of the action; evidence of loss of reputation is necessary as without some evidence, it would not be clear that reputation had in fact, been injured. But the injury must be appreciable, that is, capable of being assessed by the Court. Hence, no action lies for mere vulgar abuse or for words which have inflicted no substantial injury as espoused in the maxim: *de minimis non curat lex* (the law does not concern itself trifles or with insignificant or minor matters.).

Clearly, it has been held that if the statement has a tendency to injure the reputation of the person or lower him in the estimation of members of the society results in loss of reputation and is consequently defamatory, the actual malicious intention of a person making an imputation is immaterial. Publication of allegations that plaintiff was sacked for alleged financial irregularities without any substance and proof is defamatory per se and the intention of defendant no. 1 and defendant no. 7 is immaterial.

Moreover, in case of publication through newspaper, if the statement is defamatory there is no need to prove the damages and it is an ipso facto prove that the publication tarnished the image of plaintiff. Therefore, the facts of the remaining cases relied upon by defendant no.1 and defendant no. 7 are not

applicable to the facts in hand.

Quantum of liability of defendant no. 1 and 7:

32. Further, the Court is also required to discuss about the quantum of liability of defendant no. 1 and defendant no. 7 i.e. whether they should be held liable equally i.e. jointly and severally or their should be separate liability of defendant no. 1 and defendant no. 7.

Defendant no. 7, being a reporter, might have reported the matter carelessly and might have done irresponsible journalism, however, defendant no.1 being a media house had higher responsibility to keep a check upon the matter reported by the defendant no. 7. An institution is always bigger than an individual person and as is said “higher the power, higher the responsibility”. A big institution like defendant no. 1 is supposed to have a check upon the reports/news articles prepared by an individual reporter. The institution has higher accountability because institution generally has many check posts, many barriers before the matter is reported or a task is completed. For example when in the Court system, the question of accountability comes, the office of Judicial Officer has more accountability than the official like Ahlmad etc. It is the judicial officer signing the report/ case who is responsible for that report or case. Similarly, defendant no. 1 being a big Media House owes a bigger accountability than the defendant no. 7 i.e. an individual reporter. Therefore, it is appropriate that defendant no. 1 is held liable to pay 3/4th amount of the compensation amount awarded to plaintiff and defendant no. 7 is held liable to pay 1/4th amount of the compensation awarded to the plaintiff.

33. The plaintiff has claimed the damages for Rs. 1 crore alongwith interest. However, considering the facts and circumstances of the case, the amount of Rs. 1 crore seems arbitrary and unreasonable and therefore, an amount of Rs. 40 lacs as compensation seems reasonable. As far as the question of interest is concerned, Court is not inclined to give pendentelite interest as reasonable compensation as a whole has been awarded. Therefore, if defendant no. 1 and 7 fail to pay the compensation amount within 60 days, they will be liable to pay 8% interest per annum starting from elapse of 60 days from the date of judgment till its actual realization.

34. Defendant no. 1 and 7 have relied upon the case of *“Rustom K. Karanjia and Another Vs. Krishnaraj M.D. Thackersey and Ors.,* It deals with the quantum of damages in case of defamation. It has been held that :

“39. It was, however, contended for the defendants that in a case like the present where a journalist honestly believes that the public exchequer is deprived of a large sum of money and the Government is seized with paralysis in bringing the culprit to book speedily, this court, having regard to the conditions obtaining in this country, should recognize in the journalist a duty to bring the facts to the notice of the public with a view to put pressure on the Government to act. In this connection, reference was made to certain passages in the Report of the Press Commission, Part 1, 1954, particularly, paragraphs 910 and 911 in Chapter 19 at page 339. The Chapter is headed "Standards and Performance". We have gone through the paragraphs referred to, but we find there nothing to justify the contention that such a need was felt by the Press Commission. On the other hand, after stating in paragraph 914 that the newspapers ought to be accurate and fair; it sternly condemned Yellow Journalism (paragraph 929), 'Sensationalism' (Paragraph 931) and 'Malicious and irresponsible attacks (paragraph 936) even when such attacks had been made on the plea that the newspapers wanted to expose evil in high places. We do not, therefore, feel the need of recognizing any such new duty, because the journalist like any other citizen has the right to comment fairly and, if necessary, severely on a matter of public interest, provided the allegations of facts he has made are accurate and truthful, however defamatory they may be otherwise. Since his right to comment on matters of public interest is recognized by law, the journalist

obviously owes an obligation to the public to have his facts right Where the journalist himself makes an investigation, he must make sure that all his facts are accurate and true, so that if challenged, he would be able to prove the same. We think, public interests are better served that way. In our opinion, therefore, the plea of qualified privilege put forward on behalf of the defendants fails”.

In the present case, defendant no. 1 and defendant no. 7 have not included all the correct facts in the article. Further, considering the facts and circumstances of the case, Court has awarded reasonable compensation and no punitive or exemplary damages have been awarded.

35. Plaintiff has also sought decree of permanent injunction that defendant no. 1 be restrained from defaming the plaintiff in future. Considering the above said discussions, defendant no. 1 is hereby directed to publish an apology within 60 days from the pronouncement of judgment and defendant no. 1 is restrained from defaming the plaintiff in future.

In view of above discussion, issue no. I and II are decided in favour of plaintiff against the defendant no. 1 and 7.

36. Relief:

As issue no. I and II are decided in favour of plaintiff against defendant no. 1 and 7, the suit of the plaintiff is decreed in favour of plaintiff and against defendant no. 1 and 7 with following reliefs:

(i). Plaintiff is entitled for damages of Rs. 40 lacs. Defendant no. 1 will pay 3/4th amount of the compensation to plaintiff and defendant no. 7 will pay 1/4th amount of compensation to the plaintiff.

(ii). In case defendant no. 1 and 7 fail to pay compensation amount to the plaintiff within 60 days from the pronouncement

of judgment, plaintiff will be entitled for interest @ 8% interest per annum starting from elapse of 60 days from the date of judgment till its actual realization.

(iii). Defendant no. 1 is hereby directed to publish an apology in its newspaper within 60 days from the pronouncement of the judgment.

(iv). A decree of permanent injunction whereby defendant no. 1 is restrained from defaming the plaintiff.

(v). Cost of the suit also awarded in favour of plaintiff.

Decree sheet be prepared accordingly. All the pending interim applications stand dismissed being not pressed upon.

File be cosigned to record room after due compliance.

**Typed to the direct dictation and
announced in the open court
on this 06th June 2025**

**(Prabh Deep Kaur)
DJ-05/South East District
Saket Courts, New Delhi.**