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

**Date of Decision: 01<sup>st</sup> July 2024**

+ CS(OS) 300/2021 & I.A. 1990/2022

LAKSHMI MURDESHWAR PURI

..... Plaintiff

Through: Mr. Maninder Singh, Senior Advocate with Ms. Meghna Mishra, Mr. Tarun Sharma, Ms. Palak Sharma, Mr. Shreyansh Rathi, Advocates.

versus

SAKET GOKHALE & ANR.

..... Defendants

Through: None for D-1.  
Mr. Aadhar Nautiyal and Mr. Deepak Gogia, Advocates for D-2.

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**J U D G M E N T**

**ANUP JAIRAM BHAMBHANI J.**

**INTRODUCTION**

*“Good name in man – and woman – dear my lord,  
Is the immediate jewel of their souls;  
Who steals my purse, steals trash: 'tis something  
nothing;  
'Twas mine, 'tis his, and has been slave to thousands.  
But he that filches from me my good name  
Robs me of that which not enriches him,  
And makes me poor indeed.”<sup>1</sup>*

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<sup>1</sup> William Shakespeare, *Othello, the Moor of Venice* (Michael Neil ed, first published 1622, Oxford University Press 2006) pg. 292



2. The plaintiff has been impelled to file this suit by reason of certain ‘tweets’ put-out by defendant No.1 in the public domain, which the plaintiff claims have defamed her and her family. The tweets that the plaintiff finds offensive are set-out subsequently in the judgment.
3. The plaintiff contends that the tweets contain malicious falsehood, as a result of which her reputation has been tarnished. She seeks a direction to defendant No.1 to take-down and delete the offending tweets from the public domain; an order restraining him from publishing any further tweets in the same vein; an unconditional apology from defendant No.1; as well as a decree of damages in the sum of Rs. 5 crores, with a further direction that the money be deposited in the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (‘PM CARES Fund’). The plaintiff also seeks costs of the present proceedings.

#### **BRIEF BACKGROUND**

4. The plaintiff avers that she is a person of high accomplishment and reputation. The averments in the plaint relating to the plaintiff’s achievements may be summarised as follows :
  - 4.1. The plaintiff was a career diplomat, who joined the Indian Foreign Service (‘IFS’) in 1974 and served as an Indian diplomat for 28 years upto 2002.
  - 4.2. During her tenure in the IFS, the plaintiff is stated to have served in various capacities in Japan, Sri Lanka and Switzerland; and later as India’s Ambassador to Hungary, being accredited to Bosnia and Herzegovina.



- 4.3. That apart, the plaintiff is stated to have served for more than 15 years, between October 2002 and February 2018, at the United Nations ('UN') in senior positions. She is stated to have served as Director of the United Nations Conference on Trade and Development ('UNCTAD'), for which role she was selected through an internationally competitive recruitment process; and which role she served while on lien from the Government of India for that period.
- 4.4. The plaintiff subsequently served as the Assistant Secretary-General of the UN as well as Deputy Executive Director of UN-WOMEN, a UN entity working for gender equality and empowerment of women, which was then a newly formed organisation, which the plaintiff helmed for around 07 years.
- 4.5. The plaintiff is the recipient of several prestigious international awards and accolades, including the Eleanor Roosevelt Human Rights Award; the Novus Award for Championing Sustainable Development Goals; the Millennium Campus Award 2015; and the Global Generation Award as Inspiration for Youth among others, the details whereof have been set-out in Document No.1 filed alongwith the plaint.
- 4.6. The plaintiff has also narrated her multi-faceted experience in bilateral and multilateral diplomacy and the many areas of public administration that she has been involved with in the course of her career.
- 4.7. The plaintiff has also given a brief description of her family background, to show that her parents and her sister have also



devoted their life in the service of the nation, having enjoyed a reputation of honesty, integrity and probity in their personal as well as public lives.

- 4.8. Most pertinently, the plaintiff has stated that her husband Mr. Hardeep Singh Puri, has also had a distinguished career as an IFS Officer of the 1974 batch; and has served at Ambassador-level posts for more than 12 years between 1999 to 2013. The plaintiff's husband is also stated to have worked for the United Nations Development Programme from 1988 to 1991; he is stated to have served as the Permanent Representative of India to the United Nations in Geneva, Switzerland from 2002 to 2005, and subsequently in New York, USA from 2009 to 2013. The plaintiff has also set-out other achievements of her husband, including the fact that since September 2017 he has been serving as a Minister in the Central Government.
5. The plaintiff's grievance, for which she seeks redressal by way of the present suit, is that through a series of tweets put-out on his Twitter-handle "*@SaketGokhale*" on the social-media platform Twitter (now known as 'X'), defendant No.1 has tarnished her good name and reputation by making reckless and false allegations in relation to her financial affairs in the context of an apartment that she owns in Geneva, Switzerland.
6. For clarity, though the social-media platform 'Twitter' has since been renamed as 'X', in this judgment the platform has been referred to as 'Twitter' and the statements issued on it as 'tweets'.



7. The plaintiff has prefaced her allegations against defendant No.1 by pointing-out that defendant No.1 has about 2,08,700 followers on his Twitter-handle and that he also solicits and receives funds by way of ‘crowdfunding’ through the same. To this end, the plaintiff draws attention to a ‘pinned tweet’ that appears on defendant No.1’s Twitter-handle, which reads as follows :





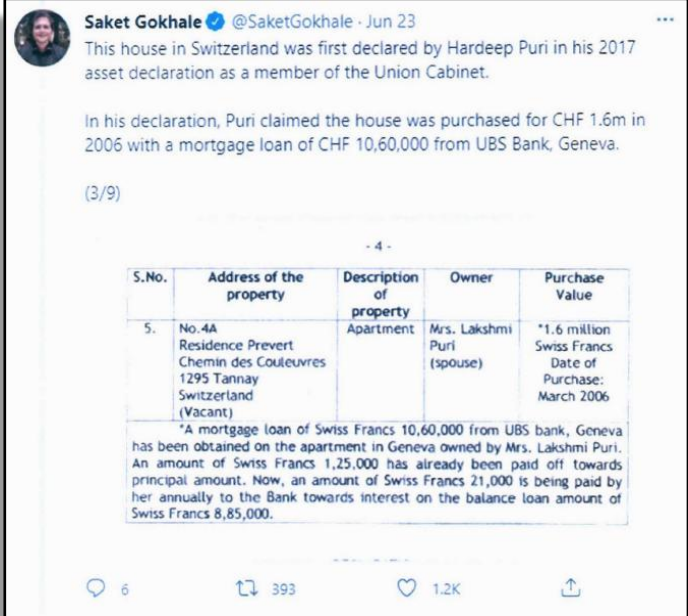
(extracted from court record)

8. The series of tweets which the plaintiff claims have defamed her, and which are hereinafter, individually and collectively, referred to as the ‘offending tweets’, are tabulated below :


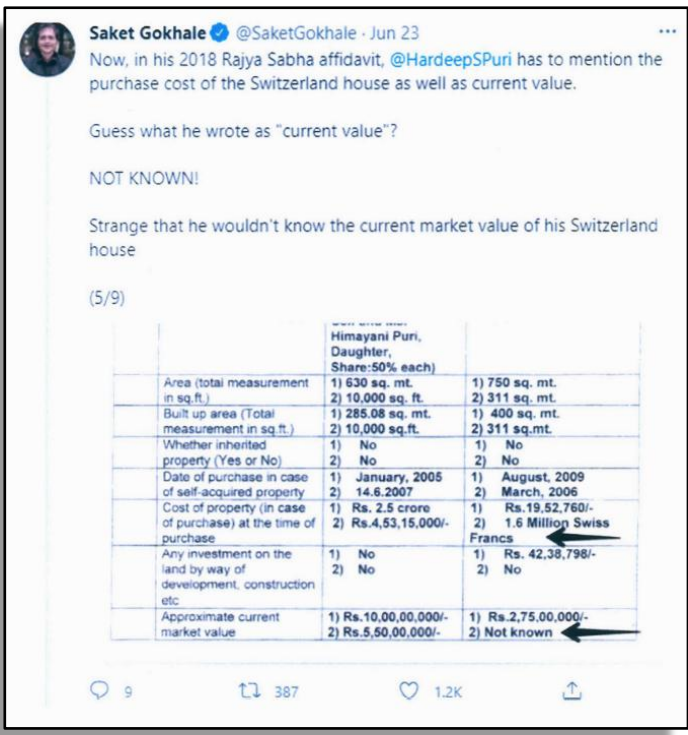



S. No.	Date & Time of Tweet	Tweet
1.	13.06.2021 09:26 AM	<p><b>Saket Gokhale</b> @SaketGokhale Question to @nsitharaman ji: If an ex-Indian civil servant who's with the BJP bought an overseas house worth \$2 million (with no income other than salary) while in service, will ED investigate it? I'll be sharing details shortly &amp; we Indians want to know if you'll be impartial. 9:26 am · 13 Jun 2021 · Twitter for iPhone 2,080 Retweets 38 Quote Tweets 7,060 Likes</p>
2.	13.06.2021 09:29 AM	<p><b>Saket Gokhale</b> @SaketGokhale Replying to @SaketGokhale In Indian rupees, that's over 10 crores. The value today is about 25 crores. Purely &amp; allegedly bought from Govt of India salary. I want to know if @nsitharaman ji will promise an unbiased probe &amp; all papers/documents will be furnished. I'll share them here soon anyway. 9:29 am · 13 Jun 2021 · Twitter for iPhone 931 Retweets 5 Quote Tweets 3,739 Likes</p>
3.	23.06.2021 Time not mentioned	<p><b>Saket Gokhale</b> @SaketGokhale · Jun 23 Modi Minister &amp; his Switzerland house: Former IFS officer @HardeepSPuri holds 2 Union Ministries in the Modi govt. Mr. Puri's spouse Amb. Lakshmi Puri is also a former IFS officer. Now, a great mystery about them which revolves around a \$2.5 million house in Switzerland. 189 2.6K 6.2K</p>



