

**IN THE COURT OF
ASIF HAYAT, ADDL; DISTRICT JUDGE,
LAHORE.**

C.S No: 334/1/16.11.2020.
Date of Institution: 23.06.2018.
CMS No: 131918.
Date of Decision: **31.03.2026.**

ALI ZAFAR Son of Muhammad Zafar-Ullah, Resident Of House No. 191 Block L, Phase VI Defence Housing Authority, Lahore Cantt.

.....(PLAINTIFF)

VS.

MEERA SHAFI (MEESHA SHAFI) Daughter of Sayed Parvaiz Shafi Resident of House # 74, Block BB-Phase IV, Defence Housing Authority, Lahore Cantt.

.....(DEFENDANT)

**SUIT FOR DAMAGES, OF RS.100 CRORES UNDER THE
DEFAMATION ORDINANCE, 2002.**

Present: Learned counsel for the plaintiff, Mr. Umer Tariq Gill advocate (Ali Sabtain Fazli & Associates).
Learned counsel for the defendant Muhammad Saqib Jillani advocate alongwith associate Mr. Asad Ahmad Dhuddi advocate (Jillani and Co).

JUDGMENT:-

As per the averments in the plaint, the plaintiff, Ali Zafar, is a renowned actor, singer-songwriter and artist, recipient of numerous national and international awards, who has worked extensively in Pakistan and India. His notable films include Mere Brother Ki Dulhan, Chashme Baddoor, Dear Zindagi and Tere Bin Laden. He has been a regular performer on Coke Studio Pakistan and has served as brand ambassador for several prominent national and international brands. His career, built through sustained effort since 1998, is stated to be directly dependent upon his public image and reputation. The defendant is also an established singer and public figure with a substantial following. The parties previously shared a professional and cordial association. On 19.04.2018, the defendant published a tweet on her Twitter account stating:

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"Sharing this because I believe that by speaking out about my own experience of sexual harassment, I will break the culture of silence that permeates through our society. It is not easy to speak out. but it is harder to stay silent. My conscience will not allow it anymore #MeToo."

The said tweet was accompanied by the following note:

"As a woman, a public figure and a mother, I have always felt strongly about using my voice to encourage and support our youth who look up to me, especially girls, who dream of carving their own path in Pakistan. Throughout my career, my family and my fans have given me unconditional love and support and that has been a blessing. It has allowed me space to be brave and to often speak up about issues. However, despite having a voice, there are some issues that are very difficult to speak about as a woman, especially sexual harassment. Today, I speak up because my conscience does not allow me to be silent anymore. If this can happen to someone like me, an established artist, then it can happen to any young woman and that concerns me gravely. I have been subjected, on more than one occasion, to sexual harassment of a physical nature at the hands of a colleague from my industry: Ali Zafar. These incidents did not happen when I was young, or just entering the industry. This happened to me despite the fact that I am an empowered, accomplished woman who is known for speaking her mind. This happened to me as a mother of two children. No woman is ever safe from sexual harassment. In our society, we hesitate to speak up and choose to stay silent and this emboldens sexual harassment to flourish. We must collectively use our voices to share stories so that we break this culture of

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silence and so that young women today are safer. It has been an extremely traumatic experience for me and my family. Ali is someone I have known for many years and someone who I have shared the stage with. I feel betrayed by his behavior and his attitude and I know that I am not alone. Today, I am breaking this culture of silence and I hope that by doing that I am setting an example for young women in my country to do the same. We only have our voices and the time has come to use them."

The plaintiff, on the same date, issued a reply on Twitter stating:

"I am deeply aware and in support of the global #MeToo movement and what it stands for. I am the father of a young girl and a young boy, a husband to a wife and a son to a mother. I am a man that has stood up for myself, my family, my colleagues and friends countless times in the face of slander, defamation and general unkindness. I will do the same today. I have nothing to hide. Silence is absolutely not an option. I categorically deny any and all claims of harassment lodged against me by Ms Shafi. I intend to take this through the courts of law and to address this professionally and seriously rather than to lodge any allegations here, contesting personal vendettas on social media and in turn disrespecting the movement, my family, the industry and my fans. Ultimately I am a strong believer that the truth always prevails."

It is further averred that on 21.04.2018, the defendant reiterated and expanded these allegations in an interview published in Instep Today, thereby causing further harm to the plaintiff's reputation. The plaintiff has categorically denied all allegations, asserting that they are false, malicious and part of a campaign

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the defendant continued professional interactions with the plaintiff prior to the tweet, which, along with public statements of other artists and absence of contemporaneous complaint, is relied upon to challenge the veracity of her claims. It is further pleaded that the publications resulted in widespread media coverage, causing reputational harm, loss of contracts and business opportunities, and severe mental anguish. The plaintiff served a legal notice dated 24.04.2018, which was replied to on 11.05.2018 without apology. He claims damages on account of mental torture, loss of contracts, loss of reputation and loss of business opportunities, aggregating to Rs.100 crores, and seeks declaratory relief, damages, and permanent injunction against further defamatory publications.

2. Conversely, the defendant, Meera Shafi (also known as Meesha Shafi), contested the suit through her written statement, asserting that the suit is false, mala fide, vexatious, and an abuse of the process of law, having been instituted as a counterblast to her sexual harassment complaint dated 30.04.2018 filed under the Protection Against Harassment of Women at the Workplace Act, 2010. It is contended that the suit was filed to harass and pressurize her into withdrawing her lawful complaint, which progressed from the Ombudsperson to the Governor of Punjab and is presently pending before the Lahore High Court. She maintains that the lawful pursuit of remedies against harassment does not constitute defamation and that the suit discloses no actionable claim under Section 3 of the Defamation Ordinance, 2002, as her statements are true, made in good faith, and in the public interest, truth being a


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complete defence. The defendant alleged that the plaintiff sexually harassed her on three occasions: first, at a social gathering at her father-in-law's residence; second, at the birthday party of the plaintiff's wife where he allegedly touched her inappropriately and pulled her closer without consent; and third, in December 2017 during a rehearsal session where he allegedly leaned towards her under the pretext of reading lyrics and, on one occasion, groped her. She states that the last incident compelled her to cease professional engagements with the plaintiff, although she had initially continued limited interaction due to contractual and economic pressures. She claims to have informed Pepsi and other intermediaries of the harassment and resisted professional collaboration despite pressure and threats. The defendant further contends that after she spoke out, several other women including Hamna Raza, Leena Ghani, Maham Javaid, and Noor-e-Sehar publicly or privately shared similar experiences, demonstrating a pattern of conduct, while others chose anonymity due to fear. She denies any mala fide intent, asserting that her statements were made for self-protection and in the public interest, consistent with the global #MeToo movement. She maintains that she derived no benefit from the disclosure and instead faced threats, harassment, and character assassination. She also submits that photographs, prior cordial relations, or professional interactions do not negate harassment, as victims may continue such engagements due to coercion, power imbalance, or economic necessity. The witnesses produced by the plaintiff are described as interested and unreliable. The defendant denies causing any

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financial or reputational loss, asserting that any such loss, if at all, is attributable to the plaintiff's own conduct. She denies all allegations of malice and conspiracy, contends that no cause of action has accrued, and prays for dismissal of the suit with special costs under Section 35-A CPC.

3. Along with the suit, the plaintiff also moved an application under Order XXXIX Rules 1 and 2, C.P.C. After hearing learned counsel for the parties and perusing the record, the learned predecessor of this Court allowed the said application vide order dated 24.01.2019, with the direction that:

"In view of the above, the application is accepted. The defendant shall not make any statement relevant to the controversy of defamation of the plaintiff in this case till the final decision of the suit."

Aggrieved by the said order, the defendant filed Constitutional Writ Petition No.19774 of 2019, which was dismissed by the Honourable Lahore High Court, Lahore, vide order dated 23.01.2026. The defendant thereafter assailed the said order by filing a FCPLA No.438 of 2026, which was disposed of by the august Federal Constitutional Court vide Order dated 26.02.2026 which is reproduced hereunder:-

"The main concern of learned counsel for the petitioner is that the learned High Court while deciding Writ Petition No.19774 of 2019 on 23.01.2026 has made some observations with regard to prima-facie case of respondent/plaintiff. States that the trial court will be prejudiced from the observations made by the High Court. As the matter for grant of interim injunction was an issue before the High Court, it is settled principle of law


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that while deciding an application for grant of interim injunction, the trial court has to keep in mind the prima-facie case on the basis of pleadings of the parties as no evidence ordinarily is before the court.

In this view of the matter, we dispose of this petition with the observation that the trial court while deciding the lis will not be prejudiced from any observation (s) made by the High Court in its order dated 23.01.2026”.

4. The divergent pleadings of the parties gave rise to the settlement of the following issues on 24.01.2019.

ISSUES:-

1. Whether the statement dated 19.04.2018 tweeted by the defendant and the statement dated 21.04.2018 published in "INSTEP TODAY" are defamatory, regarding the status of plaintiff? **OPP**.
2. Whether plaintiff has suffered general and the special damages to the tune of rupees one hundred Crore due to defamatory statements of defendant and he is entitled to recover these damages from the defendant? **OPP**
3. Whether the plaintiff is entitled to a decree for permanent injunction restraining the defendant from making defamatory statements against the plaintiff? **OPP**
4. Whether statements dated 19.04.2018 and 21.04.2018 are based on truth and were made for the public goods by the defendant? **OPD**
5. Whether plaintiff has filed this suit as a counter blast to the complaint of sexual harassment filed by the defendant against the plaintiff under Section 8 of the Protection against Harassment of Women at Work Place Act 2010? **OPD**
6. Whether the suit of the plaintiff does not fulfill the requirements of Section-3 of Defamation Ordinance 2002 and is liable to be dismissed? **OPD**

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7. Whether the suit is false, frivolous and liable to be dismissed with special costs under Section 35-A CPC?

OPD

8. Relief.

5. The parties adduced their respective oral as well as documentary evidence. The plaintiff Ali Zafar himself appeared as PW-12 and examined the following witnesses:

PW-1, Baqir Abbas.

No documentary evidence produced.

PW-2, Kinza Munir.

Produced print of an Instagram post-dated 21.04.2018 as Ex.PW-2/1.

PW-3, Aqsa Ali.

Produced a photocopy of her Instagram post-dated 21.04.2018 as Ex.PW-3/2.

PW-4, Qaisar Zain-ul-Abedin.

Produced an affidavit bearing his signature as Ex.PW-4/1.

PW-5, Muhammad Ali Zafar (Ali Maz).

Produced an affidavit bearing his signature as Ex.PW-5/1.

PW-6, Asad Ahmad.

Produced an affidavit bearing his signature as Ex.PW-6/1.

PW-7, Kashif Chaman.

Produced an affidavit bearing his signature as Ex.PW-7/1.

PW-8, Joshua Keith Benjamin.

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Produced an affidavit bearing his signature as Ex.PW-8/1.

PW-9, Muhammad Taqi.

Produced an affidavit bearing his signature as Ex.PW-9/1.

PW-10, Muhammad Sarfaraz Saleem Niazi.

Produced: Agreement with Mobilink dated 23.09.2010 as Ex.PW-10/1; Agreements executed in her presence with Mobilink as Ex.PW-10/2 to Ex.PW-10/8; E-mails sent to her on her official e-mail ID marked as Mark-A; Another e-mail dated 24.05.2018 as Mark-B.

PW-11, Muhammad Rizwan Raees Khan. No documentary evidence produced.

PW-12, Plaintiff Ali Zafar identified his signatures on the documents already exhibited through PW-10 as Ex.PW-12/1 to Ex.PW-12/6 and further produced and identified, with his signatures, numerous contracts and agreements executed with national and international brands, marked as Ex.PW-12/7 to Ex.PW-12/38, including Telenor, Diamond Group, Yamaha, Iflix, Samsung, HBL, Pakistan Super League (PSL), Coke Studio, Lux Style Awards, Independent Media, Unilever, Pepsi, Samsung Gulf, Adcom, I AM Entertainment and others, as well as contracts with Indian film industry entities marked as Ex.PW-12/39 to Ex.PW-12/56, including Content Planet, Walkwater Media,

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Yash Raj Films and Y Films; he also produced the Defendant's tweet dated 19.04.2018 as Ex.PW-12/57, his reply tweet as Ex.PW-12/58, the legal notice dated 24.04.2018 as Ex.PW-12/59, a contract with JS as Ex.PW-12/60, a WhatsApp message as Ex.PW-12/61, a picture posted on Twitter as Ex.PW-12/62, the original Pepsi contract along with annexures and signatures as Ex.PW-12/63 to Ex.PW-12/67, another tweet dated 19.04.2018 as Ex.PW-12/68, a tweet dated 16.07.2016 as Ex.PW-12/69, the statement of Mahira Khan dated 22.09.2017 as Ex.PW-12/70, his tax returns for the years 2008 to 2018 as Ex.PW-12/71 to Ex.PW-12/83, and e-mails dated 23.04.2019 and 25.06.2019 as Ex.PW-12/84 to Ex.PW-12/86; he further produced the Pepsi contract with annexures as Mark-PW-12/7 and Mark-PW-12/8, e-mails with annexures as Mark-PW-12/8 to Mark-PW-12/9, an interview published in Instep as Mark-PW-12/10, a selfie as Mark-PW-12/11, social media posts as Mark-PW-12/12 to Mark-PW-12/16, a birthday party photograph as Mark-PW-12/17, a message dated 21.02.2018 as Mark-PW-12/18, a complaint as Mark-PW-12/19, tweets dated 19.04.2018 as Mark-PW-12/20 to Mark-PW-12/22, an investigation and research report as Mark-PW-12/23, messages relating to educational certificates as Mark-PW-12/24,


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Matriculation and F.A. certificates as Mark-PW-12/25 and Mark-PW-12/26, photographs and conversations with Nighat Dad dated 08.03.2018 as Mark-PW-12/27 to Mark-PW-12/29, Twitter exchanges as Mark-PW-12/30 to Mark-PW-12/36, further pictures and conversations as Mark-PW-12/37 to Mark-PW-12/42, proof regarding the connection between Leena Ghani and Maham Javaid as Mark-PW-12/43, various tweets as Mark-PW-12/44 to Mark-PW-12/46, pictures and selfies as Mark-PW-12/47 to Mark-PW-12/53, tweets dated 18.04.2018 and documents of the same date as Mark-PW-12/54 to Mark-PW-12/65, allegations printed on 07.05.2018 along with tweets as Mark-PW-12/66 to Mark-PW-12/87, and material relating to the tweet dated 19.04.2018 and the alleged conspiracy as Mark-PW-12/88 to Mark-PW-12/93, while no evidence was confronted to the witness.

PW-13, Sara Rehman

No document produced. No confronted document.

6. The defendant Meera Shafi herself appeared in the witness box as DW-4 and produced the following witnesses in support of her stance;

DW-1, Saba Hameed (mother of the defendant).

No documentary evidence produced.

Confronted with:

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Video clips (Ex.DW-1/1 & Ex.DW-1/2 in USB);
Signatures on Writ Petition No.17963/2019 (Ex.DW-1/A);

Dinner pictures (Ex.DW-1/3) and Instagram post (Ex.DW-1/4); Screenshots of WhatsApp messages/ Facebook posts (DW-1/Mark-A to Mark-C); Identification of two persons (Ex.DW-1/1-5); Tweet document (Ex.DW-1/6).

DW-2, Iffat Umer.

No documentary evidence produced.

Confronted with: Facebook page (Ex.DW-2/1); Video clip (Ex.DW-2/5); Document page of Omair Rana dated 20.07.2020 with comments (Ex.DW-2/6 & Ex.DW-2/7).

DW-3, Syed Farhan Ali.

No document produced. No document, confronted.

DW-4, Defendant Meera Shafi (Meesha Shafi).

Produced: First tweet (Ex.DW-4/1); Complaint before Ombudsman (Ex.DW-4/2); Copy of agreement (DW-4/Mark-A); Video clip (DW-4/Mark-B); Photocopy of Pepsi contract (DW-4/Mark-C); WhatsApp communications with Pepsi/Saatchi (Ex.DW-4/6 & (Ex.DW-4/7); WhatsApp meeting print with Selina (Ex.DW-4/8); Private conversation with Nighat Dad (DW-4/Mark-D); Representation to Governor with order (Ex.DW-4/10); Certified copies of writ petition/order (Ex.DW-4/11); **Confronted with:** Pepsi contract (Ex.DW-4/A); Print out of

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Facebook post of Defendant's ex-Manager Fahad Rehman (Ex.DW-4/B), Photographs of the Defendant (Ex.DW-4/C, Ex.DW-4/C/1 & Ex.DW-4/D), Contract signed by the Defendant with JS events and production on 7th December 2017 already Mark-4-A exhibited as (Ex.DW-4/E); Video clip of session already on file as DW-4/Mark-B exhibited as (Ex.DW-4/F); Order dated 27.03.2021 (Ex.DW-4/G); Media talk video (Ex.DW-4/H); Interview with Shahzeb Khanzada (Ex.DW-4/U); Picture with Atif Aslam (Ex.DW-4/V); Pictures of the Defendant (Ex.DW-4/W to Ex.DW-4/Z & (Ex.DW-4/AA); Allegations by Talia S. Mirza (Ex.DW-4/BB); Chats (Ex.DW-4/7 & Ex.DW-4/I); Documents (Ex.DW-4/12 & Ex.DW-4/13).

Confronted with: Facebook post of Fahad Rehman (Ex.DW-4/B); Contract with JS Events (Ex.DW-4/E); Pictures of the Defendant including her picture with Plaintiff shared on Facebook account with caption "Lahore in Karachi! These smiles are real!!! (Ex.DW-4/C/1, Ex.DW-4/J, Ex.DW-4/K, Ex.DW-4/L, Ex.DW-4/O); Print of Facebook Page of the Defendant (Ex.DW-4/M), Screen shot of the post of Facebook account of the Defendant showing sharing plaintiff's concert video with caption "You tell em #AliZ" (Ex.DW-4/N), Picture taken by the Defendant with Plaintiff and Ali Kazmi posted on Instagram account with caption Speaking of Crazy

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coincidences however later deleted from Instagram (Ex.DW-4/Q), Messages of Whatsapp group for Islamabad concert (Ex.DW-4/S & Ex.DW-4/T), Interview clip of Defendant with Shahzeb Khanzada on Geo T.V (Ex.DW-4/U); Picture of the Defendant with Atif Aslam posted by the Defendant on her social media account (Ex.DW-4/V); WhatsApp Chat of the Defendant with the Plaintiff (Ex.DW-4/P & Exh.DW-4/R); Post of the allegations levelled by Talia S Mirza (Ex.DW-4/BB); Chat between Defendant and Imran of Saatchi (Ex.DW-4/7), Chat between Defendant and Sara Razee year 2012 -2013 Mark DW-4/I (objection to this document is declined as witness did not deny it, this document will be considered an exhibit)

DW-5, Mehmood Rehman (husband of the defendant).

Produced boxing documents (Ex.DW-5/1 & Ex.DW-5/2).

Confronted with: Picture featuring Ali Zafar (Ex.DW-5/3); Birthday party pictures (Ex.D4/K & Ex.D4/L); Picture with the defendant (Ex.DW-4/D); Picture of birthday event (Ex.DW-4/C/1).

DW-6, Leena Ghani. Produced: Private document (Mark-DW-6/1); Tweet dated 19.04.2018 (Ex.DW-6/1); All rape and death threats from various Facebook and Twitter accounts (Mark-DW-6/2); Certified copies of writ petition/order (Ex.DW-6/2 &

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Ex.DW-6/3); Certified copies of suit for defamation (Ex.DW-6/4); Statement before FIA dated 01.08.2019 (Ex.DW-6/2); Reply of FIA filed in writ petition (Ex.DW-6/5); Tweets (Ex.DW-6/6 to Ex.DW-6/22); NCA group pictures (Ex.DW-6/23 to Ex.DW-6/27); Private chat with plaintiff (Ex.DW-6/28 to Ex.DW-6/38); London group pictures (Ex.DW-6/39 to Ex.DW-6/48); Pictures dated 15.06.2014 & 24.06.2014 (Ex.DW-6/49 to Ex.DW-6/51); Chat with plaintiff (Ex.DW-6/52/1-6 pages); Pictures dated 10.03.2016 & 05.03.2016 (Ex.DW-6/53 & Ex.DW-6/54); India trip photographs (Mark-DW-6/A to Mark-DW-6/T); WhatsApp chats dated 19.05.2017, 04.08.2016 & 28.05.2021 (Ex.DW-6/55 to Ex.DW-6/57); Suit No.27/21 (Ex.DW-6/58); Reply on tweet (Ex.DW-6/59); Dismissal order dated 15.02.2021 in Suit No.27/21 (Ex.DW-6/60); WhatsApp chat with Mehreen Butt (Ex.DW-6/61).

DW-7 Hamna Zubair. No documentary evidence produced.

Confronted with:

Tweets (Ex.DW-7/1 to Ex.DW-7/13); Birthday-wishing tweet dated 01.12.2020 (Ex.DW-7/14);
 Tweet dated 09.12.2019 (Ex.DW-7/15);
 Article dated 02.08.2018 (Ex.DW-7/16); Tweet dated 19.06.2018 (Ex.DW-7/17);
 Tweet dated 03.11.2019 (Ex.DW-7/18);
 Tweets / retweets (Ex.DW-7/19)

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WhatsApp message (Ex.DW-7/40);

Dawn Images article dated 19.04.2018 (Ex.DW-7/41);

Earlier tweets/articles (Ex.DW-7/42 to Ex.DW-7/53, Ex.DW-7/43/1 & Ex.DW-7/53/1.

7. The learned counsel for the plaintiff submitted written arguments and inter-alia made his submissions by contending that the statement published by the defendant on 19.04.2018 through her Twitter account, followed by an interview given on 21.04.2018 to Instep Today, constitutes per se defamatory allegations within the meaning of Sections 3, 4, 8 and 9 of the Defamation Ordinance, 2002. He submitted that the defendant, without any factual basis, falsely accused the plaintiff one of Pakistan's leading artists, an internationally recognized actor and singer of committing acts of sexual harassment in order to malign, scandalize and destroy his hard-earned reputation both nationally and internationally. Learned counsel argued that the defamatory content was published before millions of social media users and was further multiplied by international media outlets, activists, bloggers and journalists, thereby causing irreparable injury upon the plaintiff's honour, social standing, emotional well-being, personal dignity and professional engagements. It is submitted that the plaintiff was the brand ambassador of several multinational and national corporations, and the impugned allegations resulted in loss of endorsements, cancellation of contracts and substantial financial loss, as evidenced by the extensive documentary record produced by

10 The learned counsel emphasized that truth and

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public good, the only defence pleaded and available to the defendant under the Ordinance, have not been proved by the defendant burden of proof of which was placed on her by the section 5 of the Defamation Ordinance which cannot be shifted on the plaintiff. Addressing the defence plea that even if assuming without conceding absence of proof of truth does not automatically establish malice, learned counsel submitted that under the Defamation Ordinance, once publication of a defamatory imputation is admitted, the onus shifts to the defendant to justify it. If the defence of truth and public good is not established, the imputation remains legally false for purposes of civil liability. Malice in defamation is not confined to personal hatred; reckless publication of grave allegations without substantiation constitutes malice in legal sense. The defendant, instead of first seeking redress before a competent forum, chose to broadcast serious accusations globally, exposing the plaintiff to instant public condemnation and reputational ruin. It was submitted that the defendant produced no cogent evidence of any incident of harassment; rather, several independent witnesses (PW-1 to PW-11), including eye-witnesses of the alleged jamming session of 22.12.2017, categorically denied any untoward act of sexual harassment of physical nature by the plaintiff. The plaintiff's counsel further argued that the contemporaneous conduct of the defendant including posing for photographs with the plaintiff on 23.12.2017, participating in social gatherings, and providing congratulatory posts demonstrates the falsity of her accusations. It is argued that the defendant fabricated a story to malign the plaintiff in


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the wake of the #MeToo movement, thereby misusing a global campaign for personal motives. Learned counsel maintained that the defendant's plea that the suit was filed as a counterblast to her harassment complaint is misconceived, as the plaintiff issued a legal notice on 24.04.2018, prior to the filing of her complaint dated 30.04.2018, which notice was a mandatory precondition for instituting a suit for defamation, requiring to serve within fourteen days of acquiring knowledge of the impugned defamatory imputations. He emphasized that the argument of the learned counsel for the defendant, to the effect that the suit is not maintainable for not fulfilling the ingredients/requirements of Section 3 of the Defamation Ordinance, is legally untenable, as the said provision itself confers a statutory cause of action upon the plaintiff arising from the impugned publications, namely the tweet dated 19.04.2018 and the Instep interview dated 21.04.2018. It was further argued that the defendant neither expressly pleaded the defence of qualified privilege in her written statement nor was any issue framed by the Court in that regard; therefore, such a defence cannot now be presumed or invoked at this stage. In any event, the defence of qualified privilege is not attracted in the present case within the meaning of Section 7 of the Defamation Ordinance, as the allegation does not constitute a statement made for the redress of a public grievance nor was it made to proper authorities. Learned counsel contended that even if, for the sake of argument, such a defence was available, it would not bar the institution of a suit for defamation. He further maintained that qualified privilege is a mixed question of

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law and fact, placing the burden upon the party invoking it to establish the absence of malice. The said defence cannot be sustained on the basis of a subsequent filing of a formal complaint so as to justify or protect the earlier defamatory tweet and the publication of the Instep interview. The plaintiff instituted the present suit in defence of his honour after suffering public humiliation, while exercising his statutory and constitutional rights under the Defamation Ordinance, as well as under Articles 4 and 14 of the Constitution of Pakistan. Such rights cannot, in any manner, be restricted or defeated by the subsequent filing of a complaint of harassment by the defendant. If it were otherwise, the very purpose of enacting the Defamation Ordinance would stand defeated. Learned counsel submitted that, although certain generalized misconceptions regarding harassment allegations have been identified and relied on by the counsel for the defendant, the present case must be evaluated on concrete evidence adduced by the parties rather than abstract propositions. In the present matter, the cumulative effect of witnesses testimony, admitted cordial relations, absence of contemporaneous complaint to any authority, and failure to substantiate the specific incidents pleaded, collectively outweighs the theoretical rebuttal of "misconceptions." The Court, it was urged, must determine liability on the strength of proven facts, and not on generalized assumptions about how victims may or may not behave. It is further contended that the testimony of the defendant is riddled with material contradictions, particularly when juxtaposed with her own conduct, and thus fails to inspire confidence to meet

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the threshold of credibility required in a case of such serious allegations. Her version does not remain consistent on material particulars rather she improved her stance while adding one more alleged incident of sexual harassment relating to the house of father in law of the plaintiff in her formal complaint and written statement which was not initially disclosed in Instep interview and, therefore, cannot be relied upon. It is also argued that the testimonies of the other witnesses produced by the defendant are largely hearsay in nature, as none of them were present at the time of the alleged incidents of sexual harassment except only witness to be present during one of the alleged occurrences, i.e., DW-3 (the defendant's manager), who was present during the jamming session, did not substantiate/corroborate the defendant's allegations in material terms. This omission strikes at the root of the defendant's case. It is further submitted that several other women, who surfaced on social media with allegations against the plaintiff after the impugned tweet, have done so in support of the defendant's narrative. However, such statements, made post facto and in the wake of the controversy, lack independent evidentiary value unless proved in accordance with law. Significantly, none of these individuals, except DW-6, entered the witness box to subject their allegations to cross-examination. Even DW-6, who did appear, has not yet established her allegations before the Honourable Sindh High Court, where her independent proceedings are stated to be pending adjudication. It is thus argued that the defendant neither meets the standard of proof required to substantiate such grave allegations nor dislodge the


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presumption of falsity attached to defamatory imputations once challenged. The learned counsel finally submitted that the plaintiff through his cogent, and convincing evidence has successfully proved his entitlement to general, special, compensatory and exemplary damages to the tune of Rs.100 Crores along with a decree for permanent injunction restraining the defendant from repeating such defamatory assertions

Reliance was placed on case laws:- "CHIEF EDITOR M. RIAZ

ANJUM & OTHERS VS. DR. M. SHAHBAZ (2023 M L D 525),

"KHALID AZIZ VS. PAKISTAN TELEVISION (P L D 2017 PESH

115), "LIBERTY PAPERS LTD & OTHERS VS. HUMAN RIGHTS

COMMISSION OF PAKISTAN" (P L D 2015 SC 42), "MUNAWAR

AHMED, CHIEF EDITOR DAILY SAMAA VS. MUHAMMAD

ASHRAF & OTHERS" (P L D 2021 S C 564), "MUDASSAR

IQBAL BUTT VS. SHAUKAT WAHAB & OTHERS (P L D 2006

LHR 557), "SYED MEHMOOD ALI VS. NETWORK TELEVISION

MARKETING (PVT.) LTD. (2005 C L D 840), "FARRUKH SAEED

KHAN VS. ANIS-UR- REHMAN BHATTI" (2006 C L C 440),

ABDUL GHAFOOR VS. SYED JAWED HUSSEIN JAGGERY" (P L

D 2006 KAR 691), "ABDUL MAJEED KHAN VS. TAWSEEN

ABDUL HALEEM" (P L D 2012 SC 80), "MEERA SHAFI VS.

ADJ ETC' (WRIT PETITION NO.19774/2019), "SHARIO

SAEED VS. MANSOOB ALI KHAN & OTHERS" (2010 Y L R

1647), "RUSTOM K. KARANJIA VS. KARANJIA VS.

KRISHANARAJ M.D THACKERSAY & OTHERS" (AIR 1970

BOMBAY 424), "SURENDRA NATH VS. BAGESHWARI PD" (AIR

1961 PATNA 164), "MAJJU & OTHERS VS. LACHMAN

PRASAD & OTHERS" (AIR 1924 ALLAHABAD 535), "LIAQAT

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ALI CHUGHTAI VS. FOP ETC" (P L D 2013 LHR 413), "MST. KANIZ FATIMA VS. FAROOQ TARIQ" (P L D 2002 KAH 20), MEERA SHAFI VS. FOP" (P L D 2022 LHR 773), "SAFDAR ALI VS. THE STATE" (2025 S C M R 1437), "RAJA KARAM DAD KHAN VS. FAIZ AHMAD & OTHERS" (2017 C L C 1720), "M. AKRAM QURESHI VS. PAKISTAN DEFENCE HOUSING AUTHORITY & OTHERS" (2017 C L C 495), "NUR JEHAN BEGUM VS. SYED MUJTABA ALI NAQVI" (1991 S C M R 2300), "SAID MUNIR & ANOTHER VS. THE STATE" (P L D 1964 PESH 194) "STATE LIFE INSURANCE VS. MUZAFAR ALI" (2018 C L D 1300), "MUHAMMAD KASHIF VS. FURQAN KARIM (2021 M L D 83), & "HASSAN KHAN VS. STATE" (CRIMINAL PETITION NO.90-L OF 2019).

8. Conversely, the learned counsel for the defendant has contested the contentions and arguments made on behalf of the plaintiff, vehemently opposed the suit by submitting written arguments and inter-alia argued that the plaintiff has failed to establish the ingredients of defamation as defined under Sections 3, 4 and 5 of the Defamation Ordinance, 2002. The defendant, it is submitted, made disclosures of her personal experience of sexual harassment truthfully, in good faith, in the public good and for the protection of women at workplaces particularly in the backdrop of the global #MeToo movement, which encouraged women to speak about workplace harassment without fear. The defendant never used abusive language nor sought to malign the plaintiff's career; rather, she narrated her own experience. The testimony of the defendant being victim of sexual harassment, is consistent and credible, is sufficient in

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civil proceedings governed by preponderance of probability. Learned counsel maintained that the defendant is a respected artist, a mother and a woman of integrity who had no motive to level false accusations, particularly when doing so exposed her to severe online harassment, threats, and reputational attacks. The learned counsel contended that the plaintiff has built his case on general denials and the affidavits of persons who are either directly employed by him or professionally dependent on him, thus rendering their testimonies partisan and unreliable. On the other hand, other women, including Humna Raza, Leena Ghani (DW-6), Maham Javaid and Noor-e-Sehar, independently voiced similar concerns against the plaintiff's conduct, demonstrating a pattern of behaviour and lending credibility to the defendant's disclosures. Though not all were examined as eyewitnesses to the alleged incidents involving the defendant, their accounts demonstrate a pattern of behaviour and rebut the plaintiff's portrayal of an unblemished reputation. DW-6 (Leena Ghani) deposed that she believed the defendant and had heard similar concerns from others in the industry. According to counsel, this pattern evidence enhances probability. It is submitted that the plaintiff's own social media conduct, photographs, messages and public statements reflect behaviour inconsistent with the modest reputation he now claims. Learned counsel further contended that the suit is not maintainable as it fails to meet the requirements of Section 3 of the Ordinance, particularly the requirement of proving malicious falsehood has not been fulfilled as the plaintiff being public figure was not only to prove the tweet dated 19.04.2018 and Instep interview dated

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21.04.2018 contained false statement rather to prove that the defendant did so recklessly and maliciously. It is argued that the actual maliciousness has not been proved. The burden of proof according to counsel lies on the plaintiff who failed to discharge it. It was further submitted that the defendant promptly sought recourse under the Protection Against Harassment Of Women At The Workplace Act, 2010 by filing a complaint before the Ombudsperson on 30.04.2018 (Ex.DW-4/2), prior to the institution of the present suit though dismissed on jurisdictional grounds; such dismissal did not amount to rejection on merits. The representation before the Governor and the writ petition were pursued bona fide. Learned counsel argued that this conduct negates mala fides and demonstrates that the defendant was pursuing lawful remedies rather than seeking publicity. It was further submitted that the instant suit is a classic counterblast to the defendant's complaint under the *Protection Against Harassment Of Women At The Workplace Act, 2010*, filed prior to the institution of this suit, and is thus tainted with mala fides and intended to intimidate a woman who dared to speak out against harassment. The learned counsel asserted that mere publication of a statement relating to personal experience of harassment cannot be equated with malicious defamation, especially when made in the context of the #MeToo Movement and in good faith. The defendant relied upon national and international jurisprudence recognizing the right of women to speak about their experiences without fear of retaliatory litigation. It is further argued that a heavy burden of proving a statement to be false is to be discharged by the

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plaintiff in a suit for defamation and mere fact that it could not be proved, does not necessarily show that it was false. Learned counsel for the defendant argued that the plaintiff's case rests mainly upon assumptions about how a "genuine" victim ought to behave, which the evidence itself dispels. It was contended that absence of corroboration by eyewitnesses, delay in public disclosure, continued professional interaction, or recourse to a statutory forum after speaking publicly are all circumstances capable of varying interpretations and do not, either individually or collectively, establish falsity or malice. Learned counsel also challenged the credibility of the plaintiff's witnesses. It was argued that PW-1 to PW-9 was either employees, professional collaborators, or socially aligned with the Plaintiff. Their livelihood or professional standing, according to counsel, is directly or indirectly connected with the plaintiff. Such witnesses, it was argued, cannot be treated as wholly independent. Their uniform denial of witnessing harassment does not negate the possibility of discreet physical misconduct, particularly when the defendant herself explained that such acts occur subtly and are often unnoticed by others. Counsel submitted that even failure to prove justification to the Court's satisfaction does not automatically convert the defendant's disclosure into a deliberate falsehood. In the absence of cogent proof of knowledge of falsity, reckless disregard for truth, or a pre-planned conspiracy, the publication must be viewed as an expression of grievance grounded in the defendant's perception of events, rather than a malicious campaign to defame the plaintiff. On the question of damages, learned counsel submitted

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that the claim of Rs.100 Crores is grossly exaggerated, and unsupported by strict proof. The plaintiff alleged loss of contracts and goodwill but failed to produce binding termination letters explicitly attributing cancellation to the defendant's tweet.

Tax returns and financial documents do not conclusively establish a nexus between the impugned publication and alleged losses. Mere decline in earnings cannot automatically be attributed to defamation in a competitive entertainment industry. The defendant's counsel prayed that the suit be dismissed as false, vexatious and frivolous, and that exemplary costs under Section 35-A CPC be imposed upon the plaintiff to deter misuse of defamation suits against the victims of harassment. Learned counsel in support of his arguments has relied on legal citations reported as: **Case Law on Damages;**

"Malik Gul Muhammad Awan v. Federation of Pakistan" (2013 SCMR 507), Dr. Syed Haider Bokhary v. North-West Frontier Province" (1984 CLC 1280), "Rashid Khan v. Bashir" (2013 MLD 1026), Vifor (International) Inc. v. Me'mon Pharmaceutical" (2013 CLD 1531), **Case Law on Irregularities in Verification and Signing Not Material;** "Digital Media Solutions (Pvt.) Ltd. v. Warid Telecom (Pvt.) Ltd". (2012 CLC 861), "Muhammad Munshi v. Mst. Rakiya Bibi" (1990 CLC 301), "Fazal-ur-Rehman v. Begum Sughra Haque" (2000 MLD 562), **Case Law on Sole**

Testimony of Victim of Sexual Offence /Delayed Reporting; "Uzma Naveed Chaudhry v. Federation of Pakistan" (PLD 2022 SC 783), Ibrar Hussain v. State" (2007 SCMR 605), "Shakeel v. State" (PLD 2010 SC 47), "Habibullah v. State" (2011 SCMR 1665), "Atif Zareef v. State" (PLD 2021 SC 550), "Commonwealth

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v. Gustavo Gonzalez Santos, 100 Mass. App. Ct. 1 "People v. Rincon-Pineda, Crim. No.18510 (Supreme Court of California, July 31, 1975), "Bharwada Bhoginbhai Hirjibhai v. State of Gujarat" (AIR 1983 SC 753), "State of Maharashtra v. Chandraprakash Kewalchand Jain" (AIR 1990 SC 658), "State of Punjab v. Gurmit Singh" (AIR 1996 SC 1393), **Case Law on Good Faith and Absence of Malice**; "Shaikh Muhammad Rashid v. Majid Nizami" (PLD 2002 SC 514), "Chapal Builders v. Daily Dawn" (2004 CLC 344), **Case Law on Standard of Proof for Truth of Defendant's Allegations**: "Zafarullah Khan v. Muhammad Aslam" (1991 SCMR 2126), "Mst. Zainab Bibi v. Mst. Bilqees Bibi" (PLD 1981 SC 56), "Abdul Wali Khan v. Muhammad Saleh" (1997 MLD 2835), "Noor-ud-Din v. Abdul Waheed" (PLD 1997 Karachi 6), "Muhammad Luqman v. Basheer Ahad" (PLD 1994 Karachi 492), "Ghulam Muhammad v. Muhammad Ashraf" (PLD 1981 SC (AJK) 118), "Ittehad Chemicals Ltd. v. Additional District & Sessions Judge" (2010 CLC 599), "Muhammad Siddiq v. Muhammad Boota" (2010 CLJ 481), **Case Law on Qualified Privilege**: "Maung Myo v. Maung Kywet" (AIR 1919 Upper Burma 12), "Henwood v. Harrison" (1872 LR 7 CP 606), "M. Moosa v. Mahomed" (PLD 1954 Sind 70), "Madhab Chandra Ghose v. Nirodh Chandra Ghose" (AIR 1939 Calcutta 477), **Case Law on Section 35-A CPC**: "Chaklala Cantonment Board v. M/s Umar Khan & Co." (2025 CLC 386), "Capital Development Authority v. Ahmed Murtaza" (2023 SCMR 61), "Qazi Naveed-ul-Islam v. District Judge, Gujrat" (PLD 2023 SC 298), **Case Law on Withholding Best Evidence**: "Rabia Bibi v. Muhammad Malik" (1997 MLD 67), "Anumolu Narayana Rao

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v. Ghattaraju Venkatapaya' (AIR 1937 Madras 182).

"Muhammad Hussain v. Secretary of State" (AIR 1939 Lahore

330), "Muhammad Ayub v. Muhammad Rahman" (2026 SCMR

31), **Case Law on Public Good and Statements Against a**

Public Figure: "New York Times Co. v. Sullivan" (376 US 254).

"Majid Nizami v. Sheikh Muhammad Rasheed" (PLD 1996

Lahore 410), **Case Law on Section 3 of Defamation**

Ordinance, 2002: "Dr. Mukhtar Ahmed v. Mst. Shamim

Hashmi" (2007 CLC 941), "Ali Adnan Sheikh v. I.G. Police"

(2026 SCMR 77), "A. Abdul Rashid Khan v. PAK Shahul Hamid"

(2000) 10 SCC 636], "Milkovich v. Lorain Journal" Co. 497 US 1

(1990), "Subedar v. Dubey Jagat Narain"(AIR 1924 Allahabad

848). **Case Law on Minor Discrepancies Not Discrediting a**

Witness: "Fazal Dad v. Jahandad" (1991 CLC 1783),

"Muhammad Rafique v. State" (1989 PCRLJ 43), "Aqil v. State"

(2023 SCMR 831). "Challenging Misconceptions and Myths

around Sexual Offences'

9. This suit was taken up for hearing before the undersigned on 03.06.2025. The record reflects that it was instituted by the plaintiff, Ali Zafar, on 23.06.2018. The defendant, Meesha Shafi, entered appearance through counsel on 13.08.2018 and filed her written statement on 17.10.2018. An application for temporary injunction under Order XXXIX Rules 1 & 2 CPC was decided on 24.01.2019, on which date issues were also framed and the case was fixed for plaintiff's evidence. The plaintiff concluded his evidence on 21.09.2019, whereafter the matter proceeded to defendant's evidence. Vide, statement dated 12.06.2025, the defendant closed her evidence

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(save re-examination of DW-5), which was completed on 23.06.2025. The plaintiff opted not to lead rebuttal evidence on 16.07.2025. During trial, the plaintiff filed one miscellaneous application, while the defendant filed approximately ten. The case was fixed for final arguments on 21.07.2025, and, by mutual consent, arguments commenced from September 2025, twice weekly, concluding on 30.03.2026. I have considered the oral and written submissions of learned counsels, along with the cited case law, and have examined the record on file. My findings on each issue are as follows:

10. ISSUE NO. 5:

Whether plaintiff has filed this suit as a counter blast to the complaint of sexual harassment filed by the defendant against the plaintiff under Section 8 of the Protection against Harassment of Women at Work Place Act 2010? OPD

The onus to prove this issue rests upon the defendant. It is incumbent upon her to establish, through cogent, convincing, and reliable evidence, as well as on sound legal grounds, that the present defamation suit was instituted mala fide, merely as a retaliatory measure or counterblast to the harassment complaint filed by her, and not as a bona fide exercise of the plaintiff's lawful and statutory right to seek redress for injury to his reputation. Learned counsel for the defendant argued that after the defendant spoke up regarding sexual harassment of a physical nature by the plaintiff and approached the Ombudsperson under the *Protection Against Harassment Of Women At The Workplace Act, 2010*, the plaintiff instituted the present suit with an exaggerated and oppressive claim for

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damages only to pressurize, intimidate and silence her. It was contended that the timing of the suit and the quantum of damages claimed reflect vindictiveness rather than a genuine grievance. Learned counsel further submitted that once the defendant had accused the plaintiff of sexual harassment and had approached the competent statutory forum on 30.04.2018 by filing formal complaint after few days of her tweet dated 19.04.2018 and "Instep Today" interview dated 21.04.2018, the present suit was not maintainable. According to him, even if the harassment complaint ultimately failed, the plaintiff could, at the most, pursue a claim for malicious prosecution and not for Defamation, as the defendant was asserting a grievance as a victim. Reliance, in this regard, inter alia was placed upon the case law reported as AIR 1918 Upper Burma 12. Conversely, learned counsel for the plaintiff vehemently contested these submissions and argued that the suit was not filed as a counterblast but constituted an independent and lawful remedy available to the plaintiff under the Defamation Ordinance, 2002. It was submitted that the plaintiff became aggrieved immediately upon the public dissemination of defamatory imputations through the defendant's tweet dated 19.04.2018, followed by the interview published in Instep Today on 21.04.2018. Learned counsel emphasized that the plaintiff publicly denied the allegations, declared his intention to seek legal recourse, and even served a legal notice dated 24.04.2018, all prior to the filing of the defendant's complaint before the Ombudsperson. It was thus contended that both factually and legally, the plea that the suit is a counterblast is wholly untenable.

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11. I have considered the rival submissions at length and have carefully examined the pleadings, case laws cited at bar and the entire record. Two interrelated questions arise for determination:

1) Whether the filing of a complaint by the defendant under the Protection Against Harassment of Women at the Workplace Act, 2010, operates to oust or bar the plaintiff from instituting the present suit under the Defamation Ordinance, 2002, in respect of the allegedly defamatory tweet dated 19.04.2018 and the interview published on 21.04.2018; and

2) Whether the forum provided under the Defamation Ordinance, 2002, was unavailable to the plaintiff, and if so, what alternative forum, if any, was open to him.

Before proceeding further, it is appropriate to refer that Section 3 of the Defamation Ordinance, 2002, creates a statutory right of action where a false statement or representation, made orally, in writing or by electronic means, injures the reputation of a person or lowers him in the estimation of others. It is a settled principle of law that every person whose legal or reputational rights are infringed possesses an independent statutory and constitutional right to approach a court of law. The institution of civil proceedings of defamation suit cannot be termed as mala fide unless strong, clear and convincing evidence establishes abuse of process or an ulterior motive. The burden to prove such mala fides lies heavily upon the party alleging them. In this context, the chronology of events, which is not disputed, assumes decisive significance. It stands admitted on record that

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the defendant first published her tweet dated 19.04.2018 (Ex.DW-4/1), alleging sexual harassment of a physical nature by the plaintiff. The said tweet was disseminated publicly and it immediately attracted wide media attention. On the very same day, the plaintiff responded publicly through his own Tweet (Ex.PW-12/58), wherein he categorically denied the allegations and expressly declared his intention to seek redress through courts of law. The relevant extract reads:

“....I categorically deny any and all claims of harassment lodged against me by Ms. Shafi. I intend to take this through the courts of law and to address this professionally and seriously rather than to lodge any allegations here...”

This contemporaneous response is of importance. It demonstrates that from the very inception, the plaintiff chose the course of lawful adjudication and did not resort to retaliatory conduct or counter-allegations. It is significant to mention that the defendant posted the tweet dated 19.04.2018 without demonstrating any intention to seek legal recourse for the redress of her grievance, nor did she provide any justification therein for levelling allegations of sexual harassment against the plaintiff in public domain instead of first approaching a competent forum. Thereafter, the defendant gave an interview published in Instep Today dated 21.04.2018 (Mark-PW-12/10 - Exh.DW-4/I), wherein the same allegation was reiterated and further amplified in the public domain. The plaintiff (PW-12) deposed that following these publications, he served a Legal Notice dated 24.04.2018 (Ex.PW-12/59), demanding retraction and apology. The legal notice was served to the defendant on

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25.04.2018. In paragraph No.16 of the written statement, it was admitted to the extent that the defendant received the legal notice from the plaintiff and, through her counsel, submitted a reply dated 11.05.2018. It is only subsequent to these events that the defendant filed her formal complaint before the Ombudsperson on 30.04.2018 (Ex.DW-4/2). The admitted sequence of events is thus as follows:

- Defendant's tweet dated 19.04.2018 (Ex.DW-4/1);
- Plaintiff's public denial and declaration to seek judicial remedy on 19.04.2018 (Ex.PW-12/58);
- Defendant's interview published on 21.04.2018 (Mark-PW-12/10-Exh.DW-4/I);
- Mandatory Legal notice issued by the plaintiff on 24.04.2018 (Ex.PW-12/59) as required under Section 8 of the Defamation Ordinance;
- Complaint filed by the defendant before the Ombudsperson on 30.04.2018 (Ex.DW-4/2);
- Dismissal of complainant for want of jurisdiction by the Ombudsperson on 03.05.2018.
- Reply of legal notice of dated 11.05.2018
- Institution of the present suit by the plaintiff on 23.06.2018 within two months from the posting of the tweet instead of waiting for a six months period of limitation.

12. The above uncontroverted timeline conclusively establishes that the plaintiff's intention to initiate and pursue legal proceedings under the Defamation Ordinance, 2002 arose immediately upon the publication of the alleged defamatory imputations and even prior to the filing of the harassment complaint. Factually, therefore, the present suit cannot be characterized as a counterblast to proceedings which had not yet been initiated when the plaintiff had already declared and

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commenced legal recourse. During her cross-examination, the defendant (DW-4) stated:

“It is correct that I filed said complaint as a legal remedy.”

When further asked whether the plaintiff might also perceive her complaint as exerting pressure, she replied:

“Yes, he can also see it as a pressure.”

This admission reinforces the conclusion that both parties independently were availing their respective legal remedies. Just as the defendant was entitled to approach the Ombudsperson, the plaintiff equally possessed the right to seek protection of his reputation through civil proceedings. The exercise of a statutory remedy by either party cannot, by itself, be construed as mala fide or retaliatory. Significantly, the defendant neither disclosed the filing of any complaint before the Ombudsperson, nor its outcome; nor did she indicate any intention to invoke the defence of qualified privilege in the anticipated defamation suit to be filed by the plaintiff pursuant to the said legal notice. The defendant further stated, in her reply to the legal notice through counsel, that “for the sake of her dignity and self-respect, as well as that of thousands of women in the industry, our client decided that silence was no longer an option; hence, she reported the acts of sexual harassment allegedly committed by your client on social media on 19th April 2018, which are stated to be true and do not, in any manner, constitute defamation.” It was additionally asserted that the plaintiff could also be held liable under the Pakistan Penal Code, 1860. Even at the stage of filing the written statement, the defendant could have expressly pleaded the defence of qualified privilege

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with specific reference to the three alleged incidents of sexual harassment. Instead, in continuation of the allegations contained in her tweet dated 19.04.2018 and the Instep Today interview dated 21.04.2018, she set out, in her written statement, detailed particulars of three separate incidents of alleged sexual harassment and sought to justify the same by invoking the defences of truth and public good. Consequently, the plea of "counterblast" cannot be equated with, or treated as, a defence of qualified privilege, which must be specifically pleaded and established in accordance with the requirements of Sections 5 (h) and 7 of the Defamation Ordinance, 2002. The two concepts are legally distinct: a plea of counterblast merely suggests that a suit has been filed in response to another proceeding, whereas qualified privilege constitutes a substantive defence in a suit for defamation filed under the Defamation Ordinance, subject to its own conditions and burden of proof. Article 4 of the Constitution guarantees to every individual the inalienable right to be treated in accordance with law and specifically protects a person's life, liberty, **and reputation** from any action not sanctioned by law. In the context of the present case, this provision underscores that the reputation of the plaintiff is a constitutionally protected interest, and any action or allegation detrimental to it must be made strictly in accordance with lawful procedure. Applying this principle, the public dissemination of serious allegations through social media, without prior recourse to appropriate legal forums or due process, falls outside the protection contemplated under Article 4 of the Constitution. The Constitution does not permit injury to

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a person's reputation through unverified and unilateral accusations made in the public domain. Thus, any such act, if found to be false or unjustified, would amount to a violation of the plaintiff's constitutional right to protection of law and reputation. It is also well settled that the right to reputation is an integral facet of the right to dignity guaranteed under Article 14 of the Constitution of the Islamic Republic of Pakistan, 1973. Where allegations are publicly disseminated in a manner capable of injuring reputation, the aggrieved person is legally entitled to seek redress. The Defamation Ordinance, 2002, provides an independent statutory cause of action. Nothing in the Protection Against Harassment of Women at the Workplace Act, 2010, expressly or impliedly bars such a remedy. Both enactments operate in distinct spheres and cater to different legal injuries. The argument that the magnitude of damages claimed itself evidences mala fides is equally devoid of merit. The assessment and determination of compensation is ultimately the function of the Court. Even an exaggerated claim, if assumed for the sake of argument, cannot by itself render the institution of a suit malicious. In the present case, the defendant has failed to produce any independent, reliable or convincing evidence to establish that the suit was instituted with an ulterior motive or constitutes an abuse of the process of law. The plea rests on conjecture and assumption rather than proof.

13. Accordingly, the two questions framed by this Court are answered as under:

ANSWER TO QUESTION NO.1:

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"There is nothing in the scheme, language or object of the Protection against Harassment of Women at the Workplace Act, 2010, which bars the jurisdiction of this Court or extinguishes an independent civil remedy for defamation. The filing of a complaint before the Ombudsperson does not, either expressly or by implication, prohibit the institution of a defamation suit in respect of prior public publications".

ANSWER TO QUESTION NO.2:

"The Defamation Ordinance, 2002, expressly creates a statutory right to seek redress where a false publication injures reputation. The plaintiff's grievance arises primarily from the public dissemination of allegations through social media and the press, which constitutes a distinct cause of action for defamation, independent of any subsequent statutory proceedings otherwise it would defeat the object and purpose of Defamation Law. The contention that the plaintiff could only pursue a claim for malicious prosecution is misconceived, as the causes of action for malicious prosecution and defamation are separate, distinct and operate in different legal fields".

Thus the contention of the defendant that the present suit is retaliatory in nature and constitutes an abuse of the process of law, this argument/contention, however, does not carry legal weight. The right to reputation is a recognized civil right and forms an integral part of the dignity of an individual. Any person who alleges that his reputation has been harmed through defamatory statements is entitled to invoke the jurisdiction of a civil court, irrespective of the pendency of any parallel

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proceedings under another statute. No provision of law has been pointed out which creates a bar to the institution of a defamation suit merely because proceedings relating to harassment have been initiated or are pending elsewhere. Thus, the mere existence of parallel proceedings does not render the present suit non-maintainable. In view of the foregoing discussion, the established chronology of events, the contemporaneous declaration of the plaintiff to seek judicial remedy, the issuance of legal notice prior to the filing of the harassment complaint, and the complete absence of any cogent evidence demonstrating mala fides, this Court finds no substance in the plea that the present suit is a counterblast or retaliatory action. On the contrary, the material on record unmistakably shows that the plaintiff invoked the jurisdiction of this Court in the bona fide exercise of his independent statutory right to protect his reputation under the Defamation Ordinance, 2002. The suit is held to be competent and maintainable. This issue is, therefore, decided against the defendant and in favour of the plaintiff.

14. **ISSUE NO.1.**

Whether the statement dated 19.04.2018 tweeted by the defendant and the statement dated 21.04.2018 published in "INSTEP TODAY" are defamatory, regarding the status of plaintiff?

The onus to prove this issue rests upon the plaintiff. The plaintiff's case, as pleaded in the plaint, is that the defendant, through her verified Twitter account on 19.04.2018, publicly accused him of sexual harassment and thereafter reiterated the same allegation in her interview to "Instep Today", and after this

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she filed formal complaint before the Ombudsperson, which imputations were false and malicious and caused serious injury to his reputation and professional standing. The defendant, while contesting the suit, has not denied the authorship or publication of the tweet or subsequent statements; rather, her defence is that the allegations were true and made in good faith for the public good. Thus, the factum of publication is admitted and what require determination is the nature, scope and legal effect of the imputations. Learned counsel for the plaintiff contended that both the impugned publications level direct and categorical allegations of sexual harassment of a physical nature against the plaintiff, which, in the social and professional milieu of our society, are per se defamatory. He argued that such imputations strike at the very core of the plaintiff's character, morality, and professional integrity and necessarily lower him in the estimation of the public at large. Reliance was placed upon the admitted publications (Ex.DW-4/1 and Ex.DW-4/I) and the evidence of the plaintiff's witnesses to show the reputational harm caused. Conversely, learned counsel for the defendant submitted that the defendant merely shared her personal experience and grievance and that the statements were not intended to defame but to narrate her truth and meant for public good. He contended that a complaint filed before ombudsperson attracts qualified privilege, therefore tweet and Instep Today interview cannot be looked at insolation to the complaint and therefore, no case attracting section 3 of the Defamation Ordinance is made out rather the same should not

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be treated as defamatory, particularly in the context of women speaking up against harassment.

15. I have considered the submissions of the learned counsels and have examined the record. At the outset, it is important to determine the legal test. Under Section 3 of the Defamation Ordinance, 2002, any wrongful act or publication of a false statement which injures the reputation of a person or tends to lower him in the estimation of others or exposes him to ridicule, contempt or hatred is actionable as defamation. The test is not the intention of the maker alone but the natural and ordinary meaning of the words and their effect upon the mind of a reasonable member of society. It stands admitted on record that the defendant authored and made public the tweet dated **19.04.2018** by attaching the hash-tag “#MeToo” to the allegations and subsequently gave an interview published in “*INSTEP TODAY*” on **21.04.2018**, wherein she leveled allegations of sexual harassment of physical nature against the plaintiff. The central question is whether such statements fall within the ambit of defamation as defined under Section 3 of the Defamation Ordinance, 2002? As per admitted position on record, the plaintiff and defendant shared a cordial and professional relationship before the controversy arose. They worked together in the entertainment industry, maintaining mutual respect and goodwill. However, without seeking redress through any competent forum or substantiating her allegations through proper legal channels, the defendant took to social media and the press to make allegations of sexual harassment of physical nature against the plaintiff, thereby subjecting him to

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public criticism and ridicule. The plaintiff appeared as PW-12 and deposed that immediately after the impugned tweet, the same went viral and was widely reproduced by print and electronic media, whereby his reputation was seriously damaged. He stated:

"Immediately after the tweet, the matter spread everywhere on social media and television. My name was associated with sexual harassment and my image and goodwill suffered immensely."

He further deposed:

"These allegations destroyed my reputation built over decades and affected my professional commitments and endorsements."

Nothing substantial could be extracted in his cross-examination to dispute the widespread circulation of the allegations.

16. On the other hand, the defendant herself, while appearing as DW-4, expressly admitted the publication. During her examination-in-chief she produced the printout of the Tweet and stated:

"I produce a print out of my first tweet as Ex.DW-4/1."

During cross-examination she further admitted:

"It is correct that I tweeted on 19th of April 2018 one day before the show in order to protect myself."

She also admitted that she spoke publicly and approached the press. In her own words:

"The first thing that came into my mind was to speak to someone in the press," and "When I went public with the allegation of sexual harassment against the plaintiff..."


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These admissions unequivocally establish conscious and deliberate publication to the public at large. Once a statement is voluntarily placed on an unrestricted social media platform and then discussed with the press, the element of communication to third persons stands fully satisfied. In the present case, publication is admitted. The defendant herself acknowledged that she posted the tweet dated 19.04.2018 (Ex.DW-4/1) and thereafter gave an interview dated 21.04.2018 which was published in Instep Today (Ex.DW-4/1). These are written/electronic communications disseminated to the general public and, therefore, fall within the category of libel. A plain reading of the tweet shows that the defendant alleged that she had been "sexually harassed" by the plaintiff "time and again" and that the harassment was of a physical nature. The subsequent interview reiterated and amplified these allegations. Such words, in their ordinary and natural meaning, impute immoral and unlawful conduct. An allegation of sexual harassment is not a mere expression of dissatisfaction or criticism; it is a grave accusation suggestive of abuse of position, lack of character, and violation of bodily autonomy of a woman. In our social and cultural context, such an imputation, if made publicly against a person, particularly a well-known figure, inevitably exposes him to hatred, contempt, and loss of esteem. It has the direct tendency to damage not only personal dignity but also professional prospects. No further embellishment is required to categorize such words as defamatory per se.

17. The status of the plaintiff is also relevant. The plaintiff is an artist and public personality whose career depends

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substantially upon public image, trust, and professional reputation. Evidence of PW-10 and PW-11 demonstrates that engagements, endorsements, and contracts of the plaintiff are closely tied to his social standing. In such a profession, even an unproven allegation of sexual misconduct is capable of causing immediate and serious reputational harm. Thus, the impact of such publication is adverse. It is also noteworthy that the allegations were not confined to a complaint before a statutory forum but were first broadcast to millions of users through social media and press. Once such a statement of allegation is made to the public at large, the potential for reputational injury becomes inherent and obvious. The mode and manner of publication adopted by the defendant significantly amplified the reach and impact of the impugned allegations. The use of a widely recognized hash tag on a global social media platform ensured that the statement was not confined to a limited audience but was disseminated to an indefinite and worldwide viewership, making it instantly searchable, accessible, and capable of repeated circulation. It is well settled that in cases of defamation, the extent of publication directly correlates with the degree of injury to reputation. In the present case, the association of the allegations with a globally trending discourse resulted in their rapid and extensive dissemination, thereby aggravating the harm caused to the plaintiff's personal and professional standing. Furthermore, in the digital context, each re-tweet or republication constitutes a fresh publication, leading to continuing and recurring injury. Accordingly, it is held that the impugned publication was of an exceptionally wide scale,


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which materially enhanced the gravity of defamation and the resulting damage to the plaintiff. The law presumes damage in cases of libel of this nature. At this stage, the Court is not required to determine whether the allegations are true or false; that question has to be dealt with separately under Issue No.4. For the purposes of the present issue, the only question is whether the words are capable of being defamatory. In the considered view of the court, the answer is unequivocally in the affirmative. Even if the defendant subjectively believed her allegations, the nature of the imputation remains the same. A statement which attributes sexual harassment of a physical nature to a person, when publicly disseminated, is intrinsically defamatory unless justified in law. Truth and public good may constitute a defence, but they do not alter the defamatory character of the words themselves. In this regard, it is significant that even defence witnesses acknowledged the serious nature of such allegations. DW-1, the mother of the defendant stated in cross examination:

"...It is correct that in my opinion the allegation against the plaintiff being a sexual harasser has not added to his respect and reputation in the society..."

DW-2, Iffat Umar, professional actor, anchor, host of a PTV Program and director of documentaries and talk show, stated in cross examination:

"...It is true that a false allegation can destroy the person and his family. I believe that who levels false allegations must be burdened with heavy damages. Witness was confronted with video clip where she was expressing her view that false

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allegation can be very upsetting and in her case she was on the verge of committing suicide”.

Rather than DW-2 expressed her views and belief about the plaintiff as being the harasser publicly in some programmes.

DW-2, acknowledged in her cross examination:

“It is correct that in some programmes I have expressed my opinion and belief about Ali Zafar's reputation of being a harasser. It is correct that the interviews in which I expressed my opinion have been watched by thousands of people”.

DW-5, the husband of the defendant, stated in cross-examination:

Q: If someone alleges the other person with sexual harassment whether it will increase his fame in general public or will defame him?

Ans: It really depends on whether the allegation is true or false.”

The above depositions reflect an acknowledgment that allegations of sexual harassment against the plaintiff are grave and capable of defaming him. DW-7, the journalist, admitted in cross-examination:

“It is correct that after the defendant's allegations against the plaintiff people know that he has been accused of sexual harassment and some may believe that he is a harasser.”

This admission further reinforces the defamatory tendency of the impugned statements. Thus, applying the test of an ordinary prudent person and considering the language used, the mode of publication, the reach of dissemination, and the social standing of the plaintiff, this Court holds that both the tweet dated 19.04.2018 (Ex.DW-4/1) and the interview dated 21.04.2018

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published in Instep Today (Ex.DW-4/I) are defamatory in nature and are clearly capable of lowering the plaintiff in the estimation of the public and injuring his reputation. The record reflects that the tweet and Instep interview of the defendant itself contained a general allegation of sexual harassment of physical nature without detailing specific dates, places or acts. However, thereafter the defendant, in her formal complaint before the Ombudsperson (Ex.DW-4/2), and later in her written statement filed in the suit and testimony recorded before this Court as DW-4, furnished specific and detailed accusations of three separate incidents. Thus, while the initial tweet followed by interview may have been general in wording, it unmistakably conveyed to the public that the plaintiff had sexually harassed the defendant. Once even such a general accusation is made publicly, the ordinary reader naturally understands it to mean that the plaintiff is guilty of sexual misconduct. The subsequent elaboration of details in formal complaint only amplified and reinforced the original imputation. In law, even a general statement which imputes sexual harassment, without particulars, is sufficient to damage reputation; the later particulars merely aggravate the sting. In this regard, the defendant's own words in examination-in-chief are relevant, where she stated:

"I have been sexually harassed by the plaintiff in the past time and again..."

Such imputation, when attributed to a person, particularly a known public figure, is unquestionably defamatory per se. They tend to lower the person in the estimation of society, expose him

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to hatred, contempt and ridicule, and directly impair his social and professional relationships. It is also significant that the defendant chose not to confine her grievance to a legal forum alone. Instead, she broadcast the allegation through twitter and thereafter through the media interview. The Instep Today interview, produced on record, shows reiteration of the same accusation before the general public. The mode and scale of dissemination are relevant because publication through social media and press ensures instantaneous and widespread reach. The harm to reputation in such circumstances is far greater than in a limited or privileged communication.

18. Reputation is an essential facet of human dignity. Reputation is an asset of far greater value than material wealth. It is part of human dignity, and its unjustified tarnishment is a legal wrong. Allegations affecting on a person reputation, if made, recklessly or without proof warrant judicial intervention. Article 14 of the Constitution of Islamic Republic of Pakistan, 1973, guarantees the dignity of man and, subject to law, the privacy of home, shall be inviolable. In the reported case titled, **"LIBERTY PAPERS LTD AND OTHERS VS. HUMAN RIGHTS COMMISSION OF PAKISTAN (P L D 2025 SUPREME COURT 42)"** Which held as:

(10). *"Under the provisions of the Constitution of the Islamic Republic of Pakistan, 1973, the reputation of a person has received the highest protection in Article 4 (2) (a). Further under Article 14 the dignity of man, subject to law, the privacy of home, shall be an inviolable right of each and every citizen. The defamation of any person or citizen through spoken or written words or any*

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other means of communication lowers the dignity of a man fully guaranteed by the constitution, this, not only is it the constitutional obligation of the State but all the citizens and persons living within the State of Pakistan to respect and show regards to dignity of every person and citizen of Pakistan otherwise if anyone commits an act of malice by defaming any person, would be guilty under the Constitution and would cross the red line of prohibition imposed the Constitution, attracting serious penal consequences under the law and person violating the same has to dealt with under the law.

(11). No lenient treatment shall be shown to anyone in this regard not anyone can plead the unbridled right of expression and right to have access to the information when the subject matter is disgraced, his/her dignity brought to almost naught because the rights with regard to expression and access to information are regulated by law, rules and regulations under which the license is granted under the press and publication laws”.

The law is well settled that where words are defamatory per se, proof of actual loss is not strictly necessary, as damage to reputation is presumed. An allegation of sexual harassment carries a serious social stigma in our society. For a person whose profession depends upon public confidence, endorsements and public appearances, such imputation is bound to adversely affect standing and goodwill. The plaintiff's testimony regarding the adverse impact is therefore natural and probable. The law does not require that the defendant must intend to defame; it is sufficient if the statement tends to lower


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the plaintiff in the estimation of others. The defendant herself acknowledged the gravity of such allegations during cross-examination when she conceded that allegations of sexual harassment can damage reputation. At this stage, the defence that the allegations were true or made in good faith cannot detract from the character of the statements as defamatory. Truth and public good as a defence/ justification is a separate matter to be considered under issue No.4. For the purpose of the present issue, it is sufficient that the defendant made and communicated to third persons statements which, if false, would harm the reputation of the plaintiff. Both elements stand fully established through evidence on record and the defendant's own admissions. In view of the pleadings, the testimony of PW-12, the admissions of DW-4, the tweet Ex.DW-4/1, and the publication of Instep Today interview dated 21.04.2018 (Ex.DW-4/I), this Court holds that the defendant did publish and communicate imputations of sexual harassment of physical nature against the plaintiff; that although the tweet was general in form, it clearly conveyed an accusation of sexual misconduct; and that the later detailed allegations only intensified the defamatory sting. Such imputations are inherently defamatory and were bound to, and in fact did, adversely affect the plaintiff's reputation, goodwill and professional standing. Accordingly, this issue is answered in the affirmative and decided in favour of the plaintiff and against the Defendant.

19. ISSUE NO. 4.

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**Whether statements dated 19.04.2018 and 21.04.2018
are based on truth and were made for the public goods
by the defendant? OPD**

The defendant has invoked the statutory defences of truth, and public interest/public good. Which under the Defamation Ordinance constitute a complete answer to a claim of defamation if duly established? The burden to prove this defence rests upon the defendant. It is admitted fact on record that the defendant, Meera Shafi, published a tweet dated 19.04.2018 (Ex.DW-4/1), wherein she alleged that she had experienced sexual harassment of a physical nature at the hands of the plaintiff, Ali Zafar. It is further admitted that she reiterated her experience in an interview dated 21.04.2018 published in "Instep Today", which has been brought on record as Mark-PW-12/10-Exh.DW-4/I. Thus, publication stands proved and admitted. The controversy is confined to whether such statements were based upon truth, were made for public good, and whether they constitute actionable defamation. Learned counsel for the plaintiff submitted written arguments and inter alia argued that the allegations were false, reckless and malicious; that no independent eye-witness supported the defendant; that several persons were admittedly present during the rehearsal/jamming session yet none corroborated her version; that the defendant continued cordial social and professional relations with the plaintiff; and that her contemporaneous conduct, including a WhatsApp message appreciating the Jamming session, diminishes her plea. It was contended that the tweet and interview were deliberately

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designed to damage the plaintiff's reputation and career. Conversely, learned counsel for the defendant submitted written arguments and inter-alia argued that in cases of sexual harassment the victim herself is often the sole direct witness; that such incidents are instantaneous and discreet; that independent corroboration cannot be expected; that the defendant promptly invoked the statutory forum by filing a complaint before the Ombudsperson; and that absence of malice coupled with bona fide narration of personal experience/grievance negates liability for defamation. It was further submitted that communications made in pursuit of legal remedies and for protection of one's dignity serve public good. Learned counsel for the defendant contended that Article 19 of the Constitution of Pakistan guarantees freedom of speech, and that the defendant, in sharing her grievance, was merely exercising this constitutional right. To this argument it is observed that however, such freedom is not absolute and remains subject to reasonable restrictions, including the protection of the reputation of others. In the case reported as **"MEERA SHAFI AND OTHERS VS FEDERATION OF PAKISTAN AND OTHERS' (P L D 20022 LAHORE 773)**, which held as "...Legislature is competent to make a law relating to defamation even under the amended Art.19". Learned counsel for the defendant has further argued that Article 14 of the Constitution of the Islamic Republic of Pakistan equally guarantees the dignity of a woman who speaks out against sexual harassment, and that the defendant's act of disclosing her experience was an exercise of her constitutional right to protect her honour. In view

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thereof, it is observed that this proposition, in principle, is unexceptionable. Article 14 safeguards the dignity of every citizen without distinction. The dignity of a woman alleging harassment is as sacrosanct as the dignity of a man accused of it. However, constitutional protection of dignity does not operate in isolation nor does it override statutory requirements governing civil liability for defamation. The present proceedings are not concerned with curtailing the defendant's right to seek redress or to assert her grievance before a competent forum. Rather, the question is whether serious allegations of sexual harassment of a physical nature, publicly disseminated against a named individual, have been established as true and made for public good within the meaning of the Defamation Ordinance, 2002. The constitutional guarantee does not dispense with the statutory framework governing civil liability. Article 14 cannot be interpreted as conferring immunity to publicly level allegations stigmatizing against a named individual without satisfying the legal requirements of proof. Where two claims of dignity intersect, one asserting victimhood and the other asserting innocence, the Court is bound to adjudicate on evidence, not on presumption. In the present case, while the defendant was unquestionably entitled to seek redress before a competent legal forum for the protection of her dignity, the public dissemination of allegations prior to their establishment in accordance with law required her to discharge the statutory burden of proving truth and public good. To hold otherwise would amount to creating an exception to the law of defamation whereby mere assertion of being victim would eclipse the equally protected right to

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reputation and disturb the equilibrium between dignity, reputation, and due process. Accordingly, the argument of counsel for the defendant founded upon Article 14 does not absolve the defendant from the consequences in case she failed to prove her defence under the Defamation Ordinance, 2002, and the constitutional protection of dignity, in the facts of the present case, operates in favour of both parties equally and not exclusively in favour of the defendant.

20. Under the Defamation Ordinance, 2002, once publication of defamatory imputations is admitted or proved, the burden shifts upon the defendant to establish her defence that such imputations were substantially true and that their publication was for public good. Both elements must coexist. Truth alone does not suffice and public good alone is equally insufficient. The defence is conjunctive and is required to be proved through cogent and legally admissible evidence. In the present case, publication is not in dispute. The defendant has candidly admitted that she published the impugned tweet dated 19.04.2018 (Ex.DW-4/1), and thereafter gave an interview dated 21.04.2018, published in Instep Today (Ex.DW-4/I-Mark-PW-12/10), wherein allegations of sexual harassment of a physical nature were levelled against the plaintiff. The tweet (Ex.DW-4/1) contains the categorical allegation that the plaintiff had sexually harassed her on more than one occasion, which, by its very nature, directly imputes moral depravity. Publication having been admitted, the statutory burden lies upon the defendant to prove her defences of truthfulness of those allegations and that their dissemination was for public good.

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21. The Court is conscious of the social and cultural realities prevalent in our society and globally. It cannot be gainsaid that incidents of sexual harassment do occur; that such acts are often discreet, momentary, and committed in circumstances where direct witnesses may not be present or despite being present cannot notice; and that women, particularly face significant emotional, social and professional barriers in speaking out. The law, therefore, approaches such allegations with sensitivity. At the same time, adjudication in civil matters requires that allegations, **once publicly made and contested**, must be tested on the touchstone of preponderance of evidence while considering probability, corroboration and conduct, especially when they involve grave imputations against the dignity and reputation of another person.

22. In the present case, both parties are educated, independent and well-established figures in the entertainment industry. The plaintiff is a married, having two children (one son and one daughter), nationally and internationally recognized singer, actor and performer, with a professional career spanning nearly two decades. It is not disputed that throughout this long career during which he worked extensively in Pakistan and abroad, performed hundreds of concerts, collaborated with numerous artists, and received prestigious awards but no prior complaint of sexual harassment or similar misconduct was ever brought against him through any legal forum. This aspect of his professional and social history was highlighted by the plaintiff (PW-12), who deposed:

"In my entire career spanning about twenty years, I have never been accused of sexual

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harassment by anyone. I have worked with countless women artists, managers and professionals in Pakistan and internationally.”

This assertion remained unshaken in cross-examination. No contrary legally admissible evidence was produced by the defendant to demonstrate any prior pattern of sexual misconduct on the part of the plaintiff to have been reported before the allegation of sexual harassment levelled by her.

23. The defendant is an educated, independent and established artist, married, having two children, and admittedly a family friend and professional colleague of the plaintiff. She alleged that she was subjected to sexual harassment of a physical nature by the plaintiff on three occasions over a period of time. These allegations were first made publicly through a tweet dated 19.04.2018 (Ex.DW-4/1), followed by an interview published in Instep Today on 21.04.2018 (Ex.DW-4/I). Thereafter, she filed a formal complaint before the Ombudsperson under the Protection Against Harassment of Women at the Workplace Act, 2010 on 30.04.2018, which was dismissed by the Ombudsperson for want of Jurisdiction on 03.05.2018. The representation filed by the defendant before the Governor of Punjab met the same fate. A writ petition before the Honorable Lahore High Court was also dismissed, whereas the CPLA filed before the august Supreme Court of Pakistan having been admitted for hearing remains pending for adjudication. It is important that dismissal of the harassment complaint for want of jurisdiction does not amount to an adjudication on merits, nor does pendency of CPLA before the august Supreme Court of Pakistan establish the truth of the allegations. For the purposes

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of the present civil proceedings of defamation suit, this Court is required to assess the evidence produced by the parties independently.

24. It is a matter of judicial notice that, in our society, it is often difficult for a woman to disclose an incident of sexual harassment, even to her immediate family members. It is equally recognized that acts of sexual harassment are not necessarily confined to secluded places; such acts may occur in gatherings, public or private settings, workplaces, or even among acquaintances and friends. In many cases, the victim herself may be the only direct witness, and therefore the absence of independent corroboration is not, by itself, always fatal. However, these considerations do not dispense with the statutory requirement that, where a defendant as in present case publicly levels specific allegations against a named individual (the plaintiff) and invokes the defence of truth and public good, the burden remains upon her to establish that defence on the touchstone of the preponderance of probabilities. The statement of the defendant that she had experienced sexual harassment of physical nature by the plaintiff made through Tