



2026:DHC:8732



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29th SEPTEMBER, 2026

IN THE MATTER OF:

CNR No. DLHC010207122023

I.A. 38257/2024

IN

+ **CS(OS) 341/2023**

DR. VEER SINGH

.....Plaintiff

Through: Mr. Abhijit Mishra, Ms. Payal Bahl,
Mr. Himanshu Tomar, Mr. Vikhyat
Gupta, Mr. Prashant Jaiswal and Mr.
Ram Parvesh, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS Defendants

Through: Mrs. Avnish Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Aliza Alam, Mr.
Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 38257/2024

1. The present Application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [“CPC”] has been filed on behalf of the Defendants, seeking rejection of Plaint, primarily on the ground that the same is barred by limitation.

2. In order to appreciate the merits of the present Application, this Court deems it fit to recall a brief factual background of the Plaint, which is stated as under:



2026:DHC:8732



- (i) The Plaintiff was working in the Office of the Government of India since 21.03.1984 as a Medical Officer Junior Class – I of the Central Health Services, which falls under the aegis of Ministry of Health and Family Welfare.
- (ii) Between the years 2005 and 2006, the Plaintiff was put on deputation in the office the GNCTD/Defendant No. 1 as a member of the Committee for Opening and Evaluation of Tenders, for award of contracts of Sanitation Services in thirteen (13) hospitals under the GNCTD/Defendant No. 1 [**“the Contract”**].
- (iii) Around two years later in 2008, the Defendants falsely accused the Plaintiff of having committed financial violations of General Financial Rules No. 160 [**“GFR – 160”**] in the awarding of a tender. This matter was referred to the Central Vigilance Commission *vide* OM No. DLH-016 dated 30.01.2008, for seeking advice on initiation of penalty proceedings against the Plaintiff for allegations of financial impropriety and adding new tender conditions in the Contract. For these accusations, the GNCTD/Defendant No. 1 filed a Chargesheet dated 28.06.2012 under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Annexure I to the Chargesheet dated 28.06.2012, which contains the Statement of Articles of Charge framed against the Plaintiff is being reproduced to read as under:

*“Statement of Articles of charge framed against
Dr. Veer Singh, the then CMO (Hospital Cell),*



2026:DHC:8732



Directorate of Health Services, Government of
NCT Delhi.

Article I

That the said Dr. Veer Singh, the then CMO (Hospital Cell), Directorate of Health Services, Government of NCT Delhi, during the year 2005 – 2006, while functioning as Member of the Committee for opening and evaluation of Tenders/ Tender Committee for sanitation services in 13 Hospitals under Directorate of Health Services committed gross misconduct in as much as, he, in violation of terms and conditions of the tender document and provisions of General Finance rule – 160 (GFR – 160), recommended to add new condition i.e., ‘obtaining the manpower deployment plan’ from the four bidders whose technical bids were shortlisted, for evaluation of their price bids.

By his above act, Dr. Veer Singh, the then CMO (Hospital Cell), Directorate of Health Services, Government of NCT Delhi, has caused breach of trust, failed to discharge assigned duties in a honest and impartial way, exhibited lack of integrity, devotion to duty, and has acted in a manner unbecoming of a Government servant, thereby contravening the provisions of sub rule 1 (i) (ii) (iii) of Rule 3 of C.C.S (Conduct) Rules, 1964.

Article II

That the said Dr. Veer Singh, the then CMO (Hospital Cell), Directorate of Health Services, Government of NCT Delhi, during the year 2005 –

Signature Not Verified

Signed By: HARJOM
SINGH KIRMOLIYA
Signing Date: 05.10.2026
13:18:41

CS(OS) 341/2023

Page 3 of 32



2026:DHC:8732



2006, while functioning as Member of the Committee for opening and evaluation of Tenders/ Tender Committee for sanitation services in 13 Hospitals under Directorate of Health Services committed gross misconduct in as much as, he, in violation of terms and conditions of the tender document and provisions of General Finance rule – 160 (GFR – 160), recommended and got approved award of contract for sanitation services in 13 Hospitals under the Directorate of Health Services to M/s. Goodyear Services, L-3 bidder, and ignored the bid of L – 1, in an arbitrary manner taking into consideration the manpower deployment plan which was not part/ condition of the tender document, by way of misrepresentation causing extra expenditure to the Government.

By his above act, Dr. Veer Singh, the then CMO (Hospital Cell), Directorate of Health Services, Government of NCT Delhi, has caused breach of trust, failed to discharge assigned duties in a honest and impartial way, exhibited lack of integrity, devotion to duty, and has acted in a manner unbecoming of a Government servant, thereby contravening the provisions of sub rule 1 (i) (ii) (iii) of Rule 3 of C.C.S (Conduct) Rules, 1964.”

- (iv) Before the commencement of the inquiry proceedings by the Directorate of Vigilance, GNCTD, the Plaintiff attained superannuation on 30.06.2012. Thereafter, in response to the Chargesheet dated 28.06.2012, the Plaintiff submitted his defense statement on 21.08.2012. However, it is stated that even after a lapse of more than two years, no enquiry into the allegations leveled against the Plaintiff was initiated.