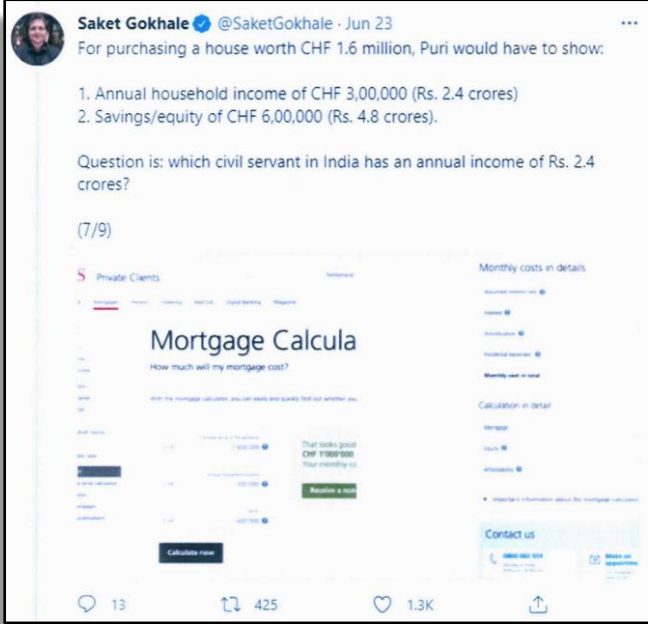
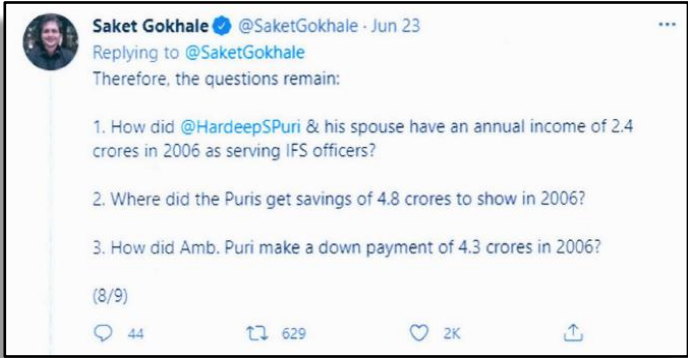

<p>4.</p>	<p>23.06.2021 Time not mentioned</p>											
<p>5.</p>	<p>23.06.2021 Time not mentioned</p>											
<p>6.</p>	<p>23.06.2021 Time not mentioned</p>	 <table border="1" data-bbox="906 1473 1414 1727"> <thead> <tr> <th>S.No.</th> <th>Address of the property</th> <th>Description of property</th> <th>Owner</th> <th>Purchase Value</th> </tr> </thead> <tbody> <tr> <td>5.</td> <td>No.4A Residence Prevert Chemin des Couleuvres 1295 Tannay Switzerland (Vacant)</td> <td>Apartment</td> <td>Mrs. Lakshmi Puri (spouse)</td> <td>*1.6 million Swiss Francs Date of Purchase: March 2006</td> </tr> </tbody> </table> <p>*A mortgage loan of Swiss Francs 10,60,000 from UBS bank, Geneva has been obtained on the apartment in Geneva owned by Mrs. Lakshmi Puri. An amount of Swiss Francs 1,25,000 has already been paid off towards principal amount. Now, an amount of Swiss Francs 21,000 is being paid by her annually to the Bank towards interest on the balance loan amount of Swiss Francs 8,85,000.</p>	S.No.	Address of the property	Description of property	Owner	Purchase Value	5.	No.4A Residence Prevert Chemin des Couleuvres 1295 Tannay Switzerland (Vacant)	Apartment	Mrs. Lakshmi Puri (spouse)	*1.6 million Swiss Francs Date of Purchase: March 2006
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7.	23.06.2021 Time not mentioned	 <p>Saket Gokhale @SaketGokhale · Jun 23 So Amb. Lakshmi Puri purchased a house worth CHF 1.6 million (Rs. 12.9 crores) in Switzerland in 2006 while she was a serving IFS officer. Of this CHF 1.6 million, she took a loan of CHF 10,60,000. Which means she made a down payment of CHF 5,40,000 (Rs. 4.3 crores). (4/9)</p>																								
8.	23.06.2021 Time not mentioned	 <p>Saket Gokhale @SaketGokhale · Jun 23 Now, in his 2018 Rajya Sabha affidavit, @HardeepSPuri has to mention the purchase cost of the Switzerland house as well as current value. Guess what he wrote as "current value"? NOT KNOWN! Strange that he wouldn't know the current market value of his Switzerland house (5/9)</p> <table border="1" data-bbox="890 965 1426 1285"> <thead> <tr> <th></th> <th colspan="2">Himayani Puri, Daughter, Share:50% each</th> </tr> </thead> <tbody> <tr> <td>Area (total measurement in sq.ft.)</td> <td>1) 630 sq. mt. 2) 10,000 sq. ft.</td> <td>1) 750 sq. mt. 2) 311 sq. mt.</td> </tr> <tr> <td>Built up area (Total measurement in sq.ft.)</td> <td>1) 285.08 sq. mt. 2) 10,000 sq.ft.</td> <td>1) 400 sq. mt. 2) 311 sq.mt.</td> </tr> <tr> <td>Whether inherited property (Yes or No)</td> <td>1) No 2) No</td> <td>1) No 2) No</td> </tr> <tr> <td>Date of purchase in case of self-acquired property</td> <td>1) January, 2005 2) 14.6.2007</td> <td>1) August, 2009 2) March, 2006</td> </tr> <tr> <td>Cost of property (in case of purchase) at the time of purchase</td> <td>1) Rs. 2.5 crore 2) Rs.4,53,15,000/-</td> <td>1) Rs.19,52,760/- 2) 1.6 Million Swiss Francs</td> </tr> <tr> <td>Any investment on the land by way of development, construction etc.</td> <td>1) No 2) No</td> <td>1) Rs. 42,38,798/- 2) No</td> </tr> <tr> <td>Approximate current market value</td> <td>1) Rs.10,00,00,000/- 2) Rs.5,50,00,000/-</td> <td>1) Rs.2,75,00,000/- 2) Not known</td> </tr> </tbody> </table> <p>(6/9)</p>		Himayani Puri, Daughter, Share:50% each		Area (total measurement in sq.ft.)	1) 630 sq. mt. 2) 10,000 sq. ft.	1) 750 sq. mt. 2) 311 sq. mt.	Built up area (Total measurement in sq.ft.)	1) 285.08 sq. mt. 2) 10,000 sq.ft.	1) 400 sq. mt. 2) 311 sq.mt.	Whether inherited property (Yes or No)	1) No 2) No	1) No 2) No	Date of purchase in case of self-acquired property	1) January, 2005 2) 14.6.2007	1) August, 2009 2) March, 2006	Cost of property (in case of purchase) at the time of purchase	1) Rs. 2.5 crore 2) Rs.4,53,15,000/-	1) Rs.19,52,760/- 2) 1.6 Million Swiss Francs	Any investment on the land by way of development, construction etc.	1) No 2) No	1) Rs. 42,38,798/- 2) No	Approximate current market value	1) Rs.10,00,00,000/- 2) Rs.5,50,00,000/-	1) Rs.2,75,00,000/- 2) Not known
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9.	23.06.2021 Time not mentioned	 <p>Saket Gokhale @SaketGokhale · Jun 23 Let us now look at the conditions for a mortgage from UBS Bank in Switzerland. A mortgage is never given for the entire amount. About 20% of the mortgage needs to be covered by the buyer by showing savings. Puri took a mortgage of CHF 10,60,000 for a CHF 1.6m house. (6/9)</p>																								





<p>10.</p>	<p>23.06.2021 Time not mentioned</p>	
<p>11.</p>	<p>23.06.2021 Time not mentioned</p>	
<p>12.</p>	<p>23.06.2021 Time not mentioned</p>	

(extracted from court record)

9. The plaintiff has also set-out in the plaint the Uniform Resource Locators ('URLs') of the offending tweets, through which the tweets



can be accessed on the social-media platform Twitter. It may be mentioned here that *vide* judgment dated 13.07.2021 made in the present proceedings, defendant No.1 was directed to remove the offending tweets from his Twitter-handle, which is stated to have been done.

10. The court has heard Mr. Maninder Singh, learned senior counsel appearing for the plaintiff. As recorded in order dated 21.02.2024, since no claim was made against defendant No. 2/X. Corp., Mr. Deepak Gogia, learned counsel appearing for defendant No.2 was not called-upon to address the court.
11. For completeness it may be noted that the record of the proceedings shows, that though no formal summons were issued in the present suit, defendant No.1 had entered appearance in the matter on 08.07.2021 on advance service; and subsequently, *vide* judgment dated 13.07.2021, this court had issued interim directions to defendant No.1 to delete the offending tweets and other connected tweets from his Twitter-handle; and had also restrained defendant No.1 from posting any defamatory, scandalous or factually incorrect tweets against the plaintiff or her husband. As recorded in order dated 24.11.2021, defendant No.1 had complied with the directions issued by this court and had filed Compliance Affidavit dated 07.09.2021 confirming so. Thereafter, defendant No.1 had also filed his written statement dated 18.09.2021 and an Affidavit of Admission/Denial of Documents dated 18.10.2021 in the matter. The delay in filing the written statement was condoned by the learned Joint Registrar and the written statement was taken on record *vide* order dated 10.02.2022.



Subsequently replication dated 03.02.2022 was also filed by the plaintiff.

12. As recorded in order dated 23.08.2023, Mr. Sarim Naved, learned counsel who was appearing for defendant No.1 had sought discharge in the matter on that date, whereupon a fresh court notice was issued to defendant No.1, which was duly served upon him. This was duly recorded by the learned Joint Registrar in order dated 25.09.2023.
13. However, since defendant No.1 chose not to be represented in the matter thereafter, he was set *ex-parte vide* order dated 19.12.2023.
14. Considering the manner in which the case has proceeded, issues were never formally framed in the suit. However, the issues that require consideration in the present case are as follows :

**Issue No. 1** : Whether the offending tweets, or any of them, have defamed the plaintiff ? OPP.

**Issue No. 2** : Whether the plaintiff is entitled to a mandatory injunction directing defendant No.1 to issue and publish an unconditional apology to the plaintiff for having put-out the offending tweets ? OPP.

**Issue No. 3** : Whether the plaintiff is entitled to a mandatory injunction restraining defendant No.1 from publishing any further tweet in relation to the imputations made in the offending tweets ? OPP.

**Issue No. 4** : Whether the plaintiff is entitled to a decree of damages against defendant No. 1 for defamation resulting from the offending tweets; and, if so, in what amount ? OPP.



**Issue No. 5 : Relief.**

**PLAINTIFF'S CONTENTIONS**

15. The plaintiff's contentions in relation to the offending tweets are the following :
- 15.1. That the 02 tweets put-out by defendant No.1 on 13.06.2021 reveal that he had intended and planned to issue malicious and defamatory statements against the plaintiff subsequently. Prior to putting-out the tweets on 13.06.2021, defendant No.1 did not verify any facts from the plaintiff and then went on to put-out a series of tweets on 23.06.2021, in a manner which clearly smacks of a deliberate intention on the part of defendant No.1 to defame the plaintiff.
- 15.2. That the contents of the offending tweets are factually incorrect, false and *per-se* defamatory of the plaintiff and her family.
- 15.3. That defendant No.1 was under a minimum obligation to cross-check and confirm facts with the plaintiff, before putting-out false information in the public domain through his Twitter-handle; but that he deliberately chose not to do so, since the tweets were put-out with ulterior motive and were designed to achieve some collateral objective.
- 15.4. That, as is evident from the contents of the offending tweets, the thrust of the insinuation made by defendant No.1 is that the plaintiff, being an IFS Officer on a government salary, could not have afforded to buy a 'house' in Geneva, Switzerland



within her financial means; and that therefore, the plaintiff has indulged in financial wrongdoing.

