IN THE COURT OF MR. SATYABRATA PANDA, DJ-04,
PATIALA HOUSE COURTS, NEW DELHI

CS No.886/2019

DLND010234292019

IN THE MATTER OF:

Abhijit Iyer Mitra,
Lt. Sh. Ajoy Kumar Mitra,
R/o B5-141, 2nd Floor,
Safdarjung Enclave,
New Delhi-110029

…...Plaintiff

Vs.

1. Dushyant Arora,
   4th Floor, Times of India Building,
   Times of India Building,
   Dr. D.N. Road, Fort,
   Mumbai-400001

2. Gargi Rawat,
   News Anchor at NDTV;
   (New Delhi Television Ltd.),
   Archana Complex,
   Block-B, Greater Kailash-I,
   New Delhi-110048. ...Defendants

Date of Institution: 12.12.2019
Date of Arguments: 22.07.2025
Date of Judgment: 08.09.2025

JUDGMENT

1. The plaintiff has filed the present suit for damages for loss of reputation and for permanent injunction for defamation.

PLAINT

2. The case of the plaintiff as pleaded in the plaint is summarised as follows:

2.1. The plaintiff is a fellow at the Institute of Peace and Conflict Studies, a think tank based in New Delhi. He has also been a fellow with Observer Research Foundation, another prestigious think tank. He is widely known as one of India's foremost strategy affairs experts. He has a stellar professional as well as personal reputation.

2.2. The defendant no.1 is a lawyer by profession and often tweets on various issues of public importance.

2.3. The defendant no.2 works as a senior anchor-cum-reporter with NDTV, a news television network.

2.4. On 08.12.2019, the plaintiff wrote an article for the news website www.theprint.in titled as *"In Rana Ayyub, the White West has found its next Arundhati Roy"*. On the same day, Ms. Rana Ayyub posted a link to the said article on the popular microblogging site "Twitter" with a comment which *inter alia* stated that the article was a *"hitjob"* on her and that she did not expect any better from the Indian media.

2.5. The defendant no.1 replied to the said tweet of Ms. Rana Ayyub referring to the plaintiff as follows: *"The man has been accused of rape, he routinely*

engages in hate speech." Whenever any Twitter user posts any material on his/her profile, it implies that the same can be read by all those who *"follow"* him/her on the Twitter website. Hence, the defendant no.1 had published to all his followers that the plaintiff was a purveyor of hate speech apart from being a rapist.

2.6. The tweet of the defendant no.1 was *"liked"* by the defendant no.2, which implied that the same could be read by anybody who perused her Twitter profile. Hence, the defamatory material authored and published by the defendant no.1 was further published by the defendant no.2.

2.7. The allegations which were made in the defamatory tweet were false and frivolous and were of such nature that they would lower the reputation of the plaintiff in the eyes of right-thinking people. The tweet in question was highly defamatory and two of the plaintiff's former colleagues also called to express their dismay with regard to the allegations made against him.

2.8. On this basis, the plaintiff has filed the present suit seeking permanent injunction restraining the defendants from publishing the defamatory material on their Twitter accounts as well as for damages of Rs. 20 lacs.

NO WRITTEN STATEMENT BY DEFENDANT NO.1

3. The defendant no. 1 did not file any written statement.

WRITTEN STATEMENT OF DEFENDANT NO.2

4. The defendant no. 2 filed her written statement seeking dismissal of the suit. The defence set up by the defendant no.2 in the written statement is summarised as follows:

   4.1. The suit was without cause of action against the defendant no.2.

   4.2. The plaint failed to disclose whether any person and much less the two persons named in the plaint reached the tweet in question through the *"like"* by the defendant no.2 on the said tweet.

   4.3. The plaintiff had an efficacious remedy available of approaching the Twitter social media company for getting the tweet deleted with immediate effect, which remedy was not availed of by the plaintiff.

   4.4. The plaintiff had opted not to include all the Twitter account holders who had retweeted and/or liked the tweet as parties to the suit thereby acquiescing with the comments as well its its subsequent circulation.

   4.5. The only consequence to the tweet i.e. the expression of despair by former colleagues did not

amount to defamation. It only showed that the former colleagues of the plaintiff stood with the plaintiff despite such tweet. There was no averment as to how the tweet had lowered in the estimation of others the moral or intellectual character of the plaintiff.

4.6. The plaintiff was an attention seeker and had himself engaged in hate speeches to gain attention. The plaintiff is also involved in controversial comments. In one such instance on comments about the Konark temple in Odisha the plaintiff was arrested and put behind bars for long. The tweets of the plaintiff on Twitter and comments on other social media and photographs are controversial, amount to hate speeches, are vulgar and abusive, obscene, accusing and letting down others, inciting religious feelings. The plaintiff is also accused of sexual abuse of females.

4.7. It is not denied that the defendant no.2 had *"liked"* the tweet in question, however, there was no averment in the plaint that someone ever reached the tweet in question through the *"like"* by the defendant no.2. As such, there was no defamation through the *"like"* by the defendant no.2.

4.8. It is denied that the tweet in question was republished by the defendant no.2. There was no republication of the tweet by the defendant no.2.

4.9. Further, it was not the defendant no.2 alone who *"liked"* the tweet in question. There were many more *"likes"* on the said tweet. The plaintiff has knowingly and intentionally sued the defendant no.2 with an oblique motive as the defendant no.2 is a known personality in her field and on media. The defendant no.2 has been included only to gain cheap publicity and was an abuse of process.

4.10. Speaking or publishing the truth does not amount to defamation. Appreciating the same also does not amount to defamation. While appreciating the tweet, the defendant no.2 had no intent to harm the plaintiff in any manner whatsoever. As such, liking the tweet did not amount to publishing the tweet with such alleged intent.

4.11. In the facts of the present case, the *"like"* by the defendant no.2 on the tweet in question did not amount to publishing defamatory material. The defendant no.2 had merely shown her *"like"* for a bold step calling out the plaintiff for his hate speech.

