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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 07.07.2025***+ **C.R.P. 188/2025 & CM Appls.38966-67/2025****TAJINDER KAUR**

.....Petitioner

Through: Mr. Neeraj Gupta, Adv. with
Petitioner in person.

versus

KSHIRODA CHANDRA PADHY AND ANRRespondentsThrough: Ms Rajdipa Behura, Sr. Adv. with
Mr. Philomon Kani, Ms. Neha
Dobriyal, Ms. Aishwarya Gupta, Mr.
Shashwat Kabi and Ms. Aditi Behura,
Advs.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Section 115 read with Section 151 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] impugning the order dated 07.05.2025 passed by the learned DJ-01, South District, Saket, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application under Order XII Rule 6 of the CPC filed by the Petitioner [Plaintiff before the learned Trial Court] has been dismissed.

2. The learned Trial Court has given a finding that although the Whatsapp chat produced by the Petitioner has been admitted by the Respondents in their affidavit dated 21.12.2024, whether or not the chat amounts to defamation, requires a full trial to be conducted. The learned



Trial Court held that merely speaking out is not defamation unless these statements actually amount to defamation, which can be seen once evidence is led. The Application under Order 12 Rule 6 of CPC filed by the Petitioner was dismissed with these findings.

2.1 It is apposite to extract the findings of the learned Trial Court as set out in paragraph 6 of the Impugned Order which reads as follows:

“6. Perusal of record shows that though there is admission on behalf of defendants but the same are not clear, unambiguous, and unequivocal, which can call for the judgment directly or dismissal of the suit. The court believes that full trial is necessary to determine the case. Moreover, in a case of defamation it is of utmost importance to prove that the reputation of the plaintiff was tarnished in the eyes of the public at large. Hence, although, there is an admission by the defendant with respect to making of certain statements but whether those statements actually amounts to defamation or not is a matter of trial. Hence, this court sees no merit in arguments of the defendant under Order 12 Rule 6 CPC, hence, the relief sought under Order 12 Rule 6 CPC declined. No order as to cost.”

[Emphasis Supplied]

3. Learned Counsel for the Petitioner submits that once an admission was made with respect to the Whatsapp chats by the Respondents, that by itself would *ipso facto* amount to a defamatory conduct and thus, the judgment should have been passed decreeing the suit for defamation.

4. Learned Senior Counsel for the Respondents, on the other hand, makes two submissions. Firstly, that there is no admission of the contents of the Whatsapp chat, but just of the existence of the chat itself, which is amongst 6 to 7 people. Secondly, she submits that whether the statements would tarnish the reputation of the Petitioner in terms of the law as settled for defamation, would be a subject matter of trial.

5. As stated above, the only finding that has been given by the learned



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Trial Court is that full trial is necessary to determine the suit as in a case of defamation, it is of utmost importance to prove that reputation of plaintiff was tarnished in the eyes of public.

6. It is the case of the Petitioner that a review of the Whatsapp chat by itself would show that the intent of the Respondents was to defame the Petitioner in an open forum and since the Whatsapp chat was *inter se* 5 or 6 persons, who were occupants of the building where the Petitioner resides, the defamation is complete.

6.1 The Petitioner has further submitted that the screenshots of the Whatsapp chats have been admitted by the Respondent in its Affidavit of Admission and Denial, and thus, the judgment under Order XII Rule 6 of the CPC based on admissions should have been directed by the learned Trial Court.