- 15.5. That the offending tweets also insinuate that the property in Geneva, Switzerland could not have been purchased even with the income of the plaintiff and her husband put together. Defendant No.1 then purports to draw the attention of the Finance Minister of the Union Government to the plaintiff's financial affairs, asking that the plaintiff's financial affairs be inquired into in the context of the Prime Minister's promise to bring back unaccounted wealth stashed-away by Indians abroad. Defendant No.1 also questions whether the Finance Minister would order an enquiry by the Enforcement Directorate (*viz.* the investigating agency under the Prevention of Money-laundering Act, 2002) into how the plaintiff and her husband acquired the money to buy property abroad.
- 15.6. That a perusal of the offending tweets shows that the only documents to which defendant No.1 refers, are the declarations made by the plaintiff's husband as part of his nomination papers for election to the Rajya Sabha on two occasions, which require a candidate to furnish on affidavit the details of assets and liabilities of the candidate, their spouse, as well as their dependants; and that no further enquiry was done by defendant No.1 before putting-out the offending tweets.
16. To answer the allegations made against the plaintiff by way of the offending tweets, in the plaint she explains the source of funds



through which she purchased the property in Geneva, Switzerland, as follows :

- 16.1. Firstly, the plaintiff explains that what she purchased in Geneva was an ‘apartment’ and not a ‘house’ as falsely asserted by defendant No.1 in the offending tweets.
- 16.2. The plaintiff submits that the apartment was bought on 31.03.2005; the total cost of purchase of the apartment was Swiss Francs (CHF) 1.6 million, of which CHF 1.0 million was funded by the plaintiff through a loan from UBS Bank, Geneva, Switzerland; and the balance CHF 0.6 million was funded by the plaintiff’s daughter, who was then working as Senior Vice President with an international investment bank in New York, USA. To substantiate this submission, the plaintiff has filed along with the plaint Document No.7 evidencing the loan/mortgage obtained from UBS Bank, Geneva. She has also filed remittance advices from J.P. Morgan Chase Bank N.A., New York, USA as Document No. 6, to evidence the transfer of money to the plaintiff by her daughter in New York, USA at the relevant time.
- 16.3. The plaintiff explains that she served as Director, UNCTAD for 07 years between 2002-2009 and her total earning in the year 2005 was equivalent to USD 212,149.71. An Attestation from the United Nations Office evidencing that submission is filed alongwith the plaint as Document No. 5. The plaintiff states that thereafter she served as Assistant Secretary-General at the



UN in New York from 2011 to 2018, at which time she received an annual income of about USD 250,000.00.

- 16.4. The plaintiff clarifies that she remained on leave from the Government of India from 2002 to 2011, after which she took voluntary retirement from the IFS in March, 2011; and during this period she did not receive any salary from the Government of India.
- 16.5. The plaintiff further submits that at the time she bought the apartment, her husband was posted as Ambassador to the Permanent Mission of India at Geneva since 2002, in which position, he was receiving allowances of about USD 76,000.00 per annum, in addition to his salary from the Government of India. It is accordingly stated, that during the period the plaintiff and her husband were posted in Geneva, their combined annual income was about USD 290,000.00.
- 16.6. Furthermore, to show the transparent and *bona-fide* nature of the transaction, the plaintiff also says that she duly intimated the purchase of the apartment in Geneva to her parent Ministry *viz.* the Ministry of External Affairs, Government of India *vide* letter dated 17.05.2005, as required under the service rules applicable to her.
- 16.7. The plaintiff also points-out, that in the affidavits declaring assets and liabilities filed by the plaintiff's husband alongwith his nomination papers to the Rajya Sabha in 2018 and 2020, her husband also duly disclosed the ownership of the apartment to the concerned authorities.



17. For completeness it may be recorded that by way of application bearing I.A No. 25540/2023, the plaintiff had sought leave to file additional documents; which application was allowed *vide* order 19.12.2023; whereby the plaintiff was permitted to bring on record copies of certain communications exchanged between the plaintiff and UBS Bank authenticating the loan documents that have been filed by the plaintiff, as also the plaintiff's recent communications with the Ministry of External Affairs seeking documents in relation to the purchase of the apartment in Geneva, Switzerland.
18. It is also relevant to record that in response to letter dated 25.08.2023 sent by the plaintiff to the Ministry of External Affairs, requesting them to issue a certificate acknowledging receipt of the Immovable Property Acquisition pro-forma submitted *vide* letter dated 17.05.2005 (through which the plaintiff had informed the Ministry about the purchase of the apartment), the plaintiff has received a response dated 06.09.2023 from the Ministry, saying that they have 02 documents available with them : (i) a letter dated 26.04.2005 sent by the plaintiff intimating the Ministry about the purchase of a residential apartment by her daughter for her in the outskirts of Geneva; and (ii) a letter dated 12.05.2005 sent by the Ministry requesting the plaintiff to submit the information in the prescribed *pro-forma*. Furthermore, the Ministry has informed the plaintiff that letter dated 17.05.2005 (*vide* which the Immovable Property Acquisition pro-forma was submitted) could not be found since the Ministry does not retain records of officers beyond 05 years of their retirement, the plaintiff having retired in 2011. The foregoing





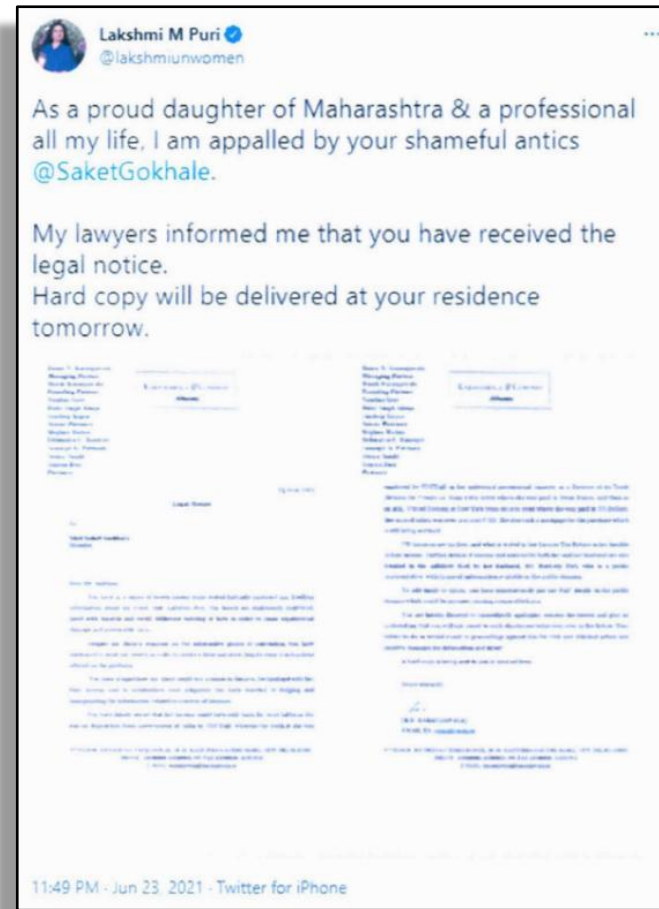
documents have also been brought on record by the plaintiff by way of application bearing I.A No. 25540/2023.

19. The plaintiff states that in response to the tweets put-out by defendant No.1 on 23.06.2021, she responded by putting-out a tweet on 23.06.2021 itself, explaining as follows :



(extracted from court record)

20. The plaintiff also caused to be issued to defendant No.1, a lawyer's notice dated 23.06.2021, demanding from him an immediate apology and removal of the offending tweets, alongwith an undertaking that he would not resort to such slanderous behaviour in the future. The plaintiff also put the legal notice sent by her on her Twitter-handle, with the following tweet :



(extracted from court record)

21. It is submitted however, that defendant No.1 did not comply with the requisitions made in the lawyer’s notice; and thereby he refused to make amends for the harm caused by him to the plaintiff’s good name, which has resulted in irreversible damage to the plaintiff’s reputation, since the contents of the offending tweets were subsequently also re-tweeted and commented upon.
22. The plaintiff also exchanged other tweets with defendant No.1 in relation to her financial resources and in relation to the declarations made by the plaintiff’s husband, screenshots of which are also being set-out below for sake of completeness. The plaintiff asserts that this



exchange of tweets shows that defendant No.1 not only made comments and allegations in relation to the plaintiff but also questioned the disclosures and declarations made by the plaintiff's husband in his disclosure affidavits filed along with his nomination papers to the Rajya Sabha. The tweets exchanged are the following :

S. No.	Date & Time	Tweet																														
1.	23.06.2021  02:11 PM	<p>Hi Amb. @lakshmiunwomen:</p> <p>If you claim that you drew a salary of \$200,000+ (Rs. 1.5 crores) until February 2018, then why did your husband @HardeepSPuri declare your annual income as Rs. 11,52,730 in his affidavit for 2017?</p> <p>I'm prepared for whatever. Answer the questions pls.</p> <p>(4) Details of Permanent Account Number (PAN) and status of filing of Income Tax returns:</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Names</th> <th>PAN</th> <th>The financial year for which the last income-tax return has been filed</th> <th>Total income shown in income-tax return (in Rupees)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Self</td> <td>AAEPP4536F</td> <td>2016-17</td> <td>Rs.10,84,336/-</td> </tr> <tr> <td>2</td> <td>Spouse</td> <td>AAEPP4536G</td> <td>2016-17</td> <td>Rs.11,52,730/-</td> </tr> <tr> <td>3</td> <td>Dependent-1</td> <td>N.A.</td> <td>N.A.</td> <td>N.A.</td> </tr> <tr> <td>4</td> <td>Dependent-2</td> <td>N.A.</td> <td>N.A.</td> <td>N.A.</td> </tr> <tr> <td>5</td> <td>Dependent-3</td> <td>N.A.</td> <td>N.A.</td> <td>N.A.</td> </tr> </tbody> </table> <p>(5) I am <b>not</b> accused of any offence punishable with imprisonment for two years or more or a pending case(s) in which a charge(s) has/have been framed by the court(s) of competent jurisdiction.</p> <p>If the deponent is accused of any such offence(s) he shall furnish the following information - N.A.</p> <p>Lakshmi M Puri @lakshmiunwomen · Jun 23 Get your facts right @SaketGokhale &amp; there is no 'mystery'. I was an International Civil Servant from 2002 to Feb '18. Drew a tax free UN salary of over US \$200,000 annually when I bought the apartment in Geneva. All facts declared to concerned authorities. Prepare to be sued.</p> <p>2:11 PM · Jun 23, 2021 · Twitter Web App</p> <p>417 Retweets 33 Quote Tweets 1,502 Likes</p>	Sl. No.	Names	PAN	The financial year for which the last income-tax return has been filed	Total income shown in income-tax return (in Rupees)	1	Self	AAEPP4536F	2016-17	Rs.10,84,336/-	2	Spouse	AAEPP4536G	2016-17	Rs.11,52,730/-	3	Dependent-1	N.A.	N.A.	N.A.	4	Dependent-2	N.A.	N.A.	N.A.	5	Dependent-3	N.A.	N.A.	N.A.
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5	Dependent-3	N.A.	N.A.	N.A.																												