2026:DHC:8732



- (v) The Plaintiff approached the Central Administrative Tribunal [“**the Tribunal**”] by way of an Original Application bearing OA 339/2015, impugning the Chargesheet dated 28.06.2012. *Vide* Order dated 03.01.2019, the Tribunal quashed the Chargesheet dated 28.06.2012.
- (vi) Against the Order dated 03.01.2019 passed by the Tribunal, the GNCTD/Defendant No. 1 approached this Court by way of a writ petition bearing W.P. (Civil) No. 5800/2019, which was dismissed by a Division Bench of this Court *vide* Order dated 24.05.2019. It is stated that since the GNCTD/Defendant No. 1 did not impugn the Order dated 24.05.2019 passed by the Division Bench, the said Order attained finality.
- (vii) It is stated that due to the false charges levelled by the GNCTD/Defendant No. 1, the Plaintiff suffered severe health crisis and psychological pressure.
- (viii) Subsequently, the Plaintiff sent a notice dated 05.01.2023 to the learned Lieutenant Governor, GNCTD, learned Chief Secretary, GNCTD and the Principal Secretary, Department of Health and Family Welfare, GNCTD in terms of Section 80 of the CPC, which was followed by a reply from the Standing Counsel of the GNCTD/Defendant No. 1, who rejected all the allegations leveled by the Plaintiff.
3. The Plaintiff has thus approached this Court by filing the instant Suit, praying for the following reliefs:

“A. Kindly be pleased to allow the present Civil Suit and award the Decree for the direction to the Defendants to issue a sincere public letter of apology



2026:DHC:8732



for the cause of False, frivolous and Malicious Impugned Charge Sheet (Document No. 4) as filed against the Plaintiff.

B. Kindly be pleased to allow the present Civil Suit and award the Decree for the order of grant of damages for value of ₹ 2,50,00,000/- (Rupees Two Crores and Fifty Lac Only) in favour of the Plaintiff caused by the Tortuous conduct of the Defendants of Damages for the cause of False, frivolous and Malicious Impugned Charge Sheet (Document No. 4) as filed against the Plaintiff.

C. Any other order or directions including the costs of the Civil Suit (Court Fee / Litigation and Other Fees) as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favor of the Plaintiff."

4. Summons to the Defendants in the instant Suit were issued on 25.05.2023. The written statement as well as Defendants' affidavit of admission/denial of the Plaintiff's documents are on record.

5. By way of the instant Application filed under Order VII Rule 11 of the CPC, the Defendants pray that the Plaint must be rejected on the ground that the same is barred by limitation. In support of this, learned Counsel for the Defendants has argued as under:

- (i) Perusal of the Plaint reveals that the Plaintiff alleges a case of malicious prosecution against the Defendants, bringing the Suit within the ambit of Article 74 of the Limitation Act, 1963, meaning thereby, that the limitation period for filing the Suit was one (1) year from the date of cause of action.



2026:DHC:8732



- (ii) As per the Plaintiff, the cause of action arose on 24.05.2019, on which date a Division Bench of this Court dismissed the writ petition filed by the Respondents herein against the Order dated 03.01.2019 passed by the Tribunal. Thus, by applying the one (1) year limitation available to the Plaintiff under Article 74 of the Limitation Act, along with the judgment of the Apex Court in Cognizance for Extension of Limitation, In Re, (2022) 3 SCC 117, the time to file the instant Suit ended on 30.05.2022. As such, the Suit having been filed on 19.05.2023, is time-barred.

6. *Per contra*, learned Counsel for the Plaintiff submits that the cause of action to file the instant Suit arose on 24.05.2019, as the Order dated 24.05.2019 passed by the Division Bench of this Court dismissing the writ petition filed by the Respondents herein against the Order dated 03.01.2019 passed by the Tribunal, made it clear that the proceedings initiated by the Defendants against the Plaintiff were bogus and meritless. He therefore submits that passing of the said Order dated 24.05.2019 was indicative of the fact that the proceedings by the Defendants were initiated only to harass the Plaintiff, which caused harm to his life, reputation and dignity. Learned Counsel for the Plaintiff therefore submits that the instant Suit does not seek to bring out a case of malicious prosecution, but is only to exercise the right created by the passing of the Order dated 24.05.2019 and as such, the Suit would be within the ambit of Article 101 of the Limitation Act and not Article 74. As such, he states that since Article 101 of the Limitation Act permits a period of three (3) years upon passing of the Order dated 24.05.2019 to file the Suit and by applying the Judgment of the Apex Court



2026:DHC:8732



in Cognizance for Extension of Limitation, In re, (2022) 3 SCC 117, the Suit having been filed on 19.05.2023 is within limitation.

7. In support of his arguments, the learned Counsel for the Plaintiff places reliance on the Judgments passed by Coordinate Benches of this Court in Ashish Bhalla v. Vishvendra Singh, (2024) SCC OnLine Del 6120, Ram Singh Batra v. Sharan Premi, (2006) SCC OnLine Del 940, Sh. Deepak Rathaur & Anr. v. Sh. Shashi Bhushan Lal Dass, (2016) SCC OnLine Del 5319 and Schenker India (P) Ltd. v. Sirpur Paper Mills Ltd., 2012 SCC OnLine Del 38, as well as a Judgment passed by a Coordinate Bench of the Karnataka High Court in Bolandanda Pemmaya v. Ayagadara Kushalappa, 1965 SCC OnLine Kar 19.