7. It is no longer *res integra* that in order for the offence of defamation to be proved, the person alleging the same has to set out as to what part of the writing is defamatory and exactly how and exactly in what manner. A Co-ordinate Bench of this Court in ***Mahaveer Singhvi v. Hindustan Times Limited & Ors.***¹ has while discussing the principal ingredients of the civil law of defamation has held that the publication of a statement exposing the plaintiff to hatred, ridicule or contempt and which has a tendency to injure him in his profession or calling, the harm caused to the reputation is what needs to be examined and not the intention, the statement must be published by the defendant to a third person and the statement must be false. The

¹ 2024 SCC OnLine Del 4409



relevant extract of the ***Mahaveer Singhvi*** case is set out below:

"74. In summary, principal ingredients of the civil law of defamation are as follows: (i) publication of a statement (concerning the aggrieved plaintiff) exposing the plaintiff to hatred, ridicule, or contempt or which causes him to be shunned or avoided or which has a tendency to injure him in his office, profession or calling; (ii) harm caused to the plaintiff's reputation and not the intention of the defendant is material; that the defendant had no intention to defame the plaintiff, is irrelevant; (iii) the statement must be published by the defendant to a third person; and (iv) the statement must be false. The defences available especially in the context of newspaper publications are a truthful statement, fair comment for public good and privileged statements cannot attract civil liability."

[Emphasis Supplied]

7.1 The Supreme Court in ***Ram Jethmalani v. Subramaniam Swamy***² has held that the defences in a case of defamation are of truth, fair comment and privilege. The Court explained that in defence to an action for defamation, truth or justification is a complete defence while 'fair comment' offers protection for expression of an opinion and it is limited to determine whether the views could have honestly been held by a fair-minded person. Privilege has been explained as something done to protect that is done for public good and in public interest. The relevant extract of the ***Ram Jethmalani*** case is as follows:

"Defences of defamation were succinctly explained by the Supreme Court in Ram Jethmalani v. Subramaniam Swamy [Ram Jethmalani v. Subramaniam Swamy, 2006 SCC OnLine Del 14:(2006) 126 DLT 535]. While defining defamation as public communication which tends to injure the reputation of another, the court explained that the defences available in a suit for defamation are of truth, fair comment and privilege. It states as under: (SCC OnLine Del para 95)

"95. Traditional defences to an action for defamation have now become fairly crystallised and can be compartmentalised in 3 compartments: truth, fair comment and privilege. Truth, or justification, is a complete defence. The standard of proof of

² 2006 SCC OnLine Del 14



truth is not absolute but is limited to establishing that what was spoken was ‘substantially correct’. Fair comment offers protection for the expression of opinions. Standard of proof is not that the court has to agree with the opinion, but is limited to determine whether the views could honestly have been held by a fair-minded person on facts known at the time. Unlike defence of truth, defence based on fair comment can be defeated if the plaintiff proves that the defamer acted with malice. Similar is the situation where the defence is of qualified privilege. Privilege is designed to protect expression made for the public good. Protection of qualified privilege is lost if actual malice is established. In public interest, absolute privilege is a complete defence. Rationale of absolute privilege being restricted to court proceedings or proceedings before tribunals which have all the trappings of a civil court and parliamentary proceedings is that if threat of defamation suits loom large over the heads of lawyers, litigants, witnesses, Judges and Parliamentarians it would prohibit them from speaking freely and public interest would suffer.”

[Emphasis Supplied]

8. As stated above, it is the contention of the Petitioner that the learned Trial Court has erred in its finding that an admission of the existence of the Whatsapp chat would not amount to defamation. It is contended that no trial is required to reach a finding of defamation. The Petitioner has also relied upon the Affidavit of Admission/Denial dated 21.12.2024 as filed by the Respondent as well as the Whatsapp chats itself, the extracts of which have been filed by the Petitioner before the learned Trial Court. The extract referenced by the Petitioner of the Affidavit of Admission/Denial dated 21.12.2024 is below:

S.N.	Particulars	Existence Denied/Accepted	Content Denied/Accepted	Remark
	xxx	xxx	xxx	xxx
4.	Annexure 4	Admitted	Admitted	What issue in April 2024 arose when the Plaintiff was



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	(Colly)- Screen shot of defamatory posts dated 20.04.2024			being charges Rs. 0 for the monthly water bill. During the ongoing discussion in the group provocative comments were made by the Plaintiff, leading to such heated argument on the group
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9. The Petitioner has stated that the comments made by the Respondent on the Whatsapp chat which are below are defamatory in nature and have tarnished the image of the Petitioner.