4.12. On this basis, the defendant no.2 has sought the dismissal of the suit.

SETTLEMENT BETWEEN PLAINTIFF AND DEFENDANT NO.1- SUIT DISMISSED AS WITHDRAWN W.R.T. DEFENDANT NO.1

5. During the pendency of the suit, the plaintiff and the defendant no.1 entered into a settlement *vide* memorandum of understanding dated 30.01.2020. Under the settlement, the defendant no.1 posted the following text on his Twitter account:

> *"I hereby apologize to Abhijit Iyer Mitra for insinuation that he has been accused of rape and admit that the same has no basis in fact."*

6. Based on the aforesaid settlement and tweet of apology being made by the defendant no.1, the plaintiff moved an application for leave to withdraw the suit with respect to the defendant no.1, and accordingly, the suit was dismissed as withdrawn with regard to the defendant no.1 *vide* order dated 23.12.2020.

7. The suit proceeded against the defendant no.2.

ISSUES

8. *Vide* order dated 06.04.2021, the following issues were framed:

> *1. Whether suit is liable to be dismissed for lack of any cause of action against D-2 in the light of deletion of name of D-1 from the array of parties? OPD.*

2. Whether the plaintiff is entitled for damages to the tune of Rs.20 lakh, as claimed in the suit? OPP

3. Relief.

PLAINTIFF'S EVIDENCE

9. In support of his case, the plaintiff has examined himself as PW-1 and has tendered his affidavit in evidence as Ex. PW-1/A in which he has deposed along with the lines of the plaint. He was cross-examined by the defendant no. 2. The plaintiff has relied upon the following documents:

   i. True copy of the article Ex. PW-1/1.

   ii. True screenshot of a tweet Ex. PW-1/2.

   iii. True screenshot of a tweet Ex. PW-1/3.

   iv. True screenshot of a tweet Ex. PW-1/4.

   v. Memorandum of Understanding entered into plaintiff and defendant No. 1 Ex. PW-1/5.

   vi. Certificate-cum-affidavit under Section 65B of Indian Evidence Act as Ex. PW-1/7.

10. The plaintiff has examined Ms. Francesca Marino, an Italian journalist, as PW-2 and she has tendered her affidavit in evidence as Ex. PW-2/A. She has deposed with regard to the reputation of the plaintiff. She was cross-examined by the defendant no.2.

11. The plaintiff has also examined Ms. Arti Tikoo, a friend of the plaintiff, as PW-3. She has tendered her affidavit in evidence as Ex. PW-3/A. She has deposed in respect of the reputation of the plaintiff and the defamation caused. She was cross-examined by the defendant no.2.

DEFENDANT'S EVIDENCE

12. The defendant no. 2 did not lead any evidence. Although the defendant no.2 filed her affidavit in evidence, however, she never entered the witness box to face cross-examination. As such, the affidavit in evidence of the defendant no.2 without cross-examination stands discarded.

PLAINTIFF'S SUBMISSIONS

13. Ld. counsel for the plaintiff has made the following submissions:

13.1. It is submitted that any action like *'retweet'* or *'like'* amounts to publication of the defamatory material and would thus make the person committing such an act equally liable for the consequences just as the original maker of the defamatory statement. In this regard, reliance is placed on the decision of the Hon'ble High Court of Delhi in *Raghav Chaddha Vs. State & Ors. MANU/DE/3314/2017.*

13.2. It is further submitted that the defendant No.1, who was the author of the original tweet, has already

deleted the defamatory tweet and tendered an apology which has been accepted by the plaintiff, and therefore no cause of action survives against the defendant No.1, however, this does not preclude the plaintiff from suing other defendants who had published the original defamatory tweet and are still defiant and have not tendered an apology. Reliance in this regard is placed on the decision in *Gurmit Singh Bhatia Vs. Kiran Kant Robinson & Ors. AIR 2019 SC 3577.*

13.3. It is further submitted that the plaintiff has examined three witnesses i.e. himself, Ms. Aarti Tikoo as well as Ms. Francesca Marino, the last two of whom are independent journalists. A perusal of their testimonies along with the transcript of the cross-examination would prove beyond doubt that not only does the plaintiff have a stellar reputation but the same was also besmirched by the reckless publication of the defamatory material by the defendant.

13.4. It was not mandatory to show that actual financial damage has ensued in a case of this nature. In this regard, reliance is placed on the decision of the Hon'ble High Court of Delhi in *Major General M.S. Ahluwalia Vs. M/S. Tehelka.com & Ors. MANU/DE/4662/2002.*

13.5. It is also a trite proposition of law that in case a witness does not subject herself to cross examination, her testimony cannot be taken under consideration. In fact, it would give rise to an adverse inference against the version of facts as narrated by the witnesses. In this view of of the matter, it is clear that since the testimony of Ms. Gargi Rawat who is the sole defendant has not been subjected to cross examination, the same cannot be taken on record. Reliance in this regard is placed on *Vidhyadhar Vs. Manikrao, AIR 1999 SC 1441.*

13.6. It is submitted that the plaintiff has been able to prove his case as pleaded and would be entitled to decree as prayed.

DEFENDANT NO.2'S SUBMISSIONS

14. On the other hand, the ld. counsel for the defendant no.2 has made the following submissions:

No cause of action surviving upon withdrawal of suit against the defendant no.1

14.1. Firstly, the suit of the plaintiff did not survive since the plaintiff had withdrawn the suit against the defendant no.1, i.e. Mr. Dushyant Arora, who was the author of the alleged defamatory tweet. The primary cause of action arose upon the tweet of the defendant no.1 which was subsequently only

"liked" by the defendant no.2 and since the plaintiff had withdrawn the matter against the defendant no.1, i.e. the author of the alleged defamatory tweet, therefore, no cause of action remains against the defendant no.2.