8. In his rejoinder arguments, learned Counsel for the Defendants states that entire reading of the Plaint suggests that the Plaintiff has attempted to make out a case of malicious prosecution against the Defendants and is now taking the aid of Article 101 of the Limitation Act to forcibly bring the Suit within the limitation period. He submits that the entire pleadings of the Plaintiff are solely based on allegations of malicious prosecution which would be covered under Article 74 of the Limitation Act. He places reliance of the Judgment passed by a Coordinate Bench of this Court in Ravender Kumar Sood v. J.N. Sinha, 2026 SCC OnLine Del 4917, wherein it has been held that any departmental/disciplinary proceedings initiated by an employer against the employee would not come under the sweep of the word “prosecution” as stated under Article 74 of the Limitation Act. As such, he submits that even Article 74 of the Limitation Act is inapplicable.

9. *In arguendo*, the learned Counsel for the Defendants submits that if not Article 74, the Plaintiff’s case, at best, can be brought within Article 79



2026:DHC:8732



of the Limitation Act, which also prescribes a limitation period of one (1) year from the date of distress for suits to be filed seeking compensation for illegal, irregular or excessive distress. Still, he submits, the instant Suit would be barred by limitation.

10. Learned Counsel for the Defendants lastly submits that the judgments on which the learned Counsel for the Plaintiff has placed reliance on, actually aid the Defendants' case since all the five (5) cases were dismissed under Order VII Rule 11 of the CPC, on the ground that there was no sufficient cause of action.

11. Heard the learned Counsels for the parties and perused the material on record.

12. Before adjudicating upon the merits of the case, this Court reminds itself of the principles to be kept in mind while adjudicating an application filed under Order VII Rule 11 of the CPC. In Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, the Apex Court observed as under:

“13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the



defendant in the written statement would be wholly irrelevant at that stage.

15. *In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.*

16. *The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467] .)*

17. *It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.*

18. *In Raptakos Brett & Co. Ltd. v. Ganesh Property [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.*

19. *There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is*



adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.”

13. What flows from above is that a plaint cannot be rejected on the basis of allegations levelled by the defendant in the written statement or for that matter, in an application moved under Order VII Rule 11 CPC. Only the material facts are required to be stated in the plaint without referring to the evidence except in circumstances where the pleadings relate to misrepresentation, fraud, undue influence, wilful default, etc. The plaint must be read as a whole to determine as to whether it discloses a cause of action. In undertaking the said exercise, the court is not expected to consider



2026:DHC:8732



a particular plea. Instead, the averments made in the plaint in entirety, have to be taken to be correct. As long as the court is satisfied that the plaint discloses some cause of action that requires determination, the plaint ought not to be rejected. Since a cause of action comprises of a bundle of facts, the same are required to be proved by the plaintiff only at the stage of the trial. At the end of the day, the court must be mindful of the underlying object of Order VII Rule 11 of the CPC which is to nip in the bud, irresponsible and vexatious suits. At the same time, the opinion of the court that the plaintiff may not ultimately succeed in the suit, ought not to form the basis for rejecting the plaint.

14. Article 74 of the Limitation provides that the period of limitation for compensation for malicious prosecution is one (1) year from the date when the plaintiff is acquitted or the prosecution is otherwise terminated, while Article 101 provides that a suit can be filed within three (3) years from the date of a judgment, including a foreign judgment, or a recognisance. Without any doubt, the texts of both the Articles are different, though the latter appears to have a wider sweep than the former.

15. Article 74 and 101 are reproduced to read as under:

Description of suit	Period of limitation	Time from which period begins to run
PART VII – SUITS RELATING TO TORT		
74. For compensation for malicious prosecution.	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.



2026:DHC:8732



Description of suit	Period of limitation	Time from which period begins to run
PART IX – SUITS RELATING TO MISCELLANEOUS MATTERS		
101. Upon a judgment, including a foreign judgment, or a recognisance.	Three years	The date of the judgment or recognisance.

16. Article 74 of the Limitation Act comes in Part VII of the Schedule to the Limitation Act which provides the limitation period for Suits related to torts. Article 74 is a specific entry for compensation for malicious prosecution. On the other hand, Article 101 comes in Part IX, which provides limitation period for Suits relating to miscellaneous matters. ‘Miscellaneous matters’ would mean matters which would not fall within the scope of any other part.

17. As to what can be termed as ‘malicious prosecution’ has been discussed in depth by the Apex Court in W.B. SEB v. Dilip Kumar Ray, (2007) 14 SCC 568, relevant portion whereof is being extracted below:

“15. Malice and malicious prosecution as stated in Advanced Law Lexicon, 3rd Edn. by P. Ramanatha Aiyar read as follows:

“Malice.—Unlawful intent.

Ill will; intent to commit an unlawful act or cause harm. Express or actual malice is ill will or spite towards the plaintiff or any indirect or improper motive in the defendant's mind at the time of the publication which is his sole or dominant motive for publishing the words complained of. This must be distinguished from legal malice or malice in law which means publication without lawful excuse and does not depend upon the defendant's state of mind.

(1) The intent, without justification or excuse, to commit a wrongful act. (2) Reckless disregard of the



law or of a person's legal rights. (3) Ill will; wickedness of heart. This sense is most typical in non-legal contexts.

‘Malice means in law wrongful intention. It includes any intent which the law deems wrongful, and which therefore serves as a ground of liability. Any act done with such an intent is, in the language of the law, malicious, and this legal usage has etymology in its favour. The Latin malitia means badness, physical or moral—wickedness in disposition or in conduct—not specifically or exclusively ill will or malevolence; hence the malice of English law, including all forms of evil purpose, design, intent, or motive. [But] intent is of two kinds, being either immediate or ulterior, the ulterior intent being commonly distinguished as the motive. The term malice is applied in law to both these forms of intent, and the result is a somewhat puzzling ambiguity which requires careful notice. When we say that an act is done maliciously, we mean one of the two distinct things. We mean either that it is done intentionally, or that it is done with some wrongful motive.’