“Jhut or Chori ka ek limit hona chahiye Tajinder Kaur” and “I am not driver or clerk like you people.” Do you think I am your assistant? and “Chori karke phir dadagiri” and “Ye aurat Hamesh sabka nam pe jhoot bolti rehti hai.” And “And not like you third grade practitioner”

9.1 The Respondents on the other hand have stated that the statements by their mere existence does not *ipso facto* constitute the offence of defamation and a trial would be required to see as to whether any case for defamation has been made out.

10. Given this contention, it would be requisite to examine the actual contents of the Whatsapp chat of 20.04.2024. The extract which has been placed on record by the Petitioner starts from a comment by the Respondent which is in respect of consumption of a water bill and requiring proof for consumption. The Petitioner then questions as to how many people are residing in the flat and the units in the bill. The Respondent continues to ask for proof to which a response is given and the Petitioner and the Respondent

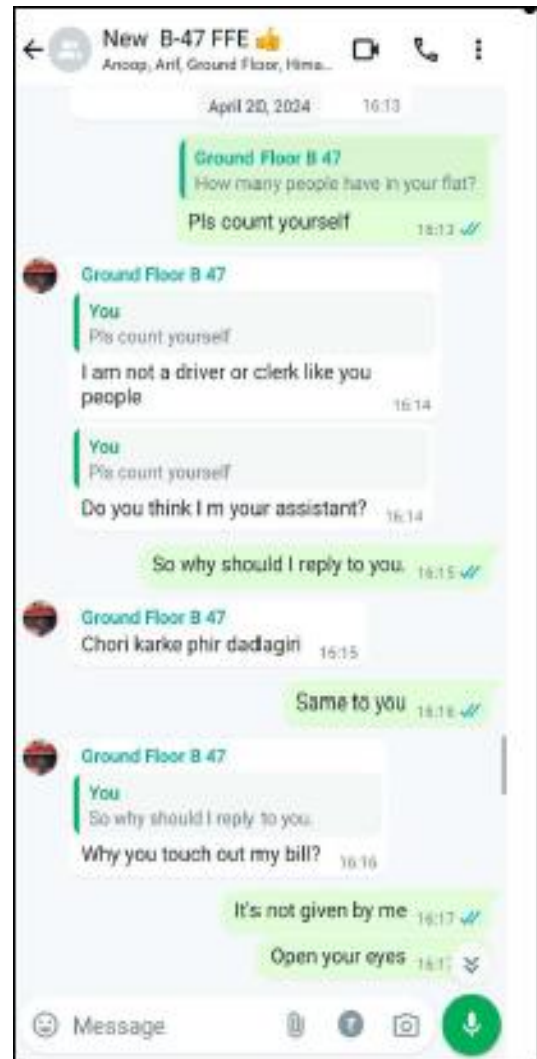


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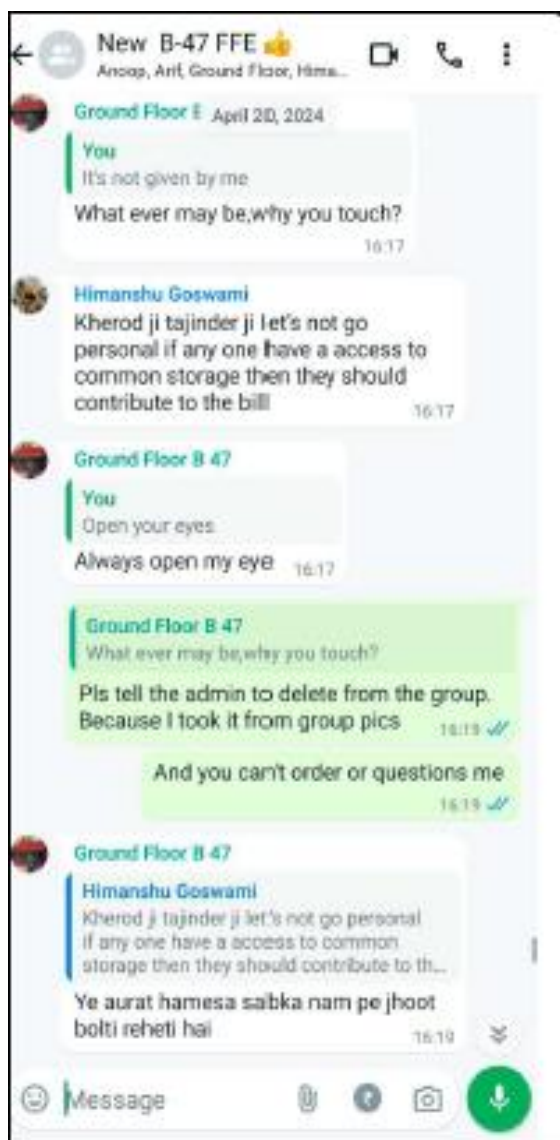
exchanged messages on the objection to the water bill. A third party then comments to both the Petitioner and the Respondent to not get personal and that all should contribute to the bill.

10.1 The Respondent then makes comment about how the Petitioner is not telling the truth and the Petitioner comments as to why his bill is being brought into consideration. The last comment is a comment by the Petitioner to retort by saying "same to you" and the response saying "not like you a third-grade practitioner". The Whatsapp chat is extracted below:





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11. The sum and substance of the Whatsapp chat shows that there is a water bill which is in issue. The Respondent has asked for proof and has queried the Petitioner as to how many people are living in the flat to which the Petitioner has replied to the Respondent telling him to count the number of people himself. In response, the Respondent comments that *"I am not a driver or clerk like you people"* and *"Do you think that I am your assistant?"*. He further comments that *"Chori karke phir dadagiri"*.



