IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.186 of 2024

CNR No. BRHC011250082024

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1. Assistant General Manager, State Bank of India, Regional Office, Bhowesh Bhawan, Khanjarpur, City and Dist- Bhagalpur- 612001.
2. Vimlendu Vikash, the then Assistant General Manager, State Bank of India, Zonal office, Bhagalpur, At Present AI.T.B Sales, Assistant General Manager, Credit Monitoring Dept. (R and DB), Corporate Centre, State Bank Bhawan, Madam Cama Road, Mumbai-400021.
3. Sanjay Kumar Singh, the then Assist. General Manager, State Bank of India, Regional office, Munger, At present Fraud Risk Management (S and I0 State Bank of India, LHO Patna- 800001, emailed- sanjaykumarsingh@sbi.com. Mobile No. 9771419353.

... ... Petitioners

Versus

Mantosh Prasad Sinha S/o Lt. Parmeshwari Prasad, Village- Baruata, PO- Amrath, Distt.- Jamui, At present residing at Mohalla- Nayatola, Station Road, P.S./P.O and Distt. Jamui-811307.

... ... Opposite Party

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Appearance :
For the Petitioners : Mr. Chitranjan Sinha, Senior Advocate
Mr. Rakesh Kumar Singh, Advocate
For the Respondent : Mr. Pankaj Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV ORDER

7 27-10-2026 Heard learned counsel for the petitioners and learned counsel for the opposite party.

2. This civil revision application under Section 115 of the Code of Civil Procedure (hereinafter referred to as ‘CPC’) has been filed against the order dated 17.10.2024 passed by learned Sub-Judge-III, Jamui (hereinafter referred to as ‘Trial Court’), in Title (Defamation) Suit No. 137 of 2020. By that order, the petition dated 30.05.2024 filed by the

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defendants/petitioners under Order VII Rule 11(d) of the CPC for rejection of the plaint has been rejected.

3. The petitioners are officers of the State Bank of India and are defendants in Title (Defamation) Suit No. 137 of 2020, filed by the opposite party.

4. The case of the plaintiff/opposite party, as stated in the plaint, is that he was an empanelled advocate of the State Bank of India for the Jamui Civil Court from 1983 to 2018. It is alleged that a title deed on which he had submitted a title investigation report was re-examined by another panel advocate, Purnendu Kumar Singh, who opined that the document was not genuine. It is further alleged that, on the basis of that opinion, the plaintiff was de-panelled, and that this lowered his prestige, dignity and reputation and caused him financial loss and mental agony. The loss has been quantified at Rs. 25,00,000/-.

5. Prior to the suit, the plaintiff had filed a complaint case, Case No. 1526C of 2019, on 26.09.2019 under Section 500 of the Indian Penal Code, making allegations relating to his de-panelment. The learned Trial Court examined the complaint under Sections 200 and 202 of the Code of Criminal Procedure and dismissed it under Section 203 on 03.01.2020. Against that order, the plaintiff preferred Criminal Revision No. 11 of 2020,

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which was allowed on 24.02.2020. The order dated 24.02.2020 was challenged before this Court in Cr. Misc. No. 11233 of 2021, in which it was stayed on 19.05.2022. The said application is stated to be pending.

6. The plaintiff instituted Title (Defamation) Suit No. 137 of 2020 on 19.10.2020 seeking damages of Rs. 25,00,000/-. The petitioners filed a written statement on 01.07.2021 denying the plaint allegations. They stated, among other things, that the plaintiff had not been de-panelled by them and that the decision was taken by the competent authority. Thereafter, the petitioners filed a petition dated 30.05.2024 under Order VII Rule 11(d) of the CPC, praying for rejection of the plaint on the grounds that its averments do not constitute defamation and that no cause of action arose against them. The plaintiff filed a rejoinder on 14.06.2024 opposing the petition.