‘Malice in the legal sense imports (1) the absence of all elements of justification, excuse or recognised mitigation, and (2) the presence of either (a) an actual intent to cause the particular harm which is produced or harm of the same general nature, or (b) the wanton and wilful doing of an act with awareness of a plain and strong likelihood that such harm may result....

The Model Penal Code does not use “malice” because those who formulated the Code had a blind prejudice against the word. This is very regrettable because it represents a useful concept despite some unfortunate language employed at times in the effort to express it.’

‘Malice’ in the legal acceptance of the word is not confined to personal spite against individuals but consists in a conscious violation of the law to the



prejudice of another. In its legal sense it means a wrongful act done intentionally without just cause or excuse.

‘Malice’, in its legal sense, does not necessarily signify ill will towards a particular individual, but denotes that condition of mind which is manifested by the intentional doing of a wrongful act without just cause or excuse. Therefore the law implies malice where one deliberately injures another in an unlawful manner.

Malice means an indirect wrong motive.

‘... “malice” in its legal sense means, malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause.’

Malice, in ordinary common parlance, means ill will against a person, and in legal sense, a wrongful act done intentionally, without just cause or reason.

It is a question of motive, intention or state of mind and may be defined as any corrupt or wrong motive or personal spite or ill will.

‘Malice’ in common law or acceptance means ill will against a person, but in legal sense it means a wrongful act done intentionally without just cause or excuse.

It signifies an intentional doing of a wrongful act without just cause or excuse or an action determined by an improper motive.

‘ “Malice”, in common acceptance, means, ill will against a person; but in its legal sense, it means, a wrongful act done intentionally without just cause or excuse’ ... Malice in its common acceptance, is a term involving some intent of the mind and heart, including the will; and has been said to mean a bad mind; ill will against a person; a wicked or evil state of the mind towards another; an evil intent or wish or design to vex or annoy another; a wilful intent to do a wrongful act; a wish to vex, annoy or injure another person or an



intent to do a wrongful act; a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief.

‘ “Malice” means wickedness of purpose, or a spiteful or malevolent design against another; a purpose to injure another; a design of doing mischief, or any evil design or inclination to do a bad thing, or a reckless disregard to the rights of others, or absence or legal excuse, or any other motive than that of bringing a party to justice.’

‘The meaning of the term malice in English law, has been a question of much difficulty and controversy; and those who made through the many disquisitions on the subjects in textbooks and judicial opinions are almost tempted to the conclusion that the meaning varies almost infinitely, and that the only sense which the term can safely be predicated not to have in any given legal context is that which it has in popular language viz. spite or ill will. It certainly has different meanings with respect to responsibility for civil wrongs and responsibility for crime; and even with respect to crime it has a different sense according as it is used with reference to murder, libel, or the capacity of an infant to commit crime, expressed by the rule malitia supplet actum.’ (Ency. of the Laws of England.) Ordinarily, the absence of reasonable and probable cause in instituting a proceeding which terminates in favour of the plaintiff, would give rise to the inference of malice.

Malice has been said to mean any wrong or indirect motive but a prosecution is not malicious merely because it is inspired by anger. However, wrong-headed a prosecutor may be, if he honestly thinks that the accused has been guilty of a criminal offence he cannot be initiator of a malicious prosecution.

Malice means the presence of some improper and wrongful motive—that is to say an intent to use the legal process in question for some other than its legally



appointed and appropriate purpose. It means an improper or indirect motive other than a desire to vindicate public justice or a private right. It need not necessarily be a feeling of enmity, spite or ill will; it may be due to a desire to obtain a collateral advantage.

Malice in fact is malue animus indicating that action against a party was actuated by spite or ill will against him or by indirect or improper motives.

Malice : Hatred : Aversion : Antipathy : Enmity : Repugnance : Ill Will : Rancour : Malevolence : Malignity : Malignancy. Hatred is a very general term. Hatred applies properly to persons. It seems not absolutely involuntary. It has its root in passion, and may be checked or stimulated and indulged. Aversion is strong dislike. Aversion is a habitual sentiment, and springs from the natural taste or temperament which repels its opposites, as an indolent man has an aversion to industry, or a humane one to cruelty. Antipathy is used of causeless dislike, or at least one of which the cause cannot be defined. It is found upon supposition or instinctive belief, often utterly gratuitous. Enmity is the state of personal opposition, whether accompanied by strong personal dislike or not; as 'a bitter enemy'. Repugnance is characteristically employed of acts or courses of action, measures, pursuits, and the like. Ill will is a settled bias of the disposition. It is very indefinite, and may be of any degree or strength. Rancour is a deep-seated and lasting feeling of ill will. It preys upon the very mind of the subject of it. While enmity may be generous and open, rancour is malignant and private. Malice is that enmity which can abide its opportunity of injuring its object, and pervert the truth or the right, or go out of its way, or shape course of action, to compass its ends. 'Malevolence commences with some idea or evil belonging to and connected with the object; and it settles into a permanent hatred of his



person and of everything relative to him' — (Gogan). Malignity is cruel malevolence, or innate love of harm for the sake of doing it. It is malice the most energetic, inveterate, and sustained.

Malice in fact.—'Malice in fact' means express malice.

Malice in fact or actual malice, relates to the actual state or condition of the mind of the person who did the act.