No loss of reputation proved

14.2. It is submitted that the plaintiff has failed miserably to prove any damage to his reputation or any adverse consequences suffered by him as a result of the alleged defamatory tweet. Reference is made to the cross-examination of the plaintiff where the plaintiff has deposed that neither he has been demoted nor his salary has been reduced. It is further proven on record, that subsequent to the tweet of the alleged defamatory tweet no essay and/or article published by the plaintiff was taken down by his employer rather conversely the plaintiff has been promoted. Furthermore, the cross-examination of the plaintiff, further highlights the *mala fide* acts and conduct of the plaintiff, since many cases have been previously initiated against the plaintiff and the plaintiff himself routinely engages in abusive as well as indecent language against others. In this regard, reference is made to the plaintiff's social media posts in the documents Ex.PW-1/D19 to Ex.PW-1/D22, which were confronted to the plaintiff during the course of his cross-

examination. Hence, the plaintiff has miserably failed to establish his own reputation.

14.3. The plaintiff deposed in his cross-examination that he was never either demoted or subjected to any enquiries as a consequence of the *"liking"* of the alleged defamatory tweet by defendant no.2. Therefore, the said facts establish on record, that no loss of reputation was ever suffered by the plaintiff as a consequence of the alleged defamatory tweet, or by *"liking"* of the tweet by defendant no.2.

14.4. On perusal of entire testimony of PW-2, Ms. Aarti Tikoo, it is revealed that she has given the affidavit without reference and reliance on the primary evidence, i.e. the original tweet. Furthermore, she has also failed to prove that her affidavit is properly attested, her entire testimony is tutored and vague and she admittedly states that she is deposing because she is a close friend of the plaintiff. Thus, the same must be discarded in totality.

14.5. There was no malice or ill-intention of defendant no.2 to defame the plaintiff. Rather the plaintiff in his cross-examination admitted that he neither interacted with the defendant no.2 nor followed defendant no.2 to his memory and that there was never any animosity between him and the

defendant no.2. He also stated he never knew or met defendant no.2 and that he never complained against either defendant no.1 or 2 to twitter, which is a readily available remedy. Thus, it is established that there was no interaction, ill-intention or malice on the part of the defendant no.2 to defame the plaintiff and that she was neither responsible for publication/circulation of the alleged defamatory tweet by merely liking it.

14.6. Additionally, the plaintiff also did not file any legal proceedings against any other person other than defendant no.2 who had re-tweeted, liked, replied and/ or commented on the alleged tweet. Therefore, the ill intent of the plaintiff becomes evident, since he has capriciously singled out the defendant no.2 out of the many people who re-tweeted, liked, replied and/or commented on the alleged defamatory tweet only to drag the defendant no.2 through frivolous litigation.

No Publication and/or circulation of the alleged defamatory tweet by the defendant no.2

14.7. That a *"Like"* of any tweet does not amount to *"Retweet"* of the same and liking of a tweet does not put the same in circulation and the same is evident by the Twitter Guidelines, whereby it stands clarified that a mere *"Like"* on any post does not put the same in circulation. There is ample

difference between a *"Like"* and a *"Retweet"*. Therefore, the defendant No. 2 neither published nor circulated the alleged defamatory tweet.

14.8. The judgement of the Hon'ble High Court of Delhi in *Raghav Chaddha (supra)* has been erroneously relied upon by the plaintiff, since in the said matter the fact in issue was regarding the defamatory statements posted as *"tweets"* and which were thereafter *"retweeted"* by the accused persons in a criminal defamation case. Whereas, in the present case the alleged defamatory tweet was authored and posted by defendant no.1 and the defendant no. 2 had only *"liked"* the said tweet and not retweeted the same. Therefore, the principles of the judgement passed in *Raghav Chaddha (supra)* do not apply and or relate to the present matter at hand.

14.9. Moreover, in case the contention of the plaintiff that he was further defamed because of a mere *"like"* by defendant no.2 is to be believed, though not admitted, yet it is submitted that a mere *"like"* by defendant no.2 particularly after the deletion of the alleged defamatory tweet and/or in general is not open to general public so as to cause defamation of the plaintiff or anyone and it no longer remains accessible. Further, no evidence of any such person who follows the defendant no.2 on Twitter was placed on record to substantiate his

claim that anyone following her could see the tweet liked by her which led to his further defamation because of the said *"like"* by defendant no.2 Thus, in the present facts and circumstances, the fact that the alleged defamatory tweet was neither further published circulated by defendant no.2 stands proven.

No steps for mitigating and/or minimizing the damages were taken by the plaintiff

14.10. The cross-examination of the plaintiff further proves beyond any doubt that the plaintiff did not take any steps for mitigating the damage by approaching the redressal forum of Twitter to get the said tweet deleted. Rather, he chose to get an apology published by the defendant no.1 as part of the settlement whereby the alleged defamatory tweet got circulated again.

14.11. As one of the terms of the MoU dated 30.01.2020 between the plaintiff and the defendant no.1, the plaintiff sought for the defendant no.1 to post an apology attaching the alleged defamatory tweet, thereby causing the same to be circulated again. It thus proves that the plaintiff himself is instrumental in circulation and re-publication of alleged defamatory tweet and did not want the alleged defamatory tweet to remain out of circulation and therefore got the same re- published

again with a clear motive to harass and drag the defendant no.2 through frivolous litigation.

Availability of another efficacious remedy

14.12. The "Twitter User Agreement" brought on record along with the affidavit filed on behalf of the Twitter Communications India Pvt. Ltd. makes it evident on record, that there was an equally efficacious remedy available for the plaintiff to get the said defamatory tweet deleted from Twitter by availing the above said remedy. That upon not availing the said efficacious remedy the plaintiff has himself allowed the alleged re-publication of the tweet in question.

Plaintiff has failed to substantiate the claim amount of Rs. 20 lacs

14.13. Additionally, the plaintiff has also failed to substantiate the claim for damages to the tune of Rs. 20,00,000/-, therefore he is not entitled for seeking any damages from the defendant no.2.

