

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

**Present Before:
The Hon'ble JUSTICE ARINDAM MUKHERJEE**

**IA No. GA/1/2024
In
CS No. 169 of 2024
MEDHAVI SKILLS UNIVERSITY, SIKKIM
VERSUS
NIKITA THAKURIA**

**IA No. GA/3/2025
In
CS No. 169 of 2024
MEDHAVI SKILLS UNIVERSITY, SIKKIM
VERSUS
NIKITA THAKURIA**

For the plaintiff	: Ms. Sangeeta Roy, Adv. Mr. Sandeep Prasad Shaw, Adv. Mr. Chandra Prakash, Adv. Ms. Monalisa Maity, Adv. Mr. Aman Kumar Singh, Adv Advocates
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For the Defendant	Ms. Monika Kalra, Adv. Ms. Debarshi Das, Adv. Ms. Prerana Vishwas, Adv. Mr. Shantam Gulati, Adv. Mr. Saswata Tripathi, Adv. Advocates
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Heard On	7 th July, 2025
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Delivered on	7 th July, 2025
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Arindam Mukherjee, J.

1. This is an application filed by the sole defendant for rejection of the

plaint filed in CS/169/2024 on the ground that this Court lacks territorial jurisdiction to receive, try and determine the suit. Although, the prayer is for rejection of the plaint, but there is no separate prayer for revocation of leave under clause 12 of the Letters Patent 1865 by obtaining which the plaintiff invoked the jurisdiction of this Court for the plaint to be received by this Court to institute the suit.

2. After hearing the argument advanced by the defendant and the response from the side of the plaintiff, it appears that the application is for return of the plaint on the ground that this Court does not have the territorial jurisdiction to receive, try and determine coupled with the forum inconvenience principal.

Submission by the defendant :-

- A. The principal argument is that the defendant ordinarily resides at Guwahati, Assam. The defendant on being selected went to Sikkim to perform the job of a management trainee in the plaintiff university. The defendant, while working at Sikkim, allegedly faced certain unpleasant situation in connection whereof the defendant had published and/or posted certain material in the social media through internet. This, according to the plaintiff, on being accessed and read has tarnished its image thereby defaming the plaintiff University leading to the institution of the suit for defamation against the defendant before this Court.
- B. The defendant says assuming without admitting that the materials published by the defendant to be defamatory and such materials have

been read at Kolkata then also the damages, if any, due to such alleged defamatory statements have taken place either at Bidhannagar or at New Delhi or at Sikkim outside the jurisdiction of this Court and, as such, this Court in any event does not have the jurisdiction to receive, try and determine the suit.

- C. It is submitted by the defendant that the defendant is an ordinary resident of Guwahati and she was working at Sikkim so the place wherefrom the alleged defamatory materials can or could have been posted is either at Guwahati or at Sikkim but not at Kolkata.
- D. The defendant further submits that pursuant to the unpleasant experience, the defendant allegedly met with while in the University Campus at Sikkim was reported to the National Human Rights Commission from Sikkim to the Commission at New Delhi. The said Commission had sent the letter to the University at Sikkim and sought for its response. The University (plaintiff) instead of responding to the queries of the Commission referred the matter to the Internal Complaint Committee (in short, ICC) constituted under The "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013". It is also the case of the defendant that the University in order to put the defendant into inconvenience has instituted the suit in this Court to drag the plaintiff to submit to the jurisdiction of this Court when the materials, evidence and witnesses in connection with the alleged offence of sexual harassment is at

Sikkim and Guwahati. The complaint according to the defendant had been admittedly made prior to the institution of the suit.

- E. The defendant relies upon the provisions of Sections 19 and 20 of the Code of Civil Procedure, 1908 (in short CPC) and Clause 12 of the Letters Patent as also a judgment reported in **2017 SCC OnLine Del. 9135 (Mahadev I. Todale -Versus- Frankfinn Aviation Services Pvt. Ltd. & Ors.)** in support of her contention regarding jurisdiction, cause of action and forum inconvenience.

The plaintiff's submission :-

- I. The plaintiff on the other hand submits that admittedly the plaintiff has its registered office at Delhi and its head office at Bidhannagar, Kolkata. The University is situated at Sikkim. The plaintiff says that in the present era when any post or publication is made in the social media then the same can be accessed all over the world. Any defamatory statement is accessed and read by the guardians and students apart from the relatives and friends of the teaching and non-teaching staff of the University. The post and/or publication has been accessed and read in Kolkata where the University since it has its headquarter and as such the plaintiff is entitled to file and maintain the suit before this Court and that this Court has also the jurisdiction to receive, try and determine the suit.
- II. The plaintiff has relied upon Section 19 of the CPC and the judgment of the Hon'ble Supreme Court reported in **(2007) 15 SCC**

52 (Jageshwari Devi and Others Vs. Shatrughan Ram). Relying upon the provisions of Section 19 and the ratio laid down in Jageshwari (supra), it is submitted by the plaintiff that the issue raised by the defendant can at the highest be an preliminary issue to be decided at the trial and cannot be a ground for either rejection or return of the plaint.

- III. The plaintiff has also relied upon a judgment of the Delhi High Court delivered on 16th August, 2026 in Frankfinn Aviation Services Pvt. Ltd. Vs. Tara Kerkar & Ors.. Relying upon the said judgment, it is submitted by the plaintiff that by putting defamatory material on internet, territorial jurisdiction does not remain confined to the place of actual defamation and in a case of defamation being telecasted, Section 20 of CPC will have no application. The places where the actual defamation takes place and the place where such defamatory material is posted and transmitted through website, telecast, etc, the Courts in both the places have the territorial jurisdiction to receive, try and determine the suit in ordinary course according to the plaintiff.

Analysis and conclusion :

- a. Defamation per se has two façade. One is criminal in nature initiated under Sections 499 and 500 of Indian Penal Code, 1860 now Sections 356(1) and 356(2) of Bharatiya Nyaya Sanhita, 2023. The other is civil defamation with which we are concerned in the instant case. In a criminal defamation for example if a press conference has taken place

at Chandigarh which is published in a Newspaper at Mumbai, then the complainant who has read the same at Mumbai can lodge a complaint with the police authority in Mumbai irrespective of the fact that it is held at Chandigarh by a person who resides elsewhere and the Newspaper wherein it is published and read at Mumbai may have wide circulation thereat but does not have its office at Mumbai.

- b. Civil defamation on the other hand is an action in tort where the plaintiff/complainant on being successful in proving the defamation get a decree for damages. A Civil suit for defamation being in the nature of suits for compensation for wrong to a person is instituted as provided under Section 19 of CPC. In the instant case the defendant is an ordinary resident of Guwahati, Assam who went to work as a management trainee at the University situated at Sikkim. Going by the provision of Section 19 of CPC if the wrong is done within the local limits of jurisdiction of one Court and the defendant resides within the jurisdiction of another Court then the suit can be instituted before either of the Courts. So, going by such logic the suit in the instant case could have been ordinarily instituted at New Delhi where the University has its registered office or at Bidhannagar where the University has its headquarter and has allegedly suffered the wrong on the alleged defamatory post and publication made by the defendant. The suit could have been filed at Guwahati where the defendant resides or at Sikkim where the University is actually situated.

- c. The plaintiff does not have either its University or any office within the ordinary original civil jurisdiction of this Court. The plaint also does not speak that the plaintiff has suffered damages within the jurisdiction of this Court. The only pleading in paragraph 58 is as follows:-

“The aforesaid social media post had been read/heard by the people known to the Plaintiff and the world at large and members of business fraternity, students, teachers, employees and staff, within the jurisdiction of this Hon’ble Court. The said post has been viewed by persons both within and outside the jurisdiction of this Hon’ble Court.”

In paragraph 60, the plaintiff has stated as follows:-

“The cause of action arose on 11th June, 2024, when the Defendant published defamatory statements against the Plaintiff alleging inaction on its part and thereafter has been continuing repeatedly with every publication on social media, by media houses, posts on Google review and videographic recording on YouTube till 28th June, 2024 that is to the best of knowledge of the Plaintiff. Therefore, the statement are in circulation over social media and is still continuing day by day which is accessible both from both within and outside the jurisdiction of this Hon’ble Court.”

- d. Neither of these paragraphs shows that the plaintiff has suffered damages within the jurisdiction of this Court.
- e. Wrong due to defamatory statements on being published in continuation of the discussion above can be classified into two categories – one suffered by the University itself and the other by its

teaching, non-teaching staff of the employees of the said University. So far as the actual wrong to have, if any suffered by the plaintiff University is at New Delhi or Bidhannagar or at Sikkim. Since the plaintiff does not have any office within the Ordinary Original Civil Jurisdiction of this Court it cannot be said to have suffered any wrong within the local limits of this Court. In order to support this position it is submitted by the plaintiff that the social media post or YouTube interviews or posts in Google have been accessed and read by people within the Ordinary Original Civil Jurisdiction of this Court and as such the image of the plaintiff in the minds of right thinking men/women has been affected within the local limits of this Court and as such the suit can be maintainable in this Court.

- f. The plaintiff in support of its contention in this ground has relied on the ratio of Tara Kerkar (supra). On a reading of Tara Kerkar (supra) it appears that the learned Single Judge of Delhi High Court has only said that the concept of cause of action as in Section 20 of CPC gets excluded in view of the provisions of Section 19 of CPC in the context when post in internet can be accessed and read anywhere. The Court in that case did not take the issue any further. A suit for compensation for wrong or damages is based on the classical principle of where the actual loss or damage is said to have been suffered. So Section 19 of CPC is a departure from Section 20 in the sense it allows filing of a suit where the wrong has taken place and not on the basis of the residence of the defendant or wherein part cause of action

has arisen. The language of Section 20 is to a great extent identical to the language of Clause 12 of Letters Patent which provision is applicable for invoking the jurisdiction of this Court.

- g. Thus, on a closer scrutiny one can say that the teachers, non-teaching staff, their relatives and friends who have read or accessed the post within the jurisdiction of this Court can file and maintain a suit in this Court since the wrong in respect of the said person has taken place within the local limits of this Court, but so far as the University is concerned, the wrong has been suffered at its place of business i.e. either at New Delhi or Bidhannagar or at Sikkim and not within the local limits of this Court even if, such post or material has been read and accessed within the jurisdiction of this Court. The test as laid down by the Hon'ble Supreme Court in **2002 (1) SCC 567 [Union of India & Ors. Vs. Adani Exports Ltd. Anr.]** that there has to be at least a part cause of action to accrue within the jurisdiction of a Court to invoke the same. In the instant case the wrong has not been suffered by the University within the jurisdiction of this Court as it has no office or installation within the Ordinary Original Civil Jurisdiction of this Court. Even if one considers that cause of action is a mixed question of fact and law as held in 2019 (2) SCC 205 (Isha Distribution House (P) Ltd. v. Aditya Birla Nuvo Ltd.,) and the suit should be entertained by this Court as urged by the plaintiff then also it has to be shown that a part cause of action i.e. wrong has been suffered by the plaintiff within the jurisdiction of this

Court as discussed above without which the suit is required to be deemed as held in 2004 (12) SCC 376 (Indian Mineral & Chemicals Co. v. Deutsche Bank) as no cause of action has accrued within the jurisdiction of this Court. Even going by the concept of forum selection vis-à-vis wrong having suffered within the jurisdiction of this Court as contended by the plaintiff, the same does not stand to any logic. A person/entity on the allegation of having published defamatory materials which can be accessed through internet all over the world can be dragged to any jurisdiction even if the entity who is said to have suffered a wrong does not have any office or installation within the local limits of the Court wherein the suit is filed when admittedly the defendant(s) are outside, evidences and witnesses are outside the jurisdiction of the said Court.

- h. Assuming without admitting the statements made in the plaint are true and correct then also the plaintiff can or could have suffered damages within the jurisdiction of this Court. In absence of any office or installation within the jurisdiction of this Court and there being no specific pleading by the plaintiff to have suffered loss and damages within the jurisdiction of this Court, I am inclined to hold that this Court does not have the territorial jurisdiction to receive, try and determine the suit. The leave under Clause 12 of the Letters Patent stands revoked and direct return of the plaint to be filed before the appropriate Court on the ground that this Court lacks the territorial jurisdiction to receive, try and adjudicate the suit as discussed above.

It is true that Order 49 of CPC does not include an application under Order VII Rule 10 of the said Code but by virtue of the amendment dated 14th May, 1974 which has been published in the Calcutta Gazette (Part-I) on 1st August, 1974 the provisions of Order VII Rule 10 has made applicable to this Court.

- i. The department is directed to return the plaint along with court fees to the plaintiff for being instituted before an appropriate court. After return of the plaint on completion of necessary formalities the suit number should be deregistered from the database of this Court.
- j. As the plaint is directed to be returned, all pending applications also stand disposed of without any further order.

Urgent photostat certified copy of this judgment and order, if applied for, be supplied to the parties on priority basis after compliance with all necessary formalities.

(ARINDAM MUKHERJEE, J.)