Malice in fact is where the malice is not established by legal presumption or proof of certain facts, but is to be found from the evidence in the case.

Malice in fact implies a desire or intention to injure, while malice in law is not necessarily inconsistent with an honest purpose.

Malice in law.—'Malice in law' means implied malice.

'Malice in law' simply means a depraved inclination on the part of a person to disregard the rights of others, which intent is manifested by his injurious acts.

Malice in its legal sense means malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause. S.R. Venkataraman v. Union of India [(1979) 2 SCC 491 : 1979 SCC (L&S) 216 : AIR 1979 SC 49] , AIR at p. 51.

Malicious.—Done with malice or an evil design; wilful; indulging in malice, harboring ill will, or enmity malevolent, malignant in heart; committed wantonly, wilfully, or without cause, or done not only wilfully and intentionally, but out of cruelty, hostility of revenge; done in wilful neglect of a known obligation.



‘Malicious’ means with a fixed hate, or done with evil intention or motive; not the result of sudden passion.

Malicious abuse of civil proceedings.—In general, a person may utilise any form of legal process without any liability, save liability to pay the costs of proceedings if unsuccessful. But an action lies for initiating civil proceedings, such as action, presentation of a bankruptcy or winding-up petition, an unfounded claim to property, not only unsuccessfully but maliciously and without reasonable and probable cause and resulting in damage to the plaintiff. (Walker)

Malicious abuse of legal process.—A malicious abuse of legal process consists in the malicious misuse or misapplication of process to accomplish a purpose not warranted or commanded by order of court— the malicious perversion of a regularly issued process, whereby an improper result is secured.

There is a distinction between a malicious use and a malicious abuse of legal process. An abuse is where the party employs it for some unlawful object—not the purpose which it is intended by the law to effect; in other words, a perversion of it.

Malicious abuse of process.— Wilfully misapplying court process to obtain object not intended by law. The wilful misuse or misapplication of process to accomplish a purpose not warranted or commanded by the writ. An action for malicious abuse of process lies in the following cases. A malicious petition or proceeding to adjudicate a person an insolvent, to declare a person lunatic or to wind up a company, to make action against legal practitioner under the Legal Practitioners Act, maliciously procuring arrest or attachment in execution of a decree or before judgment, order or injunction or appointment of



receiver, arrest of a ship, search of the plaintiff's premises, arrest of a person by police.

Malicious abuse of process of court.—***

Malicious act.—Bouvier defined a malicious act as 'a wrongful act, intentionally done, without cause or excuse'.

A malicious act is one committed in a state of mind which shows a heart regardless of social duty and fatally bent on mischief—a wrongful act intentionally done, without legal justification or excuse.

'A malicious act is an act characterised by a pre-existing or an accompanying malicious state of mind. ...'

Malicious prosecution—Malice.—Malice means an improper or indirect motive other than a desire to vindicate public justice or a private right. It need not necessarily be a feeling of enmity, spite or ill will. It may be due to a desire to obtain a collateral advantage.

The principles to be borne in mind in the case of actions for malicious prosecutions are these:—Malice is not merely the doing of a wrongful act intentionally but it must be established that the defendant was actuated by *malus animus*, that is to say, by spite or ill will or any indirect or improper motive. But if the defendant had reasonable or probable cause of launching the criminal prosecution no amount of malice will make him liable for damages. Reasonable and probable cause must be such as would operate on the mind of a discreet and reasonable man; 'malice' and 'want of reasonable and probable cause,' have reference to the state of the defendant's mind at the date of the initiation of criminal proceedings and the onus rests on the plaintiff to prove them.

Other definitions of 'Malicious Prosecution'.—'A judicial proceeding instituted by one person against



another, from wrongful or improper motive and without probable cause to sustain it.'

'A prosecution begun in malice, without probable cause to believe that it can succeed and which finally ends in failure.'

'A prosecution instituted wilfully and purposely, to gain some advantage to the prosecutor, or through mere wantonness or carelessness, if it be at the same time wrong and unlawful within the knowledge of the actor, and without probable cause.'

'A prosecution on some charge of crime which is wilful, wanton, or reckless, or against the prosecutor's sense of duty and right, or for ends he knows or is bound to know are wrong and against the dictates of public policy.'

The term 'malicious prosecution' imports a causeless as well as an ill-intended prosecution.

Malicious prosecution is a prosecution on some charge of crime which is wilful, wanton, or reckless, or against the prosecutor's sense of duty and right, or for ends he knows or its bound to know are wrong and against the dictates of public policy.

In malicious prosecution there are two essential elements, namely, that no probable cause existed for instituting the prosecution or suit complained of, and that such prosecution or suit terminated in some way favorably to the defendant therein.

1. The institution of a criminal or civil proceeding for an improper purpose and without probable cause. 2. The cause of action resulting from the institution of such a proceeding. Once a wrongful prosecution has ended in the defendant's favor, he or she may sue for tort damages—Also termed (in the context of civil proceedings) malicious use of process. (Black's, 7th Edn., 1999)

'The distinction between an action for malicious prosecution and an action for abuse of process is that a malicious prosecution consists in maliciously



causing process to be issued, whereas an abuse of process is the employment of legal process for some purpose other than that which it was intended by the law to effect—the improper use of a regularly issued process. For instance, the initiation of vexatious civil proceedings known to be groundless is not abuse of process, but is governed by substantially the same rules as the malicious prosecution of criminal proceedings.’ 52 Am. Jur. 2d Malicious Prosecution S. 2, at 187 (1970).