15. Both parties have also filed their respective written submissions.

16. I have considered the submissions of the learned counsels for the parties and I have perused the record including the pleadings, evidence (both oral and documentary) and the written submissions.

17. My issue-wise findings are as follows.

ISSUE-WISE FINDINGS

Issue No.1. Whether suit is liable to be dismissed for lack of any cause of action against D-2 in the light of deletion of name of D-1 from the array of parties? OPD.

Issue No.2. Whether the plaintiff is entitled for damages to the tune of Rs.20 lakh, as claimed in the suit? OPP

18. Both these issues are taken up together for discussion.

19. By way of the impugned tweet in question, the defendant no.1 had alleged that the plaintiff had been accused of rape and it was also stated that the plaintiff indulged in hate speech. It is the contention of the plaintiff that this insinuation was false and defamatory. The defendant no.1 did not file any written statement in the suit to deny this. Rather, the defendant no.1 settled the matter with the plaintiff during the course of the suit and also agreed to publish an apology for the insinuation that the plaintiff had been accused of rape. Even the defendant no.2 has nowhere stated in her written statement that the allegation that the plaintiff was accused of rape was true. The defendant no.2 has also not led any evidence to show that the plaintiff was ever accused of the offence of rape. Thus, clearly, the insinuation in the impugned tweet that the plaintiff had been accused of rape was false. Such a false insinuation calling the plaintiff to be a man accused of

rape was grave in nature and was *per se* defamatory of the plaintiff's reputation.

20. Although the defendant no.1 was the author of the tweet which was clearly defamatory in nature, however, the question of any liability of the defendant no.1 stands closed in light of the settlement between the plaintiff and the defendant no.1 and the consequent withdrawal of the suit by the plaintiff in respect of the defendant no.1.

21. Hence, the question which remains is only in respect of the liability of the defendant no.2.

22. The defendant no.2 has not denied that she had *"liked"* the tweet which was posted by the defendant no.1.

23. In so far as the defendant no.2 has argued that there was no cause of action surviving against the defendant no.2 since the plaintiff had already settled the matter with the defendant no.1 who was the author of the tweet in question, this argument is wholly without merit. Although the plaintiff filed the present suit against both the defendants, essentially, the cause of action of the plaintiff in respect of the two defendants was distinct and separate. The cause of action against the defendant no.1 was on the basis of the publication by the defendant no.1 of the tweet in question. The cause of action against the defendant no.2 was on the basis that the defendant no.2 had *"liked"* the said tweet leading to its republication. The causes of action against the two defendants being separate and distinct,

merely because the defendant no.1 had settled the matter with the plaintiff and had apologised would not mean that the cause of action did not survive in respect of the defendant no.2.

24. The central controversy which arises in the present matter is whether the mere *"liking"* of the defamatory tweet by the defendant amounted to defamation.

25. It is well settled that publication of the defamatory statement is an essential ingredient of the tort of defamation. *"Publication"* of a defamatory statement means that the defamatory statement has been communicated to a third person other than the plaintiff. In this regard, reference is made to the decision of the Hon'ble High Court of Delhi in *Ruchi Kalra v. Slowform Media (P) Ltd., 2025 SCC OnLine Del 1894*, the relevant portion of which is extracted as under:

> *"Decoding the ambit of 'publication' in defamation*
>
> *44. Publication of the defamatory statement is an essential element of the cause of action in a suit for damages for defamation. The injury caused by a libel arises from the effect produced upon its readers. Publication means the act of making the defamatory statement known to any person or persons other than the plaintiff himself (see Salmond on Torts, page-215, Fourteenth Edition). It is the communication of words or doing the defamatory act in the presence of at least one person other than the person defamed. In the case*

of Khima Nand v. Emperor16, it was held as under:—

> *"There can be no offence of defamation unless the defamatory statement is published or communicated to a third party, that is, to a party other than the person defamed."*

45. Publication is the act of making known the defamatory matter, after it has been written, to some person other than the person about whom it is written. Liability for a publication arises from participation or authorisation. Thus, where a libel is published in a newspaper or book, everyone who has taken part in publishing it, or in procuring its publication, or has submitted material published in it, is prima facie liable (see Gatley, page-234, Eighth Edition). To put it otherwise, an act of publication involves a wide range of actions and could be done in any manner, however, the elementary test is whether the act complained of has exposed the defamatory matter to any person other than the defamed person.

46. Reference can be made to the decision of this Court in the case of Frank Finn Management Consultants v. Subhash Motwani17 wherein it was held that publication in the sense of a libel is not the mechanical act of printing of the magazine but is of communication of the libelous article to at least one person other than the plaintiff or the defendant. The relevant extracts of the decision read as under:—

> *"17. The wrong within the meaning of Section 19 of the CPC in an action for defamation is done by the publication. The defendants are confusing publication in the sense of printing, with publication as in the*

case of libel. The publication in the sense of a libel is not the mechanical act of printing of the magazine but is of communication of the libelous article to at least one person other than the plaintiff or the defendant. In this regard also see Aley Ahmed Abdi v. Tribhuvan Nath Seth 1979 All LJ 542. If the magazine, as aforesaid, has a circulation at Delhi, then it cannot be said that the wrong would not be done to the plaintiff at Delhi and thus the courts at Delhi would have jurisdiction under Section 19 of the Act. A Division Bench in T.N. Seshan v. All India Dravida Munnetira Kazahagam 1996 AIHC 4283 (AP) has taken the same view. Even if the test of Section 20 of the CPC were to be applied, even then the cause of action in part at least would accrue in Delhi. A Single Judge of the High Court of Bombay in the The State of Maharashtra v. Sarvodaya Industries AIR 1975 Bom 197 has held that the phrase wrong done in Section 19 would clearly take in not only the initial action complained of but its result and effect also and Section 19 is wide enough to take in those places where the plaintiff actually suffered the loss because of the alleged wrongful act. It was further held that the court within whose local jurisdiction damage was caused or suffered or sustained, would clearly answer the requirements of Section 19 for the purposes of the suits mentioned therein. I respectfully concur with the said view and unless Section 19 of the CPC is so interpreted, the purpose thereof would be defeated. Similarly, State of Meghalaya v. Jyotsna Das AIR 1991 Gau 96 also held that wrong done includes and covers the effect of the act. The counsel for

the defendants has relied upon Rashtriya Mahila Kosh v. The Dale View 2007 IV AD (Delhi) 593 to address the principle of forum non conveniens. With respect, if under the CPC the court has jurisdiction, I find it hard to hold that on the doctrine in international law of forum non conveniens the plaintiff can be non suited. I, therefore, decide issue No. 1 in favour of the plaintiff and against the defendants."