<p>2.</p>	<p>23.06.2021 02:24 PM</p>	
<p>3.</p>	<p>23.06.2021 10:21 PM</p>	



4.	23.06.2021  Time not mentioned	
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(extracted from court record)

23. It is argued on behalf of the plaintiff that therefore, the target of the offending tweets was not only the plaintiff but *also her husband*. If anything, the plaintiff herself is only a *former* public servant and it was the plaintiff's husband who was currently holding public office; and therefore, it is clear that the offending tweets were motivated by political considerations.
24. The plaintiff alleges that the offending tweets are false and so to the plaintiff's knowledge; that they were put-out by defendant No.1 deliberately, with the intention of defaming the plaintiff, and through the plaintiff, also her husband. She further submits that publication of the offending tweets is malicious and has caused irreversible harm to the fair name and reputation of the plaintiff and her family.
25. The plaintiff points-out that the serious and irreversible prejudice and damage to her reputation is apparent from the responses and comments received to the offending tweets on Twitter, in which she has been ridiculed, abused and jeered. The plaintiff submits that the



offending tweets have been “Liked” by more than 26,270 users and “Re-tweeted” by more than 8,208 users (as of the time of filing the plaint), which implies that thousands of users have accepted and endorsed the (false) contents of the offending tweets.

26. The plaintiff laments that 03 decades of hard-work and dedicated public service put-in by her has been tarnished by the untruthful and false statements made by defendant No.1 in the offending tweets.
27. Most importantly, the plaintiff contends, that defendant No.1 did not exercise the required due-diligence and caution before publishing the offending tweets and proceeded to put-out falsehood in the public domain by referring only to the disclosure affidavits filed by the plaintiff’s husband before the Election Commission of India in connection with his Rajya Sabha nomination papers. The argument accordingly is, that had defendant No.1 exercised due-diligence, he could have sought clarification from the plaintiff, who would have given full answers to the doubts entertained by defendant No.1 in relation to the purchase of the apartment. Instead, it is submitted, that as recorded by this court *vide* judgment dated 13.07.2021 disposing-of the interim application filed in the matter, defendant No.1 has taken the stand that no law requires him to exercise due-diligence before posting any content about anyone on social-media platforms.
28. The plaintiff further asserts that defendant No.1’s act of ‘tagging’ the Finance Minister on his tweets, attempting to justify that he was only trying to bring to the attention of the Finance Minister a matter that requires investigation, was only an *ex-post facto* exercise and does not satisfy the requirement of due-diligence that should have been



exercised by defendant No.1 prior to putting-out the offending tweets. It is argued that *reasonable verification of facts*, as well as *prior consent before publication in specific cases*, is imperative.

29. The plaintiff further argues that defendant No.1 is not even a journalist properly so-called, since he only puts-out his views and comments on his Twitter-handle but is not a regular contributor to any print or electronic journalistic publication. In fact, it is pointed-out that it is public knowledge that subsequent to the publication of the offending tweets, defendant No.1 has joined the Trinamool Congress Party, and is now therefore declaredly, a politician.
30. Another argument put-forth on behalf of the plaintiff is that by inducing the plaintiff to disclose the money taken by her from her daughter towards purchase of the apartment, defendant No.1 has *induced* the plaintiff to breach her own privacy. In this behalf learned senior counsel appearing for the plaintiff draws attention to section 45-S of the Reserve Bank of India Act, 1934, which provision mandates that *any person* who receives a money deposit from another must make a disclosure to that effect *but exempts* an individual accepting a deposit from his or her relative (which includes a daughter).
31. It is also argued that the ‘misinformation’ that defendant No.1 has put-out by way of the offending tweets is exempt from disclosure even under section 8 of the Right to Information Act 2005, if a query were to be made under that statute. It is accordingly, the contention that the plaintiff was constrained to disclose that she had received



money from her daughter to purchase the apartment only because of the falsehood spread by defendant No.1; and had that not been the case, no law could have compelled the plaintiff to make that disclosure since receipt of money by the plaintiff from her daughter was a strictly private matter between blood relatives and close family members.

32. In response to the stand taken by defendant No.1 that no law requires him to undertake any due-diligence before putting-out the offending tweets, it is submitted on behalf of the plaintiff that under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021<sup>2</sup>, even a social-media *intermediary* such as Twitter, is required to perform due-diligence with regard to content that is carried on their platform, failing which they lose the ‘safe harbour protection’ available to them under the law.<sup>3</sup> It is accordingly submitted, that it is imperative on the part of every person who *authors* or puts-out content in the public domain *via* such intermediary, to conduct requisite due-diligence, which defendant No.1 has admittedly failed to do.
33. It is also argued on behalf of the plaintiff that having entered appearance in the present proceedings and having filed his written statement and an affidavit of admission/denial of documents, defendant No.1 has thereafter brazenly chosen not to participate in the

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<sup>2</sup> Rule 3(1) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>3</sup> Section 79 of Information Technology Act, 2000 and Rule 7 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021





proceedings, which amounts to defendant No.1 having canvassed a vexatious defence, which must be visited with requisite consequences. Upon being queried, learned senior counsel appearing for the plaintiff has also urged that since the contesting defendant has failed to participate in the proceedings, no purpose would be served by requiring the plaintiff to lead formal *ex-parte* evidence in the matter, since there is no-one to cross-examine the plaintiff or any of her witnesses. It has also been submitted that the documents and material filed by the plaintiff on record, duly supported by the affidavit filed along with the plaint, as also the affidavit filed under section 65B of the Indian Evidence Act 1872, constitute sufficient material for the court to proceed to decide the suit on merits, without any further reference to defendant No.1.

34. In support of her case the plaintiff has relied upon the following judicial precedents :

34.1. *Institute of Chartered Accountants of India vs. L.K. Ratna & Ors.*<sup>4</sup>, to submit that professional reputation is sacrosanct; and is a matter of honour and dignity of a person.

34.2. *R. Rajagopal & Anr. vs. State of Tamil Nadu & Ors.*<sup>5</sup>, to submit that reasonable verification of facts as well as prior consent in specific cases is imperative before publication. Furthermore, where a party's right to privacy has been breached, they are entitled to damages.

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<sup>4</sup> (1986) 4 SCC 537, para 18

<sup>5</sup> (1994) 6 SCC 632, para 26



- 34.3. *Selvi J. Jayalalithaa vs. Penguin Books India*<sup>6</sup>, to submit that the requirement for reasonable verification has consistently been held to be necessary.
- 34.4. *S.Ve. Shekher vs. Al. Gopalsamy and other connected matters*<sup>7</sup>, to support the proposition that an individual with public following must exercise caution before issuing public statements on social networking sites, since such statements carry immense impact.
- 34.5. *Arvind Kejriwal vs. State & Anr.*<sup>8</sup>, to submit that a public figure must exercise due-diligence and care in disseminating information on social-media.
- 34.6. *M/s. Tata Sons Ltd. vs. Mastech Corporation & Ors.*<sup>9</sup>, to submit that the law recognizes a situation where a party may be compelled by another to make a disclosure and breach their own privacy; and that inducement to breach a contract is in essence *pari materia* with a case where a party is compelled to breach their own privacy in order to establish their case.
- 34.7. *Indian Performing Right Society Ltd. vs. Gauhati Town Club & Anr.*<sup>10</sup>, *M/s.S. Oliver Bernd Freier GmbH & Co. KG vs. M/s. Jaikara Apparels & Anr.*<sup>11</sup> and *Infiniti Retail Ltd. vs.*

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<sup>6</sup> 2012 SCC OnLine Mad 3263, para 68

<sup>7</sup> 2023 SCC OnLine Mad 4626, paras 9 to 15

<sup>8</sup> 2024 SCC OnLine Del 719, paras 65, 72, 74, 77, 80 & 90

<sup>9</sup> 1995 SCC OnLine Mad 368

<sup>10</sup> 2013 SCC OnLine Del 382, paras 7, 8 & 21

<sup>11</sup> 2014 SCC OnLine Del 2686, para 3 & 5



*Croma-Share & Ors.*<sup>12</sup>, to argue that where a defendant is set *ex-parte* and the material before the court is sufficient to allow the plaintiff's claim, judicial time should not be wasted in leading *ex-parte* evidence.

*Pramodkumar vs. O.Thomas Printer & Publisher, Deccan Chronicle & Holdings Ltd. &Ors.*<sup>13</sup>, to support the proposition that if a party enters appearance in a matter but does not lead evidence, it amounts to presenting a vexatious defence and such party should be subject to exemplary costs. Furthermore, by not leading evidence, a defendant does not discharge the onus of establishing their defence.

#### **DEFENDANT'S CONTENTIONS**

35. Absent any effective participation by defendant No.1 at the stage of final decision of the suit, this court has been especially careful to examine the defences raised by the said defendant in his written statement dated 18.09.2021, and in Affidavit of Admission/Denial of Documents dated 18.10.2021 filed by defendant No.1 in relation to the documents filed by the plaintiff.
36. In the written statement filed by defendant No.1, he has raised the following preliminary objections :

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<sup>12</sup> 2024 SCC OnLine Del 424, para 12

<sup>13</sup> MANU/TN/1739/2020, paras 19, 22 & 23



- 36.1. Defendant No.1 says that the subject of the suit also pertains to the plaintiff's husband, and therefore the plaintiff's husband should have been made party to the suit.<sup>14</sup>
- 36.2. Defendant No.1 further argues that a prayer seeking relief for the benefit of a third-party, viz. the prayer in the suit which seeks that damages be awarded to the plaintiff and be then paid to the PM Cares Fund, is an "*improper prayer*".<sup>15</sup>
- 36.3. Defendant No.1 also claims that the suit is bad in law since it is against 'public interest' and that the "*(p)laintiff has suppressed affidavits revealing assets filed by her husband which raise pertinent questions.*"<sup>16</sup>
37. In his written statement defendant No.1 has then proceeded to cite his own credentials as a financial journalist and as a person well-versed with election procedures. He claims to be an "*RTI activist and transparency investigator*"; further disclosing that as on 17.08.2021, he has become a member of the Trinamool Congress Party.
38. Defendant No.1 also says in his written statement that the source of his information, based on which he has put-out the offending tweets, were the disclosure affidavits filed by the plaintiff's husband as part of his nomination papers for the Rajya Sabha. Defendant No.1 submits that he studied the affidavits filed by the plaintiff's husband, whereupon certain points of concern became apparent to him, the details of which he has set-out in the written statement.