The term ‘malice,’ as used in the expression ‘malicious prosecution’ is not to be considered in the sense of spite or hatred against an individual, but of malus animus, and as denoting that the party is actuated by improper and indirect motives.

As a general rule of law, any person is entitled though not always bound to lay before a judicial officer information as to any criminal offence which he has reasonable and probable cause to believe has been committed, with a view to ensuring the arrest, trial, and punishment of the offender. This principle is thus stated in Lightbody case [1882, 9 Rettie, 934] : ‘When it comes to the knowledge of anybody that a crime has been committed a duty is laid on that person as a citizen of the country to state to the authorities what he knows respecting the commission of the crime, and if he states, only what he knows and honestly believes he cannot be subjected to an action of damages merely because it turns out that the person as to whom he has given the information is after all not guilty of the crime. In such cases to establish liability the pursuer must show that the informant acted from malice i.e. “not in discharge of his public duty but from an illegitimate motive,” and must also prove that the statements were made or the information given without any reasonable grounds of belief, or other information given without probable cause; and Lord Shand added (p. 940): “He has not only a duty but a right when the cause affects his own property.” ’



Most criminal prosecutions are conducted by private citizens in the name of the Crown. This exercise of civic rights constitutes what with reference to the law of libel is termed a privileged occasion; but if the right is abused, the person injured thereby is, in certain events, entitled to a remedy. (See *H. Stephen, Malicious Prosecution*, 1888; *Bullen and Leake, Prec. P1., Clerk and Lindsell. Torts, Pollock, Torts; LQR, April 1898; Vin., Abr., tit. 'Action on the Case' Ency. of the Laws of England.*)

Malicious prosecution means that the proceedings which are complained of, were initiated from a malicious spirit i.e. from an indirect and improper motive, and not in furtherance of justice. (*Sri Nath Shaha v. L.E. Ralli [(1905-06) 10 CWN 253 (FB)]*)

[The performance of a duty imposed by law, such as the institution of a prosecution as a necessary condition precedent to a civil action, does not constitute 'malice'. (*Abbott v. Refuge Assurance Co. [(1962) 1 QB 432 : (1961) 3 All ER 1074 : (1961) 3 WLR 1240 (CA)]*)]

[*'Malicious prosecution thus differs from wrongful arrest and detention, in that the onus of proving that the prosecutor did not act honestly or reasonably, lies on the person prosecuted' (per Diplock, L.J. in Dallison v. Caffery [(1965) 1 QB 348 : (1964) 2 All ER 610 : (1964) 3 WLR 385 (CA)]*)]. (*Stroud, 6th Edn., 2000*)”

16. “[*'Malice' means and implies spite or ill will.*] Incidentally, be it noted that the expression '*mala fide*' is not meaningless jargon and it has its proper connotation. Malice or mala fides can only be appreciated from the records of the case in the facts of each case. There cannot possibly be any set guidelines in regard to the proof of mala fides. Mala fides, where it is alleged, depends upon its own facts and circumstances.” (*See Prabodh Sagar v. Punjab SEB*



[(2000) 5 SCC 630 : 2000 SCC (L&S) 731] , SCC p. 640, para 13.)

17. “12. The legal meaning of malice is ‘ill will or spite towards a party and any indirect or improper motive in taking an action’. This is sometimes described as ‘malice in fact’. ‘Legal malice’ or ‘malice in law’ means ‘something done without lawful excuse’. In other words, ‘it is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard of the rights of others.’ ” (See *State of A.P. v. Goverdhanlal Pitti* [(2003) 4 SCC 739] , SCC p. 744, para 12.)

18. “[T]he word ‘malice’ ... in common acceptation means and implies ‘spite’ or ‘ill will’. One redeeming feature in the matter of attributing bias or malice and is now well settled that mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record.... In *Jones Bros. (Hunstanton) Ltd. v. Stevens* [(1955) 1 QB 275 : (1954) 3 All ER 677 : (1954) 3 WLR 953 (CA)] the Court of Appeal has stated upon reliance on the decision of *Lumley v. Gye* [(1853) 2 E&B 216 : 22 LJQB 463 : 118 ER 749] as below : (*Stevens case* [(1955) 1 QB 275 : (1954) 3 All ER 677 : (1954) 3 WLR 953 (CA)] , All ER pp. 679 H-680 A)

‘For this purpose maliciously means no more than knowingly. This was distinctly laid down in *Lumley v. Gye* [(1853) 2 E&B 216 : 22 LJQB 463 : 118 ER 749] where *Crompton, J.* said that it was clear law that a person who wrongfully and maliciously, or, which is the same thing, with notice, interrupts the relation of master and servant by harbouring and keeping the servant after he has quitted his master during his period of service, commits a wrongful act for which he



is responsible in law. Malice in law means the doing of a wrongful act intentionally without just cause or excuse—*Bromage v. Prosser* [(1825) 1 C&P 673 : 171 ER 1362 and 4 B&C 247 : 107 ER 1051] . “Intentionally” refers to the doing of the act; it does not mean that the defendant meant to be spiteful, though sometimes, as for instance to rebut a plea of privilege in defamation, malice in fact has to be proved.’ ” (See *State of Punjab v. V.K. Khanna* [(2001) 2 SCC 330 : 2001 SCC (L&S) 1010] , SCC p. 336, para 5)

19. “[Malice in law.] Malice in law is, however, quite different. Viscount Haldane described it as follows in *Shearer v. Shields* [1914 AC 808 : 83 LJPC 216 : 111 LT 297 (HL)] :

‘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.’