47. This Court, in the case of Deepak Kumar v. Hindustan Media Ventrues Ltd.18, held that it is settled law that defamation takes place because a defamatory statement or article or any other material is published i.e. it comes to the knowledge of the public and the appellant/plaintiff is brought down in the estimation of the right-thinking people of the society. It was further held that publication is a sine qua non with respect to defamatory articles because defamation is only caused when the general public learns about them."

(Emphasis supplied by me)

26. It is further well settled that, in law, an act of republication of defamatory content is placed on the same footing as an act of original publication. In this regard, reference is again made to the decision of the Hon'ble High Court of Delhi in *Ruchi Kalra (supra)*, the relevant portion of which is extracted as under:

"Chalking down the contours of re-publication in the context of defamation

50. In common law, an act of republication of defamatory content has been placed at the same pedestal as an act of original publication. A person responsible for the republication of defamatory content cannot take refuge on the pretext of an already existing publication. In the case of Truth (N.Z.) Ltd. v. Philip North Holloway19, it was held that every republication of a libel is a new libel and each publisher is answerable for his act to the same extent as if the calumny originates with him. It has been further held in Stern v. Piper20 that every republication of a libel is a new libel and each publisher is answerable for his act to the same extent as if the defamatory statement originated with him.

51. Reference can be made to the decision of Harbhajan Singh v. State of Punjab21, wherein the same principle of republication was reiterated. The Court observed that a publisher of a libel is strictly responsible, irrespective of the fact whether he is the originator of the libel or is merely repeating it. The relevant extracts of the said decision read as under:—

> *"48. Even if the speeches and the press-news had expressly referred to the complainant and even if they had used the identical language, which had been indulged in by the appellant, the previous publication of similar imputation would have given to the accused, no protection, The "accused cannot justify the defamatory statement on the ground that similar reports had appeared or by saying, that rumours to that effect were afloat, as stated in Halsbury's Laws of England (vide Vol. 24, para 84, page 47)-*

If the defendant made a statement, whether in writing or by word of mouth, which is defamatory of the plaintiff, it is no justification, or no sufficient justification, that the statement purported to be made on the relation of another, and that it had, in fact, been related to the defendant by that other, even though the defendant disclosed the name of his informant at the time or subsequently at the earliest opportunity.

49. Every republication of a libel is a new libel, and each publisher is answerable for his act to the same extent as if the calumny originated with him. The publisher of a libel is strictly responsible, irrespective of the fact whether he is the originator of the libel or is merely repeating it. But as pointed out already, in this case, no question of repeating of a libel arises, because the defamatory statement has originated with the impugned statement of the accused."

(Emphasis supplied by me)

27. Although the ld. Counsel for the defendant has argued that the *"liking"* of the tweet did not amount to *"retweeting"* of the tweet and that the *"liking"* of the tweet did not put the same in circulation nor published the same, however, the learned counsel for the defendant has been unable to point out to any material from the evidence on record, including the Twitter guidelines filed on the record, in support of this assertion.

28. It is extremely relevant that the plaintiff has in paragraph 7 of the plaint specifically averred that when the tweet was *"liked"* by the defendant no.2, this in effect implied that the same would be read by anybody who perused her Twitter profile. The paragraph 7 of the plaint is extracted hereunder:

> *"7. That the said Tweet has been 'liked' by the Defendant No.2 which in effect implies that the same can be read by anybody who peruses her Twitter profile. In other words, it can be safely said that the defamatory material authored and published by the Defendant No.1 has further been published by the Defendant No.2. The true screenshot of the said tweet liked by Defendant No.2 is annexed herewith as ANNEXURE-A4."*
>
> *(Emphasis supplied by me)*

29. Thus, the plaintiff had made a categorical averment in the plaint that the *"liking"* by the defendant no.2 of the tweet had the effect that the tweet would become available on the Twitter profile of the defendant no.2 for anybody to read. On this basis, the plaintiff had averred that the defendant no.2 had republished the tweet which was originally authored by the defendant no.1.

30. Although the defendant no.2 has stated in her written statement that *"liking"* the tweet in question did not amount to publication of the tweet, however, importantly,

in response to the categorical averment of the plaintiff in paragraph 7 of the plaint stating that the effect of *"liking"* of the tweet by the defendant no.2 was that anybody could read the same in the Twitter profile of the defendant no.2, there is no specific denial of this by the defendant no.2. This is extremely crucial to the present case. The relevant paragraph 7 of the paragraph-wise reply portion of the written statement is extracted hereunder:

> *"7. That in reply to Para 7 it is submitted that the same is not denied to the extent that the said Tweet was 'liked' by the answering Defendant. It is, however, submitted that there is no averment to the effect that someone ever reached the tweet in question through the said 'like' by the Defendant no. 2. As such, there is no defamation through the said 'like'. The suit is liable to be dismissed on this ground alone. It is specifically denied that the tweet in question was re-published by the answering Defendant as alleged or otherwise. Since no one has ever reached the tweet in question through the said 'like' and the 'like' by the Defendant no. 2 has no consequences, there is no re-publication by the Defendant no. 2. It is further submitted that it was not the answering Defendant alone who 'liked' the tweet in question. As such, by impleading the answering Defendant alone in the present false and frivolous suit does not resolve and redress the grievance of the Plaintiff. Needless to say that there*

were many more "likes" on the said tweet. The Plaintiff has knowingly and intentionally sued the Applicant/defendant no. 2 with an oblique motive as the Applicant is a known Personality in her field and on media as is evident from Para 3 of the plaint. The Defendant no. 2 has been falsely impleaded to gain cheap publicity and to draw the attention of the public, print media and electronic media by dragging the defendant no. 2 in the present controversy and thus it is an attempt to misuse the judicial machinery. Para 2 & 3 of the Preliminary Objections may please be read as part of this Para also as the same are not being repeated herein for the sake of brevity. Furthermore, a Twitter user has to follow the Twitter conduct policy and Rules. As such the tweet is deemed to be within the norms defined by Twitter and is believed to be true. Speaking or publishing the truth does not amount to defamation. Appreciating the same also, therefore, does not amount to defamation. While appreciating a tweet the Defendant no. 2 has/had no intent to harm the Plaintiff in any manner whatsoever. As such, liking a tweet does not amount to publish the tweet with such alleged intent. In view of these facts, in the present case a 'like' on a tweet in question does not amount to publishing a defamatory material as alleged or otherwise. The Defendant no. 2 has merely shown her like for a bold step calling out the Complainant for his hate

speech. Para 1 above may please be read as part of this Para also as the same are not being repeated herein for the sake of brevity."

31. Thus, the position which emerges from the pleadings is that the defendant no.2 has not specifically disputed or denied that upon *"liking"* the tweet in question, the same became available to read for anybody who accessed the Twitter profile of the defendant no.2. Furthermore, the defendant no.2 also did not enter the witness box and avoided cross-examination. In this manner, the defendant no.2 avoided being cross-examined on the factum of the tweet in question becoming available on the Twitter profile of the defendant no.2 for anybody to read subsequent to the *"liking"* of the tweet by the defendant no.2. The defendant no.2 also avoided cross-examination on the aspect as to whether she was aware that *"liking"* of the tweet by her made the same available for anybody to read on her Twitter profile. The adverse inference drawn is that the defendant no.2 was well aware that the *"liking"* of the tweet in question would publish the tweet on the Twitter page of the defendant no.2.

32. Hence, the plaintiff has been able to show that since the defendant no.2 had *"liked"* the tweet in question, the same had become available on her Twitter profile for anybody to read and that the defendant no.2 was well aware about this effect of *"liking"* of the tweet by her. Thus, this clearly was a case of republication by the defendant no.2 of the defamatory tweet of the defendant no.1.

33. Although the plaintiff has not called as witness any person who claimed that he/she had read the tweet on the Twitter profile of the defendant no.2, however, it would be safe to conclude that the tweet would have been read by at least some persons on the Twitter profile of the defendant no.2. After all, it is the own case of the defendant no.2 in her written statement that the plaintiff had chosen to only sue the defendant no.2 and not many others who had liked the tweet in question since the defendant no.2 was a known personality in her filed and on media. The defendant no.2 being a well known personality in her field and on media, she would be having numerous *"followers"* on her Twitter profile and various persons would be accessing the Twitter profile of the defendant no.2. In these circumstances, the tweet in question must have been read by at least some persons on the Twitter profile of the defendant no.2. In this regard, again, it is relevant that the defendant no.2 has avoided stepping into the witness box and has evaded cross-examination. Thus, the defendant no.2 evaded being questioned in cross-examination regarding the number of *"followers"* she was having at the relevant time and whether anyone including any of her *"followers"* had read the tweet in question on the Twitter profile of the defendant no.2. An adverse inference would be drawn against the defendant no.2 for evading stepping into the witness box for cross-examination.

34. In view of the aforesaid discussion, there was clearly a republication of the defamatory tweet by the defendant

no.2 by means of *"liking"* of the tweet. By *"liking"* the tweet, the defendant no.2 had made the same available for anybody to read on her Twitter profile. The presumption would be that the defendant no.2 would have been aware of the consequence and effect of her act in *"liking"* the tweet. The onus to prove otherwise was upon the defendant no.2, however, the defendant no.2 did not even step into the witness box. The defendant no.2 being a well known personality in her field, it would be safe to conclude that her Twitter profile would have been accessed by numerous persons and that at least some persons would have read the defamatory tweet which was published on the Twitter profile of the defendant no.2. Thus, by liking the tweet in question, the defendant no.2 had increased the circulation and the reach of the tweet in question. Hence, the tort of defamation is clearly made out against the defendant no.2 in the present case.

35. At this juncture, I would digress a bit to take judicial notice of some developments which are in the public domain. Twitter (now "X") social media platform is a popular micro-blogging website which is used world over including in India. The Twitter social media platform was rebranded as "X" in the year 2023, which information is freely available on the public domain and was also widely reported in the newspapers. As widely reported in newspapers which are freely available in the public domain online, in June 2024 the "X" social media platform introduced a change in its platform whereby the *"likes"*

were made *"private"*, which meant that although the account holder could still see the posts that he/she had liked and the author of the post could also see who had liked the post, however, the other users of the platform could no longer see as to who had *"liked"* the posts. (This information is available in the Article *"X to Hide Likes: Why has X made likes private? What is the 'Private Likes' feature and how will it work?"* in "The Economic Times" e-Newspaper on the weblink: *<<https://economictimes.indiatimes.com/news/how-to/x-to-hide-likes-why-has-x-made-likes-private-what-is-the-private-likes-feature-and-how-will-it-work/articleshow/110939415.cms?from=mdr>>*, as last accessed on the date of this judgment.) This effectively means that with this change in June 2024, in case any user *"liked"* a post, then the same would not reflect or become available on the timeline or profile of such user. I have referred to the aforesaid development for the sake of completeness in the discussion. However, the aforesaid change in the *"likes"* policy of the "X" platform (erstwhile Twitter) has no bearing on the present case, since the present case pertains to an earlier version of the platform in which the posts which were *"liked"* by a user became published on the Twitter profile of such user.