7. By the impugned order dated 17.10.2024, the learned Sub-Judge-III, after recording the submissions of the parties, referred to the scope of Order VII Rule 11(d) of the CPC and to the decisions in ***M. Nelson Babu v. Kamlesh Babu***, ***2009 (5) CTC 814***, and ***Dega Jayalakshmi v. Kapoor Enterprises, 2010 (1) MLJ 1167*** (***Mad***). The learned Trial Court held that the petitioners had not specifically mentioned the law by which the

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suit is barred, and that it was not clear from the averments in the plaint whether the suit is barred by any law. It also held that the petitioners' contentions related to procedural irregularities, which are curable in nature. The petition was accordingly rejected, and the suit was fixed for 12.11.2024 for acceptance of written statements. Being aggrieved by the order dated 17.10.2024, the petitioners have preferred the instant civil revision application.

8. Learned counsel for the petitioners submitted that the plaintiff/opposite party, who had been a panel advocate of the State Bank of India at the Jamui Civil Court, has instituted proceedings against the petitioners only to harass them. It was submitted that de-panelment of an advocate is neither a crime nor does it harm the reputation of any advocate, and that advocates of the State, the Central Government, corporations and boards are changed from time to time, from the court below up to the Hon'ble Supreme Court, without any criminal or defamation case being filed against the concerned authority. It was further submitted that the Bank acts on the report of its panel advocate and forms no independent view on the inspection of a title deed. If the opposite party had any grievance, it was submitted, his remedy lay against the advocate

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who gave the report and not against the Bank. It was also submitted that the opposite party was de-panelled on 28.02.2019, about a year after the report of Advocate Purnendu Kumar Singh, and that it is not the case that he was de-panelled because of that report.

8. i. Learned counsel submitted that the opposite party first filed Complaint Case No. 1526C of 2019, which the learned court dismissed under Section 203 Cr.P.C.; that the revision against that order was allowed on 24.02.2020; and that the said order was stayed in the quashing application filed by the Bank before this Court. It was submitted that the opposite party then filed the title (defamation) suit on the same facts, in which the petition under Order VII Rule 11 CPC was rejected by the impugned order. Reliance was placed on ***R.D. Saxena v. Balram Prasad Sharma***, reported in ***(2000) 7 SCC 264*** (para 15), for the proposition that a litigant must be free to change his advocate, and that where a client does not wish to continue the engagement of a particular advocate, it is a professional requirement, consistent with the dignity of the profession, that the advocate return the brief. On this basis, it was submitted that a litigant has the freedom to change his advocate. Reference was also made to Order III Rule 4 of the CPC on the appointment of

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a pleader. It was submitted that the opposite party, with an ulterior motive, filed the complaint case and the defamation suit against the higher officers of the Bank, alleging that they had removed him from the panel, whereas the petitioners have no authority to make a panel of advocates or to remove anyone from it.

9. Learned counsel for the opposite party submitted that the revision is without merit and the impugned order calls for no interference. It was submitted that the Bank's letter dated 07.12.2018 described the opposite party as a fraud on account of a title verification report of 2014, whereas that report was correct. It was submitted that the deed was found genuine by the police and the Dy.S.P., Munger, in Kotwali P.S. Case No. 404 of 2018; accordingly, the Bank’s later complaint case no. 453C of 2022 was dismissed on 22.09.2023. He submits that the Bank had no authority to seek an explanation from a panel lawyer, as it could only de-panel him. It was further submitted that the letter was circulated to the court about two and a half months before the letter of de-panelment was issued.

9. i. It was submitted that the petitioners filed their written statement on 01.07.2021 without seeking a preliminary issue, that issues were framed, that nine witnesses were

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examined for the plaintiff, of whom four were not cross-examined by the petitioners and were discharged, and that the plaintiff's evidence was closed on 09.09.2026. It was submitted that the petitioners and their counsel have not appeared for four dates, that the petition under Order VII Rule 11 of the CPC was filed only after about four years, and that it was filed to harass the opposite party and delay the trial. It was also submitted that the revision has been filed in the name of the Bank authority by a counsel who is not a panel lawyer of the Bank, which is objectionable.

10. Heard learned counsel for both the parties and perused the record, including the impugned order and the plaint of Title (Defamation) Suit No. 137 of 2020.