Thus malice in its legal sense means malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause.” (See *S.R. Venkataraman v. Union of India* [(1979) 2 SCC 491 : 1979 SCC (L&S) 216 : AIR 1979 SC 49] , SCC p. 494, para 5.)

20. “21. [Malice per common law.] Malice in common law or acceptance means ill will against a person, but in the legal sense it means a wrongful act done intentionally without just cause or excuse.” (See *Chairman and MD, BPL Ltd. v. S.P. Gururaja* [(2003)



2026:DHC:8732



8 SCC 567 : JT 2003 Supp (2) SC 515] , SCC p. 580, para 21.)

21. “11. While it is true that legitimate indignation does not fall within the ambit of malicious act, in almost all legal inquiries, intention, as distinguished from motive is the all-important factor. In common parlance, a malicious act has been equated with intentional act without just cause or excuse.” [See Jones Bros. (Hunstanton) v. Stevens [(1955) 1 QB 275 : (1954) 3 All ER 677 : (1954) 3 WLR 953 (CA)] , Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant [(2001) 1 SCC 182 : 2001 SCC (L&S) 189] , SCC p. 190, para 11.]

18. It can be seen that the same contains certain similarities to the case set up by the Plaintiff herein. The Apex Court Dilip Kumar Ray (Supra) was adjudicating upon an appeal against an order passed by a Division Bench of the Calcutta High Court, dismissing the appeal preferred by the Appellant therein, questioning the correctness of the order passed by the Assistant District Judge, Alipore. It is noted that by the judgment of the trial court, the appellant, being the West Bengal State Electricity Board, as well as its functionaries, were held liable to pay a certain sum to the Respondent therein, who was an employee, for causing harassment and loss of reputation. It can be seen that the proceedings in Dilip Kumar Ray (Supra) also arose out of disciplinary proceedings initiated by an employer against an employee, which ultimately resulted in the employee being exonerated.

19. While the Apex Court in Dilip Kumar Ray (Supra) ultimately ruled in favor of the employer, the relevant thing for this Court to note is that the Apex Court proceeded on the basis that the factual matrix revealed allegations that pointed towards a case of malicious prosecution. That being



2026:DHC:8732



so, and the Plaintiff's case being similarly placed, this Court has no hesitation in holding that the limitation period applicable to the present case would be Article 74 of the Limitation Act.

20. On the other hand, discussion as to the scope of Article 101 of the Limitation Act has been carried out in a judgment passed by the Kerala High Court in the case of Dr. Vasantha Kumar Mallar v. N. Vyjayanthi Prabhu (CRP No. 725 of 2014), relevant extract whereof is being reproduced below:

“7. Under Article 101 of the Limitation Act, 1963, the time limit for filing suit upon a judgment is three years. The policy of the legislature is not to encourage a fresh suit for the purpose of enforcing a decision in an earlier suit. Only when the decree in the earlier suit is not executable does the law confirm a right to bring a fresh suit. Herein, some of the plaintiffs had approached the Land Reforms Appellate Authority with a prayer to set aside the Patta issued in favour of the predecessor-in-interest of the petitioners. These appeals were dismissed by the appellate authority. Thereupon, civil revision petitions were filed and this Court dismissed the civil revision petitions by order dated 11.10.1988 in C.R.P.No.2126 of 1987 and connected cases. While dismissing the revision petitions this Court observed that the revision petitioners' remedy was not to file appeal against issuance of Patta but to file a civil suit raising the question whether the tenancy belonged to Narayana Prabhu alone or to all the other members of the family. Section 2(9) of the Code of Civil Procedure defines 'judgment' as the statement given by the Judge on the grounds of a decree or order. The order of the Land Reforms Appellate Authority and for that matter, the order passed by this Court in the civil revision petition cannot be termed as judgment for the purpose of Article 101 of the Limitation Act.”



21. Now, since the rival contentions of the parties under the instant Application mainly revolve around whether Article 74 or Article 101 of the Limitation Act would govern the present Suit, it would be pertinent to study the pleadings of the Plaintiff contained in the Plaint. The following paragraphs of the Plaint bring out the nature of the Suit filed by the Plaintiff:

“9. It is respectfully submitted that the Plaintiff pleads before the Hon’ble Court that the Defendants choose 28th June 2012 to serve the Charge Sheet of the patently false, frivolous, and malicious allegations against the Plaintiff which was just 2 days before the Superannuation of the Plaintiff which was scheduled to happen on 30th June 2012. It is submitted that the Defendants in their malicious intent waited for about 6 ½ (Six and a Half Years) after Plaintiff’s work on the committee was over. It is submitted that the Plaintiff pleads before the Hon’ble Court that actions of the Defendants was laced with mens rea and purely executed with an intention to destroy the hard-earned reputation amongst the peers and the society at large. It is submitted that the Plaintiff was unceremoniously removed from his position of Medical Superintendent (MS) of the Lal Bahadur Shastri Hospital that completely ruined his life, reputation, and livelihood.