36. In the present case, the consequence of the *"liking"* of the original tweet in question by the defendant no.2 was that the original tweet came to be reflected in the defendant no.2's own profile/timeline. The defendant no.2 would

have been well aware of this consequence of her liking the tweet. She has also not come forward to plead or depose to the contrary. As per her own case, the defendant no.2 is a known personality in her field and on media. Thus, by her action in *"liking"* the original tweet, the defendant no.2 ensured that the circulation of the original tweet was widened to a larger audience. The action of the defendant no.2 in *"liking"* the original tweet leading to its republication was also not a case of a content-neutral reference to the original tweet. In common parlance, one is said to *"like"* something, when one enjoys or approves of such thing. As per the Cambridge Dictionary, the verb *"to like"* means *"to enjoy or approve or something or someone"*.(See the Cambridge Dictionary on the weblink: *<<https://dictionary.cambridge.org/dictionary/english/like >>*, as last accessed on the date of this judgment.) The defendant no.2 has herself stated in paragraph 7 of the pargraph-wise reply portion of her written statement, that she was *"appreciating"* the original tweet in question and that she had *"merely shown her like for a bold step calling out the complainant for his hate speech"*. Thus, even as per the defendant no.2's own case by *"liking"* the tweet, she was showing her appreciation for the tweet. Thus, in the present case, the *"liking"* of the tweet in question was not a case of a mere content-neutral reference to the tweet in question, but was the defendant no.2's way of showing to the online audience at large her appreciation for the tweet in question.

37. In view of the aforesaid discussion, there is no manner of doubt that the act of the defendant no.2 in *"liking"* the original defamatory tweet in question amounted to republication and, as a result, the defendant no.2 is liable for the tort of defamation.

38. The argument made on behalf of the defendant no.2 that there was no defamation since the plaintiff had not availed an efficacious remedy of approaching the Twitter platform to remove the tweet is wholly without merit. The tweet in question was made on 08.12.2019. The plaintiff filed the present suit soon thereafter, on 11.12.2019 seeking removal of the tweet. Hence, there was no delay by the plaintiff in approaching the Court in seeking relief. Moreover, as explained by the plaintiff in his cross-examination, the plaintiff had been blocked by the defendant no.1 on the Twitter platform which removed his ability to report the tweet in question to the Twitter platform. In any case, even if the plaintiff failed to approach the Twitter platform, this would not *per se* legitimise the tweet which was otherwise defamatory of the plaintiff's reputation.

39. The argument made on behalf of the defendant no.2 that the plaintiff had singled out the defendant no.2 for *"liking"* the tweet in question, whereas the tweet was retweeted, liked, replied and/or commented by numerous other persons is also wholly without merit. The defendant cannot be heard to argue that she was not liable merely because the plaintiff omitted to sue other persons who were also

liable. The liability of the defendant is for her own acts which form the cause of action for the suit against the defendant. The plaintiff is the *dominus litus* and it is up to him to choose the persons against whom he wants to proceed. In a case of defamation through social media posts online, the action for defamation could possibly lie against hundreds and thousands of persons who would have shared or reposted the defamatory posts. In such a situation, the plaintiff would not want to sue everyone as this would lead to consumption of great time and resources at his end. The plaintiff could in such case narrow down for suing the persons whom he considers to have caused the most damage in terms of circulation. It is the own case of the defendant no.2 in the present case that she is well known in her field and in media. In such circumstances, the plaintiff could have well considered to sue her since in his estimation she was the one who caused most damage through circulation. The plaintiff's case against the defendant no.2 would not suffer for omission to sue others who may also have circulated the original tweet.

40. The other argument of the defendant no.2 that she had no interaction with the plaintiff or that she had no ill will or animosity or malice against the plaintiff is also wholly without merit. It was wholly irrelevant that the defendant no.2 may have had no ill will or animosity or malice towards the plaintiff. What really mattered was whether the defamatory tweet was republished and/or circulated by

the defendant no.2, and, in the present case, the answer to this is in the affirmative.

41. The argument of the defendant no.2 that the plaintiff had by way of the settlement with the defendant no.1 again caused the defamatory tweet to be circulated and republished and hence, the plaintiff himself did not want the tweet in question to remain out of circulation is also without merit. By way of the settlement, the defendant no.1 published the apology for making a baseless allegation in reference to the original tweet. The plaintiff cannot be faulted for entering into such a settlement. The apology by the defendant no.1 would have had to be with reference to the original tweet in question so as to provide the context for the apology. Otherwise, an apology in the public domain without providing the context in which it was being made would have been meaningless for the plaintiff.

42. In so far as the argument of the defendant no.2 that the plaintiff's reputation was in doubt due to his own social media posts as shown in the documents Ex.PW-1/D19 to Ex.PW-1/D22 is concerned, the same would not be relevant in considering the question whether there was defamation through the tweet in question. The tweet in question, to the extent that it alleged that the plaintiff was a man who had been accused of rape, was completely unrelated to the social media posts made by the plaintiff which have been referred to by the ld. Counsel for the defendant no.2. Even if the social media posts made by the

plaintiff in the documents Ex.PW-1/D19 to Ex.PW-1/D22 were objectionable, that by itself affords no justification for falsely alleging that the plaintiff was a man accused of rape which was a grave allegation. However, having held so, the social media posts by the plaintiff would be considered as a relevant factor in gauging the reputation of the plaintiff in ultimately deciding the question of quantum of damages, which would be discussed later in the present judgment.

43. The defamatory allegation which was made in the tweet in question was grave in nature. To falsely allege that a person has been accused of rape is grossly defamatory of such person's reputation. There are no two ways about it. The tweet in question was defamatory *per se*. Thus, the defendant no.2 would be liable for damages for defamation.