11. The scope of revisional jurisdiction under Section 115 of the CPC is limited. In ***Madan Mohan (Dead) through LRs. v. Thakar Dass (Dead) through LRs.***, reported in ***2026 INSC 730,*** where it was observed:

> "10. *It is well settled that the scope of Section 115 Code of Civil Procedure, 1908 is limited. We may refer to a few pronouncements:*
>
> *10.1 35 years ago, it was observed in Masjid Kacha Tank, Nahan v.Tuffail Mohammed, that:*
>
> *"3. It is well settled position in law that*

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under Section 115 of the Code of Civil Procedure the High Court cannot reappreciate the evidence and cannot set aside the concurrent findings of the courts below by taking a different view of the evidence. The High Court is empowered only to interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non- consideration of the material evidence on record by the courts below. Simply because another view of the evidence may be taken, 10 1991 Supp (2) SCC 270 is no ground by the High Court to interfere in its revisional jurisdiction."

10.2 The Constitution Bench in Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh, while dealing with this very question of the scope of revisional power in the context of rent acts, particularly in issue therein held as under:

> *"...Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity." 10.3 A three judge Bench of this Court in Ambadas Khanduji Shinde v. Ashok Sadashiv Mamurkar, while dealing with a landlord-tenant dispute observed as under:*

"14. Apart from the factual aspect, order lacks merit on the ground of jurisdiction. The High Court cannot interfere with the

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> *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)"*

Accordingly, the Hon'ble Supreme Court reiterated that the High Court, in revision, cannot reappreciate evidence or correct errors of fact or law unless they go to the root of jurisdiction, and that the jurisdiction is restricted to illegal or irregular exercise of jurisdiction by the subordinate court. The test, therefore, is not whether this Court would have decided differently, but whether the court below failed to exercise a jurisdiction vested in it, exercised one not vested in it, or acted with material irregularity.

12. Order VII Rule 11 of the CPC provides, inter alia, that the plaint shall be rejected "(a) where it does not disclose a cause of action" and "(d) where the suit appears from the

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statement in the plaint to be barred by any law". It is settled that only the averments in the plaint and the documents filed with it are to be looked at, and they are taken to be correct. The written statement and the defendant's pleas or application are irrelevant at this stage (as observed in ***Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557*** **(**para 9); ***Dahiben v. Arvindbhai Kalyanji Bhanusali***, ***(2020) 7 SCC 366*** (paras 12.6 and 12.7)). The plaint is read meaningfully and as a whole, not by picking out isolated passages. The power may be exercised at any stage of the suit, so the fact that the petition (dated 30.05.2024, filed by the defendants (the present petitioners) before the learned trial court in Title (Defamation) Suit No. 137 of 2020, seeking rejection of the plaint under Order VII Rule 11(d) CPC) was filed in 2024 after the written statement of 2021 is no objection.

13. In the instant case, the petition dated 30.05.2024 raised two grounds, namely, no cause of action arose against the petitioners (a ground does not cease to be a ground because the application mentions a different clause) and barred by law. The learned Trial Court, however, confined itself to clause (d) of Order VII Rule 11 of the CPC. It held that the petitioners had not specified the law by which the suit is barred, and it treated

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their contentions as procedural irregularities which are curable. It did not read the plaint to see whether the averments, taken as correct, disclose a cause of action at all. The objection of the petitioners was not procedural. It went to the root of the suit, namely whether any legal wrong is alleged in the plaint.

14. Order VII Rule 11 of the CPC is couched in mandatory terms: the plaint "shall be rejected" where any of the stated conditions is fulfilled. The Court is to read the plaint meaningfully and not formally. 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 X of the CPC. (***Sopan Sukhdeo Sable v. Asstt. Charity Commr.***, ***(2004) 3 SCC 137***). The basic question is whether a real cause of action has been set out or something purely illusory has been stated with a view to get out of the Rule. For this purpose, it is to be noted that when this Court is called upon to exercise jurisdiction to reject the plaint under Order VII Rule 11 of CPC, the averments made in the plaint and the documents filed along with the plaint, which form part thereof alone, will be taken into consideration, and this Court cannot consider the defence, pleas or materials submitted by the defendant for the purpose of rejecting the plaint (***Gunaseelan v. Valarmathi and 2 Ors***,

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2009(5) CTC 693, para 13)

15. A trial court that does not undertake this exercise on a ground specifically raised before it leaves undischarged a duty which the law casts upon it. Resultantly, there is a failure to exercise a jurisdiction vested in it and a material irregularity in its exercise, within clauses (b) and (c) of Section 115(1) of the CPC. The question whether the plaint discloses a cause of action can be answered from the four corners of the plaint. It is a pure question of law, needs no evidence and has been fully argued. A remand would only prolong a suit that has been pending since 2020. Section 115(1) of the CPC empowers this Court to "make such order in the case as it thinks fit", and this Court therefore proceeds to decide the question itself.