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<sup>14</sup> cf. para 1 of Written Statement filed by defendant No.1

<sup>15</sup> cf. para 2 of Written Statement filed by defendant No.1

<sup>16</sup> cf. para 4 of Written Statement filed by defendant No.1



39. In particular, defendant No.1 claims that the plaintiff's income as disclosed in her husband's disclosure affidavits, neither includes the income she received from the United Nations nor the pension she receives from the Government of India.<sup>17</sup> Defendant No.1 then proceeds to claim that in the disclosure affidavits filed by the plaintiff's husband for the years 2018 and 2020, the plaintiff's income "... .. *seems underreported* .....".<sup>18</sup> Defendant No.1 also expresses doubt as to the balance payable by the plaintiff against the loan she took for purchasing the apartment, which he says raises question about the purchase of the apartment itself.
40. The thrust of defendant No.1's response in his written statement is that the stated sources of the plaintiff's income do not match her declared income or her assets as declared in her husband's disclosure affidavits.
41. It is noticed that apart from mere bald denials in his written statement<sup>19</sup>, defendant No.1 does not dispute or deny that the plaintiff had served in the IFS from 1974 to 2002 and that she took voluntary retirement in 2011. Defendant No.1 says that the plaintiff's family background and their claimed service to the nation have no connection, whether direct or indirect, with the suit. He also says that being a legislator's wife, the plaintiff's assets are to "... ..*be declared publicly and can be commented on publicly*".<sup>20</sup>

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<sup>17</sup> cf. para 8(ii) of Written Statement filed by defendant No.1

<sup>18</sup> cf. para 8(iii) of Written Statement filed by defendant No.1

<sup>19</sup> cf. para 13 of Written Statement filed by defendant No.1

<sup>20</sup> cf. para 18 of Written Statement filed by defendant No.1



42. On point of fact, defendant No.1 admits that he holds the Twitter-handle on which the offending tweets were put-out. In fact he submits that the number of his followers on Twitter are “.....*now slightly higher than reported in the Plaintiff*”.<sup>21</sup>
43. Defendant No.1 specifically admits that the offending tweets were published by him on his Twitter-handle.<sup>22</sup> But he denies that he had any ulterior motive in putting-out the offending tweets; or that he adopts any devious methods or *modus-operandi* to tarnish the image of his targets.
44. Notably, defendant No.1 asserts that he “.....*crowd funds his public interest work and has a reputation as an RTI activist with integrity*”<sup>23</sup>. He denies that he is trying to increase his followers on his Twitter-handle for receiving funds from donations and through crowd-funding. He claims that such allegation is wrong and defamatory.
45. Defendant No.1 denies that he did not try to verify facts from the plaintiff prior to publishing the tweets on 26.03.2021.<sup>24</sup> He submits that the offending tweets relied-upon information contained in the election affidavits filed by the plaintiff’s husband, which are available in the public domain; and that therefore, there was no need for defendant No.1 to have verified the facts “..... *from the Plaintiff separately before publishing his tweets as they were based entirely*

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<sup>21</sup> cf. para 19 of Written Statement filed by defendant No.1

<sup>22</sup> cf. para 27 of Written Statement filed by defendant No.1

<sup>23</sup> cf. para 20 of Written Statement filed by defendant No.1

<sup>24</sup> cf. para 24 of Written Statement filed by defendant No.1



upon the information provided by the plaintiffs husband under oath”<sup>25</sup>.

46. In his written statement defendant No.1 then proceeds to assert as follows :

*“26. That the contents of Para 14 are denied, except insofar as they are admitted hereunder. It is true that the Defendant had not contacted the Plaintiff, but Defendant had done his due-diligence by perusing public record and obtaining information. It is wrong and denied that the tweet is for some ulterior motives and designed to achieve some other objective and that therefore such a minimum obligation was deliberately avoided and omitted by the Defendant as he would have come to know of the true facts and could not have proceeded further with putting any allegedly false tweets in the public domain. It is reiterated that Defendant had relied upon the election affidavit of the husband of the Plaintiff and other information which is part of public record and, therefore, it was not necessary for him to contact the Plaintiff for confirming any facts from her before publishing the said tweets.”*

(emphasis supplied)

47. Pertinently, defendant No.1 denies that through the offending tweets he has made any false, scurrilous, malicious or libelous allegations or insinuation that the plaintiff alongwith her husband had purchased the apartment in 2006 with “*black money*”. This portion of the written statement requires specific reference and reads as follows :

*“33. That the contents of Para 21 are wrong and denied. It is wrong and denied that the Defendant has in his series of tweets dated 23.06.2021 made a false and scurrilous/malicious/libellous allegation/insinuation that the Plaintiff along with her husband have purchased a house in Geneva, Switzerland in the year 2006 with “black money”. It is denied that the Defendant has in one of his*

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<sup>25</sup> cf. para 24 of Written Statement filed by defendant No.1



*tweets referred to swiss bank accounts and foreign black money and tagged the Union Finance Minister to order a money laundering enquiry by the Enforcement Directorate on the Plaintiff and her husband. It is wrong and denied that the Defendant has created an architecture of falsehood through distortion of facts, baseless assumptions and fabricated information to impute that how could the Plaintiff and her husband buy a house in Switzerland within their given income or that he has insinuated a mystery about it or implied that it may have been acquired from ill-gotten wealth. Defendant had only raised questions on the basis of publicly available information. The context of the tweets has deliberately been suppressed by the Plaintiff.”*

(emphasis supplied)

48. Defendant No.1 also denies that the offending tweets led to a flurry of vicious and derogatory responses and tweets from other persons. The relevant portion of the written statement reads as follows :

*“35. That the contents of Para 23 are wrong and denied. It is wrong and denied that the abovementioned and other statements made by the Defendant in his tweets dated 23.06.2021 are false and factually incorrect, perse defamatory and libellous. It is wrong and denied that the Defendant’s tweets led to a flurry of vicious tweets from other persons using words such as ‘big chors’ ‘crook’, ‘besharm’, ‘corrupt’, ‘kaaladhan’, ‘thieves’ or any other demeaning expletives, casting aspersions of illegality, impropriety on the Plaintiff and her family or the organisations they served, be it the Government of India, the UN or any other organisation. It is wrong and denied that this has hugely impacted public perception nor can it be confirmed from any tweets mentioned/filed by the Plaintiff. It is wrong and denied that these tweets that have been filed by the Plaintiff establish that the present is a clear case of perse defamation resulting from the false tweets of the Defendant.”*

(emphasis supplied)





49. In fact, the essence of the defence put-up by defendant No.1 is contained in the following portion of his written statement, the relevant extract whereof says :

“36. .... It is wrong and denied that the defendant’s tweets are perse defamatory or that he has made any false allegations or made them without seeking comment from the plaintiff.

a) The Plaintiff’s income, in light of the expenses at Geneva, and her duration of income, does not suffice by itself to afford the apartment at Geneva. In any case, that was not the basis on which the Defendant asked his questions regarding the Plaintiff.

b) Plaintiff’s husband has suppressed her income in the election affidavit. Her income as per husband’s election affidavit does not reveal the claimed income at all. Plaintiff’s husband has suppressed her income in his affidavit and is manifold less than her admitted income mentioned hereunder.

c) \* \* \* \* \*

d-f) It is denied for want of knowledge that the elder daughter of the Plaintiff at that time had been working as a Senior Vice President with an international investment bank at New York, USA or that out of the amount of CHF 1.6 million, a sum of CHF 6,00,000 had become available in two tranches to the Plaintiff from her daughter. The said loan amount has not been shown as repaid in her plaint or in her election affidavit.

g) It is denied for want of knowledge that the purchase of the Apartment was duly intimated by the Plaintiff to the Ministry of External Affairs vide letter dated 17<sup>th</sup> May 2005.

h) \* \* \* \* \* ”

(emphasis supplied)



50. In his Affidavit of Admission/Denial of Documents dated 18.10.2021 filed by defendant No.1, he again admits to the ‘*correctness*’ and ‘*existence*’ of the screenshots of tweets dated 13.06.2021 and 23.06.2021 that are subject matter of the present suit; however, he denies the ‘*interpretation*’ thereof. Defendant No.1 however denies the ‘*correctness*’ or ‘*existence*’ of the screenshots of the tweets made *in comment or response* to the offending tweets, for lack of personal knowledge.
51. Defendant No.1 also denies the documents filed by the plaintiff in support of the loan/mortgage taken by her from UBS Bank and the money taken from her elder daughter towards purchase of the apartment, again for lack of personal knowledge. Defendant No.1 also denies letter dated 17.05.2005, whereby the plaintiff claims that she had intimated the purchase of the apartment to the Ministry of External Affairs, for lack of personal knowledge.
52. Obviously, defendant No.1 admits the disclosure affidavits filed by the plaintiff’s husband in 2018 and 2020 along with his nomination papers to the Rajya Sabha.
53. However, as noted above, after filing his written statement and his affidavit of admission/denial of documents, defendant No.1 thereafter stopped appearing or being represented in the present suit. As recorded in order dated 23.08.2023, learned counsel for defendant No.1 subsequently sought discharge from the matter on the ground that he was not receiving any instructions from defendant No.1; and counsel was accordingly discharged. Thereupon *court notice was issued to defendant No.1*; which was *duly served* upon him, which



fact has been recorded by the learned Joint Registrar *vide* order dated 25.09.2023.

54. Upon his failure to be represented in the matter despite service of court notice, *vide* order dated 19.12.2023 defendant No.1 was set *ex-parte*.
55. Thereafter there have been about 09 hearings in the case, including several final hearings, when extensive submissions were heard by this court on behalf of the plaintiff; but defendant No.1 has failed to appear or to be represented in the matter.

#### **DISCUSSION & CONCLUSIONS**

56. At the outset it must be observed, that this matter has proceeded in a somewhat unusual manner. Defendant No.1 was duly served in the matter. He entered appearance through counsel. He filed his written statement and affidavit of admission/denial of documents. Thereafter however, it would appear, he stopped giving instructions to his counsel; and counsel therefore sought discharge from the matter. Subsequently defendant No.1 chose simply not to appear or be represented in the matter, *as if he did not care about the outcome of the proceedings at all*.
57. On the other hand, the plaintiff has assiduously pursued the matter, displaying seriousness of purpose in relation to the claim that she has made.
58. In support of the averments contained in the plaint and the documents filed therewith, the plaintiff has filed an affidavit accompanying the plaint. She has also duly filed an affidavit as required under section



65B of the Evidence Act in support of the electronic evidence tendered in the matter. The case in fact turns almost entirely upon electronic evidence, that is to say the tweets put-out by defendant No.1, which the plaintiff finds offensive; and the tweets/re-tweets made by third-parties as comments in response to the offending tweets put-out by defendant No.1. In the affidavit filed by the plaintiff in support of the electronic record tendered by her in evidence, she deposes to the veracity of the offending tweets as well as the adverse tweets received in response.

59. On the other hand however, having filed certain documents in support of his written statement, defendant No.1 has omitted to participate in the proceedings and has not cross-examined the plaintiff in relation to her averments, allegations and documents.
60. In the affidavit of admission/denial of documents filed by defendant No.1, he *denies any personal knowledge* of the academic and professional achievements of the plaintiff; he *denies any personal knowledge* of the plaintiff's family background; he *denies any personal knowledge* of the comments and responses received from a large number of Twitter users to the offending tweets, saying that he is not party to such comments; he *denies* the documents relating to the loan/mortgage from UBS Bank and the money received by the plaintiff from her daughter for purchase of the apartment, as also the intimation letter addressed by the plaintiff informing the Ministry about the purchase of the apartment, again for lack of *personal knowledge*.