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12. Clearly, the statements that are being made are in a group comprising of people residing in the same building and could be termed as a verbal spat. The Respondent has made comments on the Petitioner and the Petitioner has also responded to those comments. A third party also cautions both the Petitioner and the Respondent to not get personal in the comments.

12.1 A plain reading of these comments reflects that some of the comments of both the Petitioner and the Respondent may be rude, but whether being rude to a person on a Whatsapp group would amount to defamation, would require to be ascertained. In addition, these appear to be an opinion of one person only - the Respondent.

13. It is settled law that the truth, fair comment and privilege are defences to an action for defamation. The defence of fair comment offers protection for expression of opinions which is explained as whether a fair-minded person on the facts known, at that time, acted with malice. A Division Bench of this Court in *Pankaj Oswal Thr. his Constituted Attorney Sanjay Wali v. Vikas Pahwa*³ held that truth, fair comment and privilege are the defences available to the defendant in an action of defamation. With respect to *fair comment*, the Court held that it is a defence ordinarily set up by opinion-makers and all that is required to examine is that whether views expressed could have been honestly held by a fair-minded person based on facts known at a point in time, when the opinion was expressed. The relevant extract is below:

"30. It is well-established that, broadly, the following defences are available to the defendant in a defamation action: truth, fair comment and privilege. Truth or justification can provide a complete defence. The

³ 2024 SCC OnLine Del 1193



defendant is required to establish that the statement made was substantially true. Insofar as fair comment is concerned, which is a defence ordinarily set up by publications, journalists and opinion-makers, all that the Court has to examine is whether the views expressed could have been honestly held by a fair-minded person based on facts known at a point in time, when the opinion was expressed."