16. The suit is described as a suit for defamation, and the plaintiff's case is rested on the provisions of the Indian Penal Code relating to defamation. Section 499 of the IPC provides that whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases thereinafter excepted, to defame that person.

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17. The Supreme Court in ***Mohammed Abdulla Khan v. Prakash K***. (***2018 (1) SCC 615***, paras 10 and 11) observed that to constitute defamation, there must be, first, an imputation concerning a person; secondly, that imputation must be made with the intention of harming, or with knowledge or reason to believe that it will harm, the reputation of that person; and thirdly, the imputation must be made or published, whether by words, signs or visible representations. The Apex Court explained the distinction between making and publishing: if X tells Y that Y is a criminal, X makes an imputation; if X tells Z that Y is a criminal, X publishes it. The essence of publication is the communication of the defamatory imputation to persons other than the person against whom it is made (para 11). Whoever "either made or published" the imputation is the person answerable (para 16). Defamation is thus an act of the defendant, namely the making or publishing of an imputation. It is not any and every event that leaves the plaintiff's standing diminished.

18. The word "imputation" is central to defamation. Explanation 4 to Section 499 of the IPC states that no imputation is said to harm a person's reputation unless that imputation, directly or indirectly, in the estimation of others,

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lowers the moral or intellectual character of that person, or lowers his character in respect of his caste or calling, or lowers his credit, or causes it to be believed that his body is in a loathsome or disgraceful state. The statute thus ties harm to reputation to an imputation, that is, to something said or shown about the person. It follows that the law of defamation protects a person's reputation against false and harmful imputations published to others. It does not compensate for every reputational or financial consequence that follows from a lawful act, such as the termination of a contract or of a professional engagement. The act of ending a relationship is not, by itself, a statement about the person with whom the relationship is ended.

19. The second indispensable element is 'publication'. A communication made only to the person concerned does not defame him, for the harm which the law of defamation addresses is the lowering of his reputation in the eyes of others. This was the view taken by the Full Bench of the Allahabad High Court in ***Queen Empress v. Taki Hussain*** (***ILR 7 All 205***), and it was accepted by the Bombay High Court in ***Navin Parekh v. Madhubala Shridhar Sharma***, ***(1992) 94 BLR 467*** (paras 11, 13 and 14), where the correspondence had been received directly by the complainant and it was nobody's case

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that it was circulated. Nor does hurt to feelings amount to defamation. In ***Navin Parekh*** (*supra*, para 9), the Bombay High Court observed:

> "*It is not out of place to mention that prosecutions for defamation are often instituted, in a majority of cases because of hurt-feelings, or damaged egos but the parties invariably see reason and conclude these skirmishes amicably*."

20. The same learned Judge, in para 24 of the same decision, cautioned that where parties from the legal profession use the judicial process on the strength of contrived super-sensitivity, and the motivation appears to be personal rather than a genuine legal wrong, such proceedings deserve to be ended at the threshold in the interest of the Bar and of the Courts. That was said in a petition under Section 482 of the Code of Criminal Procedure, but the principle: that the machinery of the courts is not to be spent on grievances that do not amount in law to defamation, applies with equal force at the threshold stage of a civil suit under Order VII Rule 11 of the CPC.

21. The Bombay High Court further held in ***Navin Parekh*** (***supra*** para 11) that where a party, on the

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basis of sufficient material, arrives at a conclusion and states its case and the course of action it contemplates, it is wholly inappropriate to allege that an offence of defamation has been committed, and that the basic ingredients, namely a malicious intention and the publication of a false imputation with the intention of damaging reputation, were absent. The observation was made in the context of legal correspondence, but it states a principle of general application: the legitimate assertion of one's position, or the exercise of one's lawful rights in respect of another, is not defamation merely because the other person is displeased.