61. Defendant No.1 however *admits the existence* of the disclosure affidavits filed by the plaintiff's husband as part of his Rajya Sabha nomination papers but disputes the interpretation of what is stated in such affidavits; he *admits the existence* of the offending tweets but disputes the interpretation of the contents thereof, saying that they are not *per-se* defamatory. Defendant No.1 also *admits receipt* of the legal notice issued by the plaintiff to him, calling upon him to make amends for putting-out false and defamatory tweets against the plaintiff but denies its interpretation.
62. That being so, and considering that the main contesting defendant *viz.* defendant No.1 has been set *ex-parte*, this court sees no reason to call upon the plaintiff to file any further affidavit in support of the plaint or of the documents filed therewith; or to insist that she lead *ex-parte* evidence in the matter.
63. In the opinion of this court, calling for yet another affidavit from the plaintiff in support of her case and of the documents filed by her, would only amount to needless repetition of paperwork, which is wholly uncalled for in a case where the contesting defendant has let the matter proceed in default, deliberately as it were. If the plaintiff were called upon to file a formal affidavit-in-evidence, she would substantially only repeat what she has already stated in her plaint and in the affidavit filed in support thereof; and, moreover, there would be no one to cross-examine the plaintiff on such affidavit-in-evidence.
64. To be sure, defendant No.1 has asserted and placed on record his defence in writing by way of his written statement, which is duly supported by his affidavit. Defendant No.1 has also filed an affidavit



towards admission/denial of the plaintiff's documents. Insofar as the documents filed by defendant No.1 are concerned, all those documents (except the disclosure affidavits of the plaintiff's husband) are denied by the plaintiff. Defendant No.1 has not participated in the proceedings to prove such documents. In any event, in the opinion of this court, the documents filed or relied upon by defendant No. 1 do not persuade the court to change its decision in the present case.

65. In the circumstances, this court records that there is sufficient material before the court to proceed to decide the case on merits, without calling upon the plaintiff to lead *ex-parte* evidence, since that would be a mere superfluity. In doing so this court also derives support from the view taken by our Co-ordinate Benches in *Indian Performing Right Society Ltd* (supra), *M/s. S. Oliver Bernd Freier GmbH* (supra) and *Infiniti Retail Ltd.* (supra) cited by the plaintiff.
66. Upon a conspectus of the above, this court is persuaded to hold that the plaintiff has successfully discharged the burden upon her for proving the documents that she has filed and relied-upon; and accepts the veracity of such documents. On the other hand, defendant No.1 has failed to discharge the subsequent onus upon him to disprove or belie the same.
67. A brief dissection of the offending tweets is required at this point :
  - 67.1. The first two tweets put-out by defendant No.1 on 13.06.2021 referred to an ex-Indian civil servant who was with the Bhartiya Janata Party, which was a clear reference to the plaintiff's husband.



- 67.2. The tweets dated 13.06.2021 said that the plaintiff's husband had bought an house overseas worth \$2 million, which would be equivalent to over Rs. 10 crores (at the relevant time), with a value of about Rs. 25 crores today. The 02 tweets further went on to say that (at the relevant time) the plaintiff's husband had no income other than a government salary (to be able to purchase the property). The tweets also called upon the Finance Minister to promise an unbiased probe and that if such probe was assured "*... .. all papers/documents will be furnished*".
- 67.3. While putting-out the 02 tweets on 13.06.2021, defendant No.1 made no reference to the disclosure affidavits filed by the plaintiff's husband; nor did defendant No.1 give any details of the exact cost of the apartment or the manner in which it was funded. However, he did pose a question as to whether the Enforcement Directorate would investigate the matter.
- 67.4. Thereafter defendant No.1 did not put out any tweets for the next 10 days.
- 67.5. The clear insinuation in the first 02 tweets dated 13.06.2021 was that the plaintiff's husband had come to own property abroad without having salary or income enough to do so, suggesting that this requires a probe by the Enforcement Directorate.
- 67.6. Defendant No.1 maintained studied silence as to the source of his information, making no reference to the disclosure affidavits filed by the plaintiff's husband or to the disclosures



made by the plaintiff herself to her Ministry. But he clearly alleged wrongdoing on the part of the plaintiff's husband.

68. The second set of 10 tweets were put-out by defendant No.1 on 23.06.2021, the contents of which may be summarised as follows :

68.1. Defendant No.1 now brought the plaintiff into the picture by naming her. He also named the plaintiff's husband. He said that there was "... .. a great mystery about them which revolves around \$2.5 million house in Switzerland".

68.2. Defendant No.1 then gave some details about the plaintiff's job at the UNCTAD in Geneva. He *now* clarified that the house in Switzerland was purchased by the plaintiff (not by her husband). He indicated the price of purchase as CHF 1.6 million. He referenced the pay-band/pay-scale that the plaintiff and her husband were drawing in 2006; and expressed that the purchase of the house was something of interest.

68.3. Defendant No.1 then proceeded to refer to the disclosure affidavit filed by the plaintiff's husband *in 2017* (reference perhaps being to the affidavit filed in 2018 or 2020); and posted a screenshot of the affidavit, showing disclosure made by the plaintiff's husband about ownership of the 'apartment' (and not a 'house' as incorrectly claimed by defendant No.1) alongwith the date and cost of purchase and the mortgage from UBS Bank.

68.4. Defendant No.1 thereafter presented his own inferences as to the down-payment required against the loan taken for purchase of the property. He cast a doubt as to why the plaintiff's





husband had not disclosed the current value of the apartment, which, defendant No.1 said he found “strange”. He attempted to explain that a mortgage is never given for the entire cost of purchase and that the plaintiff and her husband did not have sufficient annual household income to afford the apartment.

68.5. Defendant No.1 followed this with a series of questions in his tweets, including as to how the plaintiff and her husband had enough savings to buy the apartment and to make the down-payment.

68.6. Defendant No.1 then closed his tweets by drawing attention to the fact that the Prime Minister had promised to “... .. *bring back foreign black money... ..*”; and again questioned whether the Finance Minister would order an enquiry by the Enforcement Directorate into how the plaintiff and her husband had enough money to buy the apartment abroad.

69. Based on the above-referred documents, the plaintiff’s case against the offending tweets is really quite simple.

70. The plaintiff alleges that the contents of the offending tweets put-out by defendant No.1 are false. She says that defendant No.1 did not make any effort to verify the factual position in relation to the contents of the offending tweets before publishing them. The plaintiff further asserts that through the contents and the tone and tenor of the offending tweets, defendant No.1 has clearly insinuated that the plaintiff bought an apartment in Geneva, Switzerland through funds, the provenance of which is questionable. Defendant No.1 has also said that at the relevant time the plaintiff and her husband did not



have the financial means to have purchased the apartment. The plaintiff alleges that the aim of defendant No.1 was to spread malicious falsehood, not only against the plaintiff, but perhaps more importantly, against the plaintiff's husband who currently holds a ministerial post in the Central Government. The plaintiff asserts that the source of the funds used by her to buy the apartment are legitimate and accounted-for; and more specifically, that she had fully disclosed the acquisition of the apartment, including the source of funds, to her parent Ministry *viz.* the Ministry of External Affairs at the relevant time. She also contends that the plaintiff's husband has also duly disclosed the purchase of the apartment, including the mortgage existing thereon, in the two disclosure affidavits filed by him as part of his nomination papers to the Rajya Sabha.

71. Most importantly, the plaintiff explains that the financing of the apartment was quite straightforward. The total cost of purchase of the apartment was Swiss Francs *i.e.* CHF 1.6 million; of which, the plaintiff obtained CHF 1.0 million as loan from UBS Bank, Geneva, Switzerland against mortgage of the apartment; and the remaining CHF 0.6 million was contributed by her elder daughter in 02 tranches on 09.12.2004 and 11.03.2005. The plaintiff has filed as Document No. 7 alongwith the plaint, a copy of the UBS Fixed-Rate Mortgage dated 30.03.2005 for CHF 500,000/- and another contract for the UBS Libor Mortgage dated 30.03.2005 for another sum of CHF 500,000/- in her favour, to evidence that the sum of CHF 1.0 million was borrowed from UBS for purchase of the apartment. The plaintiff has also relied upon Document No. 6 filed by her, which are copies of



Credit Advice dated 09.12.2004 for CHF 199,344/- and Credit Advice dated 11.03.2005 for CHF 506,000/- whereby the plaintiff received remittances from her daughter of certain sums of money through J.P. Morgan Chase Bank N.A., New York, USA. It is pointed-out that the daughter's name has been redacted from the documents for protecting the latter's privacy. The plaintiff has also clarified that the monies received from the daughter were somewhat in excess of the CHF 0.6 million required towards the balance price of the apartment, since other processing charges and closing costs also had to be paid for completing the purchase.

72. Furthermore, the plaintiff has placed on record as Document No. 8, a copy of communication dated 17.05.2005, by which the plaintiff had informed the Ministry of External Affairs that she had purchased the apartment, enclosing therewith the requisite form as prescribed under the Central Civil Services (Conduct) Rules, 1964. Notably the intimation sent by the plaintiff to her Ministry regarding acquisition of immovable property also sets-out the sources from which the purchase was financed, namely through a mortgage and through equity provided by her elder daughter.
73. The plaintiff has also placed on record as Document No. 9 and Document No. 10, the disclosure affidavits filed by her husband disclosing the assets held by him and by his spouse as part of his nomination papers for the Rajya Sabha in 2018 and 2020, which also disclose both the ownership of the apartment and the existence of a mortgage with UBS.



74. Pertinently, the purported discrepancies cited by defendant No.1 in his written statement relate to the *income* disclosed by the plaintiff's husband *for the years 2016-2017 and 2019-2020* in the disclosure affidavits filed by him in 2018 and 2020. However, once the source of funds applied for *buying the apartment in 2005* stands duly disclosed by the plaintiff as well as her husband, their income for any given year, is of no relevance.
75. The legal landscape relevant for purposes of the present matter, is succinctly captured in the following judicial precedents :
- 75.1. In its celebrated decision in *R. Rajagopal* (supra) the Supreme Court has laid-down the contours and conditions of the permissible challenge that may be brought by a 'public official' for publication of defamatory content, arising from breach of privacy relating to the discharge of their public duties. Though the plaintiff in the present case is no longer a public official, as observed above, defendant No.1 has cleverly made insinuations in the offending tweets not only to the plaintiff but also to her husband who is a public official. For this reason, the decision in *R. Rajagopal* is relevant. Furthermore, in *R. Rajagopal* the Supreme Court has also enunciated the aspect of a publication being made in *reckless disregard of truth*, which is a ground for action even by a public official, and therefore much more so by a person who has ceased to be a public official. The following portions of *R. Rajagopal* may be noticed:



“8. On the pleadings in this petition, following questions arise:

(1) Whether a citizen of this country can prevent another person from writing his life story or biography? Does such unauthorised writing infringe the citizen’s right to privacy? Whether the freedom of press guaranteed by Article 19(1)(a) entitles the press to publish such unauthorised account of a citizen’s life and activities and if so to what extent and in what circumstances? What are the remedies open to a citizen of this country in case of infringement of his right to privacy and further in case such writing amounts to defamation?

\* \* \* \* \*

“26. We may now summarise the broad principles flowing from the above discussion:

(1) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a “right to be let alone”. **A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters.** None can publish anything concerning the above matters without his consent — **whether truthful or otherwise and whether laudatory or critical.** If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) The rule aforesaid is subject to the exception, **that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records.** This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction



or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above — indeed, this is not an exception but an independent rule. **In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties.** This is so **even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth.** In such a case, it would be enough for the defendant (member of the press or media) to prove that he **acted after a reasonable verification of the facts;** it is not necessary for him to prove that what he has written is true. **Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages.** It is equally obvious that **in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above.** It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.”

(emphasis supplied)

75.2. Then again, in *Selvi J. Jayalalithaa* (supra), the Madras High Court has stressed the need for *reasonable verification* before publication of matter concerning the *privacy* of public personalities, explaining that :

“55. The aforesaid dictums laid down by the Hon'ble Apex Court and this Court would be **that a reasonable verification of the contents would be sufficient in respect of public personalities are concerned.** The said dictum has been



*laid down in respect of an article written in a magazine about a public personality. Now, we have to see whether such reasonable verification has been done by the Third Defendant is the crucial point.*

\* \* \* \* \*

*“63. On a careful understanding of the aforesaid dictum, I could see that **the right of privacy of an individual is guaranteed under Article 21 of the Constitution of India and it is a right to be let alone.** As regards the particulars of marriage, family, procreation, motherhood, child bearing, education and other matters, anything published concerning the above matters without his or her consent whether truthful or otherwise whether laudatory or critical, it would be violating the right of privacy of a person concerned. **As far as a public personality is concerned, the right of privacy is equivalent to that of an individual when it is not associated with the public life. Therefore, a thin difference has been put forth regarding the private life of a public official and the public duties of the public official. Even a public official's private life is touched by publishing the information regarding those private matters without consent and verification, it would be an invasion of private life or privacy. Once it has been published without such consent or verification, the remedy would be the damages. ... ..**”*

(emphasis supplied)

75.3. On whether a distinction needs to be drawn when a message is put-out by a person who has followers as compared to an ordinary person, the following observations of the Madras High Court in *S.Ve. Shekher* (supra) are relevant :

*“12. The stature of a person is directly proportional to what he communicates to the society and its consequences. **Therefore, an information or a message sent by a normal citizen and the same information/message sent by a person with a stature having followers has a lot of difference.** In the former, such message or information may not have an impact*



on the society. However, when it comes from a person with stature, its repercussions will be higher. **In view of the same, such a person carries a lot of responsibility in what he says and does considering the impact it will have on the society or a particular group of persons, as the case may be.**

“13. Hence, a case of this nature cannot be decided by applying the same yardstick to everyone. **The more a person is popular in the society, he also carries more responsibility in what he conveys to the society.** The petitioner, in the instant case, falls under the category of a person of high stature with many followers and he ought to have exercised more caution before forwarding the message from his facebook account. **If such a caution has been thrown to the winds and as a result, it has had a very serious impact, the petitioner has to necessarily face it and cannot try to run away from the consequences by merely tendering an unconditional apology.**

“14. **A message that is sent or forwarded in the social-media is like an arrow, which has already been shot from the bow. Till that message remains with the sender, it is within his control. Once it is sent, it is like the arrow, which has already been shot and the sender of the message must take the ownership for the consequences of the damage done by that arrow (message).** Once the damage is done, it will become very difficult to wriggle out of the same by issuing an apology statement.”

(emphasis supplied)

76. Now, on a plain and objective reading of the offending tweets, what defendant No.1 has stated and/or insinuated thereby is this :

76.1. That the plaintiff had purchased the apartment through ill-begotten money, since the plaintiff and her husband did not have sufficient income at the relevant time to buy the apartment.





- 76.2. That the *financial inability* of the plaintiff to purchase the apartment is *evident* from the disclosures contained in the disclosure affidavits filed by the plaintiff's husband in 2018 and 2020 as part of the latter's nomination papers to the Rajya Sabha.
- 76.3. That action ought to be initiated by the concerned investigating agency against the plaintiff and her husband in-line with governmental policy to bring back ill-begotten wealth stashed abroad, as per the policy announced by the Prime Minister; which however defendant No.1 says will not happen, since the plaintiff's husband holds a ministerial post in the Central Government.
77. Now, by way of the documents filed in support of the plaint, the plaintiff has *clearly and cogently explained* the source of funds that she had used to purchase the apartment. The cost of purchase of the apartment and the quantum of funds available to the plaintiff from the sources explained by her, add-up neatly. There remains no doubt as to how the plaintiff funded the purchase of the apartment. What adds further credibility to the plaintiff's explanation is the fact that, *at the relevant time*, that is in 2005 itself, the plaintiff had also intimated to her parent Ministry that she had purchased the apartment, also disclosing the source of the funds used for the purpose. It adds further credence to the plaintiff's version when it is noticed that part of the funds for purchase of the apartment came *by way of a loan* from a well-known, well-established and old banking institution, namely



UBS; and the remaining funds came *through regular banking channels* from the plaintiff's own daughter.

78. The fact that UBS loaned money to the plaintiff to purchase the apartment is also well within the realm of acceptance, inasmuch as, at the relevant time, the plaintiff and her husband were both well-placed and serving in Geneva, Switzerland with secure, foreign currency salaries/allowances. In any event, defendant No.1 has also not disputed the loan taken by the plaintiff from UBS.
79. In the opinion of this court, the evidence adduced by defendant No.1 by way of documents filed alongwith his written statement, do not dislodge or belie the documents filed by the plaintiff in support of her case. Therefore, defendant No.1's allegations against the plaintiff do not sustain on point of fact.
80. In light of the plaintiff's answers as regards the source of funds that she used to purchase the apartment, this court is satisfied that what has been stated by defendant No.1 in the offending tweets is *evidently incorrect, false and untrue*. Furthermore, the record also shows, that despite the plaintiff having issued to defendant No.1 a lawyer's notice, calling upon him to withdraw the tweets and remove the false information that he had put in the public domain, defendant No.1 refused to do so and persisted in reiterating the false allegations contained in the offending tweets.
81. All financial matters are, in the first instance, confidential and an individual is entitled to keep one's financial dealings and affairs private and out of the public domain, unless otherwise required by law (such as disclosures required in tax filings etc.). To be sure, the



other aspect of the matter is that a public official, or a person aspiring for or holding public office, may *not* be entitled to the same level of confidentiality and privacy in relation to one's financial affairs as an ordinary person.

82. In the present case, the plaintiff is a long retired civil servant, who is currently not engaged in any governmental or public function; and the financial transaction that was subject-matter of the offending tweets dates back to 2005. One is therefore unable to see, on first blush, as to why defendant No.1 was at all interested in a transaction that is so far remote and antiquated, that it would be of no interest to anyone at this time. Why then, did defendant No.1 rake-up this issue at such a late stage. The answer is obvious. That defendant No.1 was interested, not in the financial affairs of the plaintiff, but of the plaintiff's husband who even today holds a ministerial post in the Central Government.
83. A chronological reading of the offending tweets suggests, that to begin with, defendant No.1 may not even have known in whose name the apartment was held; and discovered only subsequently from the disclosure affidavits filed by the plaintiff's husband that the apartment was owned by the plaintiff and had been funded, atleast in part, against a mortgage obtained from UBS Bank. Since persons seeking election to Parliament are required to disclose not just their own assets and liabilities, but also those of their spouse, there was perhaps nothing amiss in defendant No.1 being curious as to the acquisition of the apartment by the plaintiff. That being said however, the very least defendant No.1 was required to do was to make further enquiries, whether through direct queries addressed to the plaintiff or to her



husband, or through queries made to competent authorities, to find out as to how the plaintiff had funded the purchase of the apartment. However, defendant No.1 did none of this; and straightaway fired a salvo of tweets, making evident insinuations that the plaintiff (and her husband) had funded the apartment through illicit means.

84. In the present case, the plaintiff has without any doubt, served in some of the highest positions in the civil services being an officer of the Indian Foreign Service, including as an Ambassador of India to more than one country and as an international civil servant working for the United Nations. So has her husband. As noted above, after having sought voluntary retirement from the Indian Foreign Service some 13 years ago in 2011, the plaintiff has not held any public office in India. Furthermore, the record shows that there was neither anything suspect nor dishonourable in the plaintiff having acquired the apartment in Geneva, Switzerland in 2005; nor was there the plaintiff remiss in disclosing to the concerned authorities the purchase of the apartment along with the source of funds. The record also shows, that the doubt entertained by defendant No.1 in relation to the purchase of the apartment, if it could be called that, arose in his mind from the disclosures contained in the affidavits filed by the plaintiff's husband as part of his nomination papers for the Rajya Sabha. What defendant No.1 ought to have seen straightaway is that the purchase of the apartment and the mortgage thereon from a well-established international banking institution were duly disclosed in those affidavits. If, as defendant No.1 says, the disclosure did not give full account of the source of funds, defendant No.1 could have posed that



query to the plaintiff or to her husband or to some official agency, to elicit an answer. However, he chose not to do so. Instead, through the offending tweets, he went on a tirade alleging and insinuating that the plaintiff and her husband had acquired the apartment through ill-begotten wealth.

85. Financial integrity and probity is a *sine-qua-non* for holding any public office. Very few allegations can hurt a person associated with public office more than an allegation of financial impropriety. It is also nearly impossible to dispel misinformation in relation to such matters, once it is disseminated to the public at large.
86. From the above run of events, this court also gets the clear impression that defendant No.1 was making roving allegations against the plaintiff and her husband. What is quite evident is that defendant No.1 was actually targeting the plaintiff's husband, who was (and is even today) a serving Minister under the Central Government, since it otherwise defies reason as to why defendant No.1 would target the plaintiff who had retired from foreign service back in 2011. However, without having any clarity, or by deliberately obfuscating matters, defendant No.1 dragged both the plaintiff and her husband through controversy insinuating financial impropriety in the purchase of the apartment.
87. All this creates serious doubt as to the motive and intention of defendant No.1 in putting-out the offending tweets. If defendant No.1's intention was only to put a *bona-fide* question to the plaintiff or even to the plaintiff's husband, that *may not itself have been objectionable* provided defendant No.1 had posed the question as a



query and had waited for an answer before putting-out anything further in the public domain.

88. This court would hasten to observe that being the spouse of a person holding public office, the plaintiff's financial affairs are also open to public scrutiny.<sup>26</sup> However, it is necessary to draw a distinction between a person's financial affairs being open to public scrutiny, by requiring disclosure or clarification through legitimate means, which *may not* amount to defamation; and a person being subjected to vilification and to baseless and false ignominy, by asking tendentious questions laced with innuendo. However, even before posing the question with any seriousness, and without inviting any response from the plaintiff, in his very first tweet, defendant No.1 *added the insinuation* that the plaintiff had purchased the apartment with ill-begotten wealth which warrants investigation by the Enforcement Directorate. Defendant No.1 had also expressly imputed that the plaintiff and her husband did not have the financial resources to purchase the apartment. Defendant No.1 had further gone-on to say in the initial offending tweets that action was called-for against the plaintiff and her husband by investigating agencies, in-line with the Government of India's stated policy to bring back ill-begotten wealth that was stashed away abroad.

89. But was there any basis for defendant No.1 to jump to the conclusion that the plaintiff or husband had accumulated ill-begotten wealth ? Or that the plaintiff or her husband had purchased the apartment from

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<sup>26</sup> *People's Union for Civil Liberties (PUCL) & Anr. vs. Union of India & Anr.*, (2003) 4 SCC 399, para 121



undisclosed or unexplained sources of funds ? The answer is a clear ‘No’.

90. Defendant No.1 made these insinuations without even making basic enquiry from the plaintiff or her husband or from any other official source. In para 26 of his written statement, defendant No.1 answers this to say that he had done his due-diligence by relying upon the disclosure affidavits filed by the plaintiff’s husband, which were part of the public record; and that therefore it was not necessary for him to contact the plaintiff. In fact, as recorded in order dated 08.07.2021 learned counsel for defendant No.1 had argued that *there is no law that required defendant No.1 to seek any clarification either from the plaintiff or from any competent public authority before putting-out the offending tweets*. In the opinion of this court, this stand taken by defendant No.1 reflects brazen callousness, which cannot be countenanced in law. In the opinion of this court, this is *mea-culpa* as to defendant No.1’s *reckless disregard for truth* and flies in the face of the legal position set-out by the Supreme Court in para 26(3) of *R. Rajagopal* (supra). Defendant No.1 himself says that his verification of facts, as it were, was limited to perusing the disclosure affidavits filed by the plaintiff’s husband. This court is of the view, that that did not amount to reasonable verification at all; and this court is therefore satisfied that the offending tweets have been *proved to be false* and *actuated by malice* in terms of what has been referred to in paragraph 26(3) of *R. Rajagopal*.
91. Furthermore, there is no gainsaying the fact that as defendant No.1 himself proudly proclaims, he has a very large following on the



social-media platform Twitter and therefore whatever he says on that platform has immense reach and therefore great impact. This imposes upon defendant No.1 additional responsibility, in terms of what has been held in *S. Ve. Shekher* (supra). It was therefore extremely irresponsible of defendant No.1 to have put-out derogatory content by way of the offending tweets, without due verification, thereby conveying to his entire band of followers on Twitter allegations in relation to the plaintiff's financial affairs, which are rank untrue.

92. The impact of the offending tweets and the fact that they evoked derogatory and offensive responses is evident from a reading of the comments received in response to the offending tweets, screenshots of which have been placed by the plaintiff on record alongwith her plaint, in support of which the plaintiff has also filed an affidavit. The plaintiff has also filed a specific affidavit under section 65B of the Evidence Act in support of the response tweets/comments. Though defendant No.1 has not 'admitted' the comments received to the offending tweets; and in his affidavit of admission/denial of documents he disputes the comments stating that he "... ..lacks any personal knowledge thereof and the Defendant is not a party... .." to those documents, such refutation cuts no ice since defendant No.1 has chosen not to participate in the proceedings and has not cross-examined the plaintiff on those comments. The comments received in response to the offending tweets are not being repeated here to avoid further embarrassment to the plaintiff and her husband. It is evident that these responses were a *direct and immediate consequence* of the offending tweets put-out by defendant No.1 and were based on his





followers *believing* and *accepting* the contents of the offending tweets as true.

93. Regrettably, messages on social-media generate a *social-media chain reaction* as it were, which is no less dangerous in today's milieu than a nuclear reaction gone out of control.
94. One notable feature of this case however, is that the plaintiff's husband has not approached the court. He has not joined as a co-plaintiff. Accordingly, no finding can be returned in respect of the plaintiff's husband.
95. It is accordingly held that the offending tweets are *per-se* defamatory; that the plaintiff has suffered undeserved legal injury to her reputation, which warrants redressal.
96. The next question therefore is, how the injury caused to the plaintiff's reputation should be appropriately ameliorated.
97. Several aspects have been highlighted by the courts as relevant factors based on which a party's reputation can be vindicated. In particular, this court has referenced the judicial verdicts in ***Rustom K. Karanjia & Anr vs. Krishnaraj M.D. Thackersey & Ors.***<sup>27</sup>, ***Umar Abid Khan & Ors. vs. Vincy Gonsalves alias Vincent Gonsalves & Ors.***<sup>28</sup> and the celebrated text of ***McGregor on Damages.***<sup>29</sup> Of the considerations and factors cited in the aforementioned judgments and commentary, in the opinion of this court, the following are the most relevant in the context of the present matter :

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<sup>27</sup> 1969 SCC OnLine Bom 44

<sup>28</sup> 2009 SCC OnLine Bom 1676

<sup>29</sup> (2021) 21<sup>st</sup> Edition at pages 1592-1597



- 97.1. The extent and nature of the plaintiff's reputation; the plaintiff's role in society and the affect of the defamatory statement upon that role.
- 97.2. The seriousness of the allegation, including its likely "sticking power" and "grapevine effect".<sup>30</sup>
- 97.3. The effect of the publication including the propensity of the statement to "percolate through underground channels and contaminate hidden springs"<sup>31</sup> and including the loss of social standing, psychological distress and future treatment by others, including "the insult offered or the pain of a false accusation."<sup>32</sup>
- 97.4. The extent, influence and circulation of the publication, including the identity and associated authority of the publisher of the statement, and the credibility afforded to the publication.
- 97.5. The conduct of the defendant, including the defendant's conduct after publication and during the course of court proceedings<sup>33</sup> and whether the defendant has acted with or without malice.
- 97.6. The conduct of the plaintiff.
- 97.7. The compensatory effect of damages; as also effectiveness in acting as deterrent.<sup>34</sup>
98. Assessing the present case in light of the factors enumerated above, in the opinion of this court, there is no doubt that the plaintiff enjoys

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<sup>30</sup> *Dhir vs. Saddler*, (2017) EWHC 3155 (QB) at paras 103, 108 & 110

<sup>31</sup> *Suttle vs. Walker*, (2019) EWHC 396 (QB) at para 21

<sup>32</sup> *Ley vs. Hamilton*, (1935) 153 L.T. 384 HL at para 386

<sup>33</sup> *Praed vs. Graham*, (1890) Q.B.D. 53 CA at page 55

<sup>34</sup> *Gleaner Co Ltd vs. Abrahams*, (2004) 1 A.C. 628 PC at para 53



high reputation in society. She has performed important roles as Ambassador of India to various countries and as a high official at the United Nations; and has earned for herself a notable position in the social order. Though today she may not be performing any ‘public function’ or formal role in public life, persons of the plaintiff’s stature and achievement are held in high esteem as public intellectuals who have served the nation and as role-models for others who may wish to emulate them. The contents of the offending tweets have diminished and harmed that position, which the plaintiff has earned for herself in society.

99. Furthermore, as observed above, allegations of financial impropriety dent the very foundations of a person’s reputation. This is even more so if the person has occupied, or is closely associated with another person who occupies, high public office. Allegations of financial impropriety tend to ‘stick’ and have the propensity to spread widely through the ‘grapevine’. Even rumor about financial improbity taints a person’s good name. In the present case, the false contents of the offending tweets would, without a shred of doubt, have found their way into the official ecosystem in which the plaintiff moves about, and in which her husband functions. People who matter are likely to have formed opinions in relation to the plaintiff (and her husband) based on what was contained in the offending tweets. Needless to add, that the loss of esteem suffered by the plaintiff, even if based on utter falsehood, would have resulted inevitably in loss of social standing, accompanied by psychological distress, aggravated by the pain of false accusation.



100. What makes it worse is that the pernicious and anarchic nature of social-media, in this case Twitter, with its propensity to disseminate content (including misinformation) widely and indiscriminately, would certainly have resulted in very wide circulation of the offending tweets. Defendant No.1 claims to be a popular RTI Activist and is now also a Member of a political party. The offending tweets have therefore no doubt been circulated in various political, official and non-official circles. Defendant No.1's conduct after the offending tweets were put-out, and after he was cautioned of the falsity of their content, has been less than responsible or remorseful. Instead defendant No.1 has chosen to persist in his stand. The indifference displayed by defendant No. 1 in the course of the present proceedings, is self-evident.
101. As a sequitur to the above, issue No. 1 is decided in favour of the plaintiff and against defendant No.1.
102. Now therefore, what is the recompense that can be offered to the plaintiff ?
103. The bell can't be un-rung. The damage caused to the plaintiff's reputation by the offending tweets cannot be effaced completely. An express, unreserved and unconditional apology is the very least that is required from defendant No.1 for having put-out the offending tweets.
104. Accordingly, the very first thing that defendant No.1 is directed to do is to publish an apology in the following terms on his own Twitter-handle from which he had put-out the offending tweets, as also prominently in the Times of India newspaper (Delhi Edition, size : 6 cm x 7 cm on page 3) stating the following :



“Apology

I unconditionally apologise for having put-out a series of tweets against Amb. Lakshmi Murdeshwar Puri on 13<sup>th</sup> & 23<sup>rd</sup> June 2021, which tweets contained wrong and unverified allegations in relation to the purchase of property by Amb. Puri abroad, which I sincerely regret.

– Saket Gokhale”

Let requisite compliance be made within 04 (four) weeks. The apology so tweeted shall be retained on defendant No.1’s Twitter-handle for a period of 06 (six) months from the date it is put-out.

105. Issue No. 2 stands answered accordingly.
106. Furthermore, defendant No.1 is restrained from publishing any further tweet or any other content on any social-media or other electronic platform in relation to the imputations made in the offending tweets.
107. Issue No. 3 stands answered accordingly.
108. Insofar as the claim for damages is concerned, the plaintiff has sought damages (of Rs. 5 crores) not for herself in a sense, but has instead prayed that damages be granted to her and be then deposited in the PM Cares Fund. This is an unusual way of claiming damages. The plaintiff could have claimed damages and could have then disposed-of them in any manner she pleased, including by making a donation to any charity or fund. However, to ask the court to grant damages, and to then pray that the court remit them to a particular fund is not tenable.
109. It is this court’s view, that no amount of monetary award can truly compensate for damage to reputation, however upon a balance of all considerations, defendant No.1 is directed to pay to the plaintiff damages in the sum of Rs. 50 lacs within 08 (eight) weeks.



110. Issues Nos. 4 and 5 stand answered accordingly.
111. The suit is decreed and disposed-of in the above terms; without however, any order as to costs.
112. Let decree sheet be drawn-up.
113. Pending applications, if any, also stand disposed-of.

**ANUP JAIRAM BHAMBHANI, J**

**JULY 01, 2024**

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