44. However, at the same time, there are certain mitigating factors which would be taken into account in calculating the damages, and, in the facts and circumstances of the present case, I would grant only nominal damages to the plaintiff.

45. The admitted position is that the defamatory tweet in question was originally authored by the defendant no.1. The plaintiff has already settled the matter with the defendant no.1 and under the settlement, the defendant no.1 has not only made an apology to the plaintiff for the insinuation made but he had also published the apology on

the Twitter (now "X") platform. Thus, just as the original tweet was published on the Twitter platform, the apology of the defendant no.1 in the context of the original tweet was also published on the Twitter platform. Thus, the apology by the defendant no.1 was given wide publicity, and this would have certainly mitigated to a good extent the damage caused to the plaintiff's reputation.

46. Further, in the present case, the publication by the defendant no.2 of the defamatory tweet was only by means of *"liking"* and was not a case of *"reposting"*, *"retweeting"* or *"sharing"*. The latter modes of circulation are a more direct and active case of publication as compared to the circulation through *"liking"* which is a less direct mode of circulation. In *"retweeting"* or *"reposting"* or *"sharing"* a post, the primary intention of the person doing such act is to circulate the post. Whereas, in the case of *"liking"* of the post, in the present case, the primary intention of the defendant no.2 seems to have been to show support or approval for the original post, although as a consequence there was also further circulation and republication. Neither of the parties have been able to cite any precedents of the Hon'ble Supreme Court of India or of the Hon'ble High Courts on the point as to whether *"liking"* a post on social media such as Twitter would amount to publication for the purposes of defamation. Although the Ld. Counsel for the plaintiff has relied upon the decision in the *Raghav Chadha case*, however, this decision was in the context of *"retweeting"* a post, which is fundamentally different from

"liking" a post. Thus, the law on defamation through *"liking"* of a social media post is still developing and evolving. The defendant has throughout taken the stand that *"liking"* the tweet did not amount to publication. Although by way of the present judgment, I have held that, in the facts of the present case, the *"liking"* of the tweet did actually amount to publication, however, it does appear that the defendant no.2 was always under the *bona fide* impression that her act of *"liking"* the tweet did not amount to publication in law. This is also a factor which would be considered in deciding the question of damages.

47. Furthermore, the social media posts of the plaintiff as revealed from the documents Ex.PW-1/D19 to Ex.PW-1/D22 show that on various occasions, the plaintiff himself has indulged in making objectionable and reprehensible comments on social media in respect of women in April, 2018 (Ex.PW-1/D19), in respect of a neighbouring country and its monarch in December, 2019 (Ex.PW-1/D20 and Ex.PW-1/D21), and in respect of a person of a particular community and his mother (Ex.PW-1/D22). The comments made by the plaintiff in these social media posts Ex.PW-1/D19 to Ex.PW-1/D22 are most vile, and considering the reprehensible and objectionable nature of the comments, I do not even consider it fit to reproduce these comments in the present judgment. Suffice to refer to these comments with reference to the Exhibit numbers of the documents being Ex.PW-1/D19 to Ex.PW-1/D22 in which these comments

are contained. Further, as brought to the attention of this Court by the ld. Counsel for the defendant no.2 during the course of final arguments, there is also a suit filed against the plaintiff being CS (OS) No. 332/2025 titled as *Manisha Pande & Ors. v. Abhijit Iyer Mitra* in respect of certain derogatory social media posts made by the plaintiff herein against certain women journalists. Although, the said suit is still pending, however, *vide* order dated 21.05.2025 in the said suit, the Hon'ble High Court observed as under in respect of the tweets made by the plaintiff herein:

> *"2. After perusing the phraseology couched in the language of impugned tweets made by defendant no. 1, the Court was of the prima facie opinion that the usage of such words is not permissible in any civilised society."*

48. The aforesaid order dated 21.05.2025 further records the submission of the ld. Counsel for the defendant therein (who is the plaintiff herein) that the impugned tweets would be removed within 5 hours. It has also come on the record from the cross-examination of the plaintiff that, earlier, the plaintiff had also made some derogatory social media posts due to which certain criminal proceedings were initiated against the plaintiff in the State of Odisha and that the plaintiff had also tendered an apology to the Legislative Assembly of the State of Odisha. All this goes to show that the plaintiff herein is no stranger to controversy and has himself on various occasions indulged

in making objectionable, derogatory and reprehensible comments against various persons or sections of society through his social media posts. These facts would be relevant in considering the general conduct and reputation of the plaintiff for deciding the quantum of damages.

49. Hence, in the overall facts and circumstances of the case, although the online republication and circulation by the defendant no.2 was of a grave false allegation, however, taking into account the mitigating factors as discussed above, I consider it reasonable to grant the plaintiff damages on the lower side which are quantified as Rs. 10,000/- only against the plaintiff's claim of Rs.20 lacs.

DECISION

50. In the result, decree is passed in favour of the plaintiff and against the defendant no.2 for damages of Rs. 10,000/- only. In case this amount of damages is not paid within a period of two weeks from the date of the present judgment, then the amount of damages shall also carry interest @ 6% p.a. from the date of the judgment/decree till the actual realisation. It is further directed that, in case the impugned tweet is still showing on the profile or timeline of the defendant no.2 on the Twitter/X platform, then the same be permanently deleted and/or removed.

51. In the facts and circumstances of the case, costs to the extent of one-fourth only are decreed in favour of the plaintiff and against the defendant no.2.

52. Let the decree sheet be drawn up accordingly.

53. File be consigned to record room after due compliances.

SATYABRATA PANDA

Digitally signed by SATYABRATA PANDA
Date: 2025.09.08 17:05:46 +0530

(SATYABRATA PANDA)
District Judge-04
Judge Code- DL01057
PHC/New Delhi/08.09.2025