22. It is necessary to be precise about the relationship between the civil and the criminal law of defamation, since the plaintiff has invoked the penal provisions in a suit for damages. There is no statute in India codifying the civil liability for defamation, and in its absence such suits have been decided on the principles of justice, equity and good conscience (***B. Sumat Prasad Jain v. Sheo Dutt Sharma***, ***AIR 1946 All 213***, para 15). The Full Bench of the Allahabad High Court in ***Chunni Lal v. Narsingh Das*** (***AIR 1918 All 69***) held the English

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common law rule on privilege to be in accord with those principles and applied it to a civil suit for defamation (***Sumat Prasad Jain***, ***supra,*** para 14). Whether the claim is tested against the definition in Section 499 of the IPC or against the common law principles applied in civil actions, a defamatory imputation and its publication to a third person are indispensable. At the same time, the English doctrine of absolute privilege applies to civil liability only. In a criminal proceeding, the person prosecuted must bring his case within the Exceptions to Section 499 of the IPC (***M.L. Ganesh v. CA V. Venkata Siva Kumar***, ***(2021) 16 Comp Cas-OL 392***, para 9, extracting the decision of the Calcutta High Court in ***P.C. Gupta v. The State***; ***Navin Parekh***, para 25, noticing ***Balraj Khanna v. Moti Ram***).

23. The Exceptions are, ordinarily, matters of defence. Under Section 105 of the Indian Evidence Act, the burden of bringing the case within an Exception lies on the person claiming it, and it is a settled law that the applicability of an Exception can ordinarily be gone into only at trial (***Navin Parekh***, ***supra,*** para 25). This Court is conscious of that position, and the decision in this revision does not rest on the Exceptions. It rests on the logically

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prior question whether the plaint pleads the ingredients of defamation at all. Where it does not, the question of an Exception does not arise, and an examination of an Exception would be redundant (***Navin Parekh*****,** ***supra,*** para 23).

24. Since the Exceptions bear on the nature of the conduct complained of, it is useful to notice three of them. The Seventh Exception under Section 499 of the IPC provides that it is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates; its illustrations include a master censuring a servant in good faith for remissness in service, and a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier. The Eighth Exception under Section 499 of the IPC provides that it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of the accusation. The Ninth Exception under Section 499 of the IPC provides that it is not

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defamation to make an imputation on the character of another, provided the imputation is made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good. “Good faith”, as defined in Section 52 of the IPC, requires due care and attention; nothing is said to be done or believed in good faith which is done or believed without due care and attention. Whether the requirements of an Exception are in fact satisfied is, as noted, a question of fact to be established by evidence. The three Exceptions are noticed here only to bring out that the Penal Code itself recognises that censure by a person in lawful authority under a contract, accusations made to those competent to receive them, and imputations made to protect the maker’s legitimate interests lie outside the offence of defamation when made in good faith. These are matters of everyday institutional dealing, and they are to be kept in view when the plaint is read.

25. The plaintiff has invoked his standing as an advocate. Section 29 of the Advocates Act, 1961 provides that advocates are the only class of persons entitled to practise the profession of law. Section 30 of that Act, which

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came into force on 15.06.2011, provides that every advocate whose name is entered in the State roll is entitled as of right to practise throughout the territories to which the Act extends in all courts, before any tribunal or person legally authorised to take evidence, and before any other authority or person before whom he is by or under any law entitled to practise. Both provisions define who may practise and where. Neither creates a right to be engaged by a particular client, and neither places any litigant or institution under an obligation to brief, retain or continue to retain a particular advocate. The right to practise is a right to appear when engaged; it is not a right to be engaged.

26. The corollary is the freedom of the client. The Hon'ble Supreme Court has held that a litigant must have the freedom to change his advocate when he feels that the advocate is not capable of espousing his cause efficiently, or that his conduct is prejudicial to the interest involved in the *lis*, "or for any other reason", and that where the client does not wish to continue the engagement it is a professional requirement, consistent with the dignity of the profession, that the advocate return the brief (***R.D. Saxena v. Balram Prasad Sharma, (2000) 7 SCC 264***,

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para 15). A *vakalatnama* is an authority in the nature of an agency, and an agency is revocable by the principal (*see* Section 203 of the Indian Contract Act, 1872). The procedure under Order III Rule 4 of the CPC for determining an appointment on the record of a pending proceeding regulates the manner of its exercise before the court; it does not curtail the substantive freedom of the principal to choose counsel. No law requires a client to give reasons for disengaging an advocate, and the exercise of that freedom, whether by withdrawing a *vakalatnama*, by engaging a fresh counsel or by removing an advocate from a panel, is the exercise of a legal right. It is not, of itself, an imputation upon the advocate.