16. It is respectfully submitted that the Plaintiff craves to seek the leave of the Hon’ble Court to kindly be pleased to refer to the Notice under the provision of Section 80 of the Code of Civil Procedure, 1908 as served upon the Defendants for the cause of damages as faced by the Plaintiff. It is submitted that the plaintiff pleads before the Hon’ble Court that the obnoxious acts of Defendants had ruined the life, reputation, and livelihood due to patently false, frivolous, and malicious impugned charge sheet. It is pertinent to note that that Plaintiff in his notice



suggested to invoke the Alternate Dispute Mechanism of Mediation. However, the defendants did not respond to the said proposal. The True Copy of the Notice under the provision of Section 80 of the Code of Civil Procedure, 1908 as served upon the Defendants for the cause of damages as faced by the Plaintiff is herewith annexed and marked as DOCUMENT NO. 10.

19. It is submitted that the loss as suffered by the Plaintiff by the illegal and malicious acts by the Defendants which has entailed various hardships upon the Plaintiff and his family which cannot be compensated in terms of money. It is submitted that there is a material and serious question which is to be tried at the hearing of the suit and there is every likelihood of success of the Plaintiff at the trial and plaint and the documents depict that the Plaintiff has prima facie matter in his favour.

21. It is submitted that the plaintiff has a good prima facie case in his favor and balance of convenience also lies in favour of the Plaintiff. It is further submitted that the Plaintiff has already suffered irreparable loss by the acts of Defendant by the virtue of their Tortuous Act of ruining his life, reputation and dignity. Hence it will be in the interest of justice that the Defendant must compensate for cause of Damages due to violation of the fundamental rights of the Plaintiff.

24. It is submitted that the Plaintiff has not preferred any other similar Civil Suit before any other Honourable Court, or another Honourable High Court or Honourable Supreme Court of India against the



2026:DHC:8732



Defendants for their Tortuous Act of Injuria Sine Damnum.”

22. The present Suit has been filed with the following prayers:

“A. Kindly be pleased to allow the present Civil Suit and award the Decree for the direction to the Defendants to issue a sincere public letter of apology for the cause of False, frivolous and Malicious Impugned Charge Sheet (Document No. 4) as filed against the Plaintiff.

B. Kindly be pleased to allow the present Civil Suit and award the Decree for the order of grant of damages for value of Rs. 2,50,00,000/- (Rupees Two Crores and Fifty Lacs Only) in favour of the Plaintiff caused by the Tortuous conduct of the Defendants of Damages for the cause of False, frivolous and Malicious Impugned Charge Sheet (Document No.4) as filed against the Plaintiff.

C. Any other order or directions including the costs of the Civil Suit (Court Fee / Litigation and Other Fees) as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favor of the Plaintiff.”

23. A perusal of the above extracted paragraphs from the Plaint clearly shows that the Plaintiff's primary grievance was against the proceedings initiated by the Defendants, which the Plaintiff contends to be malicious. As such, the argument put forth by the learned Counsel for the Plaintiff that the Suit has been filed upon a judgment, i.e., Order dated 24.05.2019 passed by the Division Bench of this Court, is not borne out for the pleadings at all, as the language used in the Plaint is indicative of the Plaintiff having attempted to set up a case of malicious prosecution against the Defendants. Another



2026:DHC:8732



noteworthy aspect is that throughout the Complaint, the Plaintiff has claimed that the actions of the Defendants have ruined the reputation and dignity of the Plaintiff. All these aspects further lead to the conclusion which this Court has already arrived at above, that it is Article 74 of the Limitation Act which governs the period of limitation in the present case. Looking at the averments made in the Complaint and the Prayers made in the Suit leaves a little room for doubt that the Suit is one for malicious prosecution. The present Suit is, therefore, one for torts for compensation for a malicious prosecution. As such, the Plaintiff cannot rely on Part IX which deals with suits relating to miscellaneous matters for the reason that it is well settled that when there are specific entries for a particular suit, the party cannot resort to miscellaneous parts to extend the period of limitation.

24. This Court, therefore, is not impressed by the arguments put forth by the learned Counsel for the Plaintiff, claiming the three-year long period of limitation available under Article 101 of the Limitation Act, when the entire Suit depicts that the case set up by the Plaintiff is that of malicious prosecution. The terms of Article 74 of the Limitation Act apply squarely to the pleadings contained in the Complaint and as such, the Plaintiff cannot be permitted to ignore it and seek a general Article (i.e., Article 101, in the present case), merely on the ground that the latter affords a longer period of limitation for filing a suit [Ref: A. Venkata Subbarao v. State of A.P., 1964 SCC OnLine SC 141].

25. Thus, this Court finds itself in agreement with the contentions put forth by the learned Counsel for the Defendants, that the limitation to file the instant Suit began on 24.05.2019, which is the case of the Plaintiff as well. Thus, the Suit ought to have been filed on or before 23.05.2020. Pertinently,



2026:DHC:8732



the limitation period from 15.03.2020 to 28.02.2022 remains excluded by virtue of the judgment of the Apex Court in Cognizance for Extension of Limitation, In re, (2022) 3 SCC 117. However, even by 15.03.2020, the Plaintiff had consumed 295 out of the 365 days available to it for filing of the Suit. As such, only 70 days remained for it to file the Suit as of 01.03.2022, i.e., till 10.06.2022, while Suit came to be filed only on 19.05.2023, which is much beyond the available period of limitation under Article 74 of the Limitation Act.

26. In light of the above, this Court deems it fit to allow the present Application and reject the Plaint under Order VII Rule 11(d) of the CPC, as being time-barred.

CS(OS) 341/2023

27. Since the Application under Order VII Rule 11(d) of the CPC stands allowed, the Plaint is rejected. Pending application(s), if any, also stand dismissed.

SUBRAMONIUM PRASAD, J

SEPTEMBER 29, 2026

AP//Rahul