[Emphasis Supplied]

14. It is settled law that for loss of reputation, evidence is necessary to ensure that the reputation of a person, in fact has been tarnished. In the present case, the comments made by the Respondent are made in respect of consumption of water and a water bill in relation to use of water from an underground water tank by the persons who are living together in an apartment building. Thus, clearly the actual issue between the parties is with respect to contributions to the water bill. In such a scenario, the Petitioner would be required to prove that the Respondent acted with malice in his comments on the Petitioner during the Whatsapp chat. The Whatsapp chat by itself, does not *prima facie* constitute as evidence for any such loss of reputation of the Petitioner. Whether or not the reputation of the Petitioner has been tarnished, would also require a trial.

15. The Division Bench of this Court in the case of ***Delhi Jal Board v. Surendra P. Malik***⁴, has laid down that no relief under Order XII, Rule 6 lies if the matter requires evidence of parties for determination of issues. The relevant extract of ***Delhi Jal Board*** case is reproduced below:

"8. The provision confers almost sweeping powers on the Court to render a speedy judgment in the suit to save the parties from going through the rigmarole of a protracted trial. The only pre-requisite for this is that there must be admissions of fact arising in the suit, be that in the pleadings or otherwise or orally or in writing. Such admission of facts must be clear and unequivocal, unconditional and unambiguous and may relate to the

⁴ 2003 SCC OnLine Del 292



whole claim or a part of it. These need not be made specifically or expressly and could be a constructive admission also. Whether or not such admission arose in the suit would depend on the facts and circumstances of the case. **If it involved disputed facts, claims and counter claims requiring evidence of parties for determination of issues or where the defense of a party touched the root of the matter, a judgment could not be passed under Order 12 Rule 6 dispensing with the trial because the valuable right of going to trial could not be taken away from the party unless the claim was admitted.** A duty was, Therefore, cast on the court to ascertain the admission of facts and to render judgment on these either in respect of the whole claim or a part of it. The court could do so on its own or on the application of a party and without waiting for the determination of any other question between the parties. It could do so at any stage of the suit. Dealing with the scope of provision, Supreme Court said in *Uttam Singh Duggal v. Union*, AIR 2000 SC 2740:-

"Where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain a speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed."

[Emphasis Supplied]

16. The finding in the Impugned Order is that these statements by themselves would not constitute the offence of defamation and a trial is requisite. The revisionary jurisdiction of this Court is limited to examine whether the learned Trial Court has failed to exercise jurisdiction vested in it or has exercised jurisdiction which is not vested or has acted with illegal or material irregularity.

16.1 The Supreme Court in the case of *Ambadas Khanduji Shinde & Ors. v. Ashok Sadashiv Mamurkar & Ors.*⁵; clarified that unless the Petitioner is

⁵ (2017) 14 SCC 132



able to show non-exercise of jurisdiction or exercise of jurisdiction by the Trial Court is not in accordance with law, no order under Section 115 of CPC can be passed. The Impugned Order is limited in its finding that the statements referred to by the Petitioner in his Petition, on their own, does not amount to defamation without a trial. The Supreme Court has further clarified that the revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of CPC, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. It has been held as follows:

*“14. Apart from the factual aspect, order lacks merit on the ground of jurisdiction. The High Court cannot interfere with the concurrent factual findings while exercising jurisdiction under Section 115 of the Civil Procedure Code. **It is settled law that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of the Civil Procedure Code, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. In the facts on hand, the courts below have passed reasoned orders well within the jurisdiction conferred upon them. We arrive at the conclusion that the High Court committed error in interfering with the judgment and decree of the trial court.**”*

[Emphasis Supplied]

17. As is stated above, the examination by this Court shows that the Impugned Order does not suffer from any infirmity which would merit interference by this Court.

18. The present Petition is accordingly dismissed. The pending Application also stands closed.

19. It is, however, made clear that the order passed today will not preclude the Petitioner from raising all contentions before the learned Trial



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Court. The rights and contentions of both the parties are left open in this behalf.

20. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 7, 2025/r/pa