27. The position of a bank and its panel advocates has recently been stated by the Hon'ble Supreme Court in ***Ajay Vijh v. Indian Banks' Association***, ***2026 INSC 670*** (decided on 07.07.2026). The Court held that the relationship between a bank and its advocate is primarily contractual and founded on trust and confidence, that an advocate has "no right to be empanelled with a bank or to be continued so", and that a bank is entitled to assess internally the quality of the services rendered by

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professionals engaged by it and, on that basis, to decide on continuation or discontinuation of empanelment. In case, where the bank is dissatisfied, it is always open to it to discontinue the engagement or to decline future empanelment (para 25; see also paras 2.3 and 11, where the Court observed that de-empanelment by a bank may well fall within the realm of a contractual relationship). The Court further observed that where a bank considers that an advocate is guilty of negligence or misconduct, the remedy is to place the material before the competent State Bar Council under the Advocates Act (paras 31, 32 and 36), and it acknowledged the legitimate concern of banks regarding the quality of legal opinions (para 38).

28. ***Ajay Vijh* (*supra*)** also draws a line which this Court must respect. What was held to be beyond the power of a bank, and illegal, was the inclusion of the advocate's name in the Caution List maintained by the Indian Banks' Association, accompanied by remarks on his competence and circulated to all banks, which operated as a public declaration about his competence and character (paras 2.3, 26, 28 and 36). The Court made it clear that it was not dealing with a case of alleged fraud, and that if

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fraud were alleged and prosecuted, entirely different considerations would arise (para 27). The decision therefore draws a distinction between two things. The removal of an advocate from a bank's panel is lawful. A separate act of publicly declaring the advocate incompetent or dishonest to others is not. The significance of the distinction for the present case is considered below.

29. The Madras High Court has applied the same principle in the context of the removal of a professional by those who held the power to remove him. In ***M.L. Ganesh*** (***supra***), a Resolution Professional who had been removed on the application of the Committee of Creditors, which comprised banks, prosecuted the officers of the banks and their advocate for defamation. The High Court held that the creditors, having the power to replace him, had acted within it, that this did not attract Section 499 of the IPC (para 7), and that the allegations made in the application for his removal were not defamatory, particularly as the removal had been carried in challenge up to the appellate tribunal and had not been disturbed (para 10). It quashed the complaint as an abuse of the process of the court (para 11). The power of removal in that case was statutory and in

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the present case it is contractual, but the reasoning, that the lawful exercise of a power to remove a professional is not defamation of him, applies equally.

30. Thus, a person is defamed not because he suffers a loss of standing or livelihood, but because another makes or publishes an imputation about him, to a third person, in circumstances which the law does not excuse. A client, including a bank, who ends a professional engagement or removes an advocate from a panel exercises a legal right and, without more, makes no imputation and publishes nothing. If, in addition, a client separately makes and publishes a defamatory imputation about the advocate to third parties, liability, if any, arises from that separate act, which must itself be pleaded and proved, and not from the disengagement.

31. Accordingly**,** the case of the plaintiff, as it appears from the plaint is that he was an empanelled advocate of the State Bank of India for the Jamui Civil Court from 1983 to 2018; that a title deed on which he had submitted his title investigation report was re-examined by another panel advocate, who opined that the document was not genuine; that on the basis of that opinion the plaintiff

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was de-panelled; and that this lowered his prestige, dignity and reputation and caused him financial loss and mental agony, quantified at Rs. 25,00,000/-. The cause of action pleaded is, therefore, the de-panelment itself and the consequences said to flow from it.

32. *First*, de-panelment is not defamation. It is a decision to discontinue a professional engagement. It says nothing about the plaintiff and carries no imputation within Section 499 of the IPC. The Bank may decide to discontinue an advocate, and Sections 29 and 30 of the Advocates Act, which secure the plaintiff's right to appear when engaged, do not secure his engagement. Loss of the panel engagement and the resulting financial loss flow from the removal itself, and the law of defamation does not compensate for that. If the plaintiff has any other grievance about his removal, it is a dispute about the termination of an engagement, as to which no opinion is expressed. *Secondly*, the statement said to have been exhibited is attributed not to any defendant but to "the newly appointed lawyer of the Bank", who is not a party and is not named. The only link to the petitioners is the phrase "on the instance of the defendants", with no material fact stating

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which defendant gave instructions, when, and in what manner. The person answerable for defamation is the one who made or published the imputation (***Mohammed Abdulla Khan v. Prakash K***., ***2018 (1) SCC 615***, para 16). A bare conclusion that a non-party, through his mobile, started spreading the news of disengagement of the opposite party from the bank is not a statement of material facts under Order VI Rule 2(1) of the CPC, and does not make out a cause of action against the petitioners. *Thirdly*, the averments on publication are general. The plaint states the gist of what was allegedly said, but not when it was said, to whom, on what occasion, or by what means beyond "exhibiting through his mobile". The expressions "in the court as well as in the Bar", "spread like anything" and "murmuring everywhere" identify no person to whom anything was communicated. Publication to a person other than the plaintiff is an essential ingredient (***Mohammed Abdulla Khan*, *supra,*** para 11), and it must be pleaded as a fact. A general averment of this kind is of the sort which the Bombay High Court noticed in ***Navin Parekh*** (***supra,*** para 11) as having been added to sustain a complaint because publication was indispensable. The plaint thus

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pleads the consequence of publication, namely that the statement spread, without pleading publication itself.

33. The learned counsel for the opposite party also relied on the Bank's letter dated 07.12.2018, said to describe the plaintiff as a fraud and to have been circulated to the court. The cause of action must be found in the plaint and the documents filed with it, and it cannot be improved by oral submissions or a rejoinder. The plaint, read as a whole, is founded on the de-panelment and the averments just considered, and not on that letter as a defamatory publication. This Court is conscious of the limit drawn in ***Ajay Vijh*** (***supra,*** paras 26 to 28) that a bank may not publicly declare an advocate incompetent, but no such public declaration by the Bank is pleaded. Nothing here expresses any view on the genuineness of the deed or the competing title reports, which have no bearing on whether a cause of action for defamation is disclosed. The later police case and the Bank's complaint case of 2022, which post-dates the suit of 19.10.2020, likewise go only to the merits of that dispute.

34. The Exceptions noticed earlier are also naturally engaged by the case as pleaded. The Bank's

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authority over its panel advocate arises out of a lawful contract (***Ajay Vijh***, para 25); the Bank's approach to the police or a Magistrate, to the extent it did so, falls within the Eighth Exception; and a bank's interest in the integrity of the title documents on which its advances are secured (***Ajay Vijh*****,** para 38) is the kind of interest the Ninth Exception protects. Good faith is, however, a matter of evidence, and this Court does not decide on it. The plaint fails on the prior ground that it does not plead the ingredients of defamation.

35. The objections of the opposite party to the petition do not assist him. Order VII Rule 11 of the CPC may be exercised at any stage of the suit, before the conclusion of the trial. The Court does not doubt that the loss of a panel engagement held for about thirty-five years is a matter of real distress to an advocate. But hurt feelings and damaged ego are not defamation. The pendency of Cr. Misc. No. 11233 of 2021 has not weighed with this Court, and the observations here are confined to whether the plaint in Title (Defamation) Suit No. 137 of 2020 discloses a cause of action. They are not an opinion on the merits of that application or of the complaint case. The plaint

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therefore does not disclose a cause of action against the petitioners, and Order VII Rule 11(a) of the CPC requires it to be rejected.

36. Accordingly, the present civil revision application is allowed. The order dated 17.10.2024 passed by the learned Sub-Judge-III, Jamui, in Title (Defamation) Suit No. 137 of 2020 is set aside. The petition dated 30.05.2024 is allowed, and the plaint in Title (Defamation) Suit No. 137 of 2020 is rejected under Order VII Rule 11(a) of the CPC. The suit therefore stands disposed of accordingly.

37. There shall be no order as to costs.

(Ramesh Chand Malviya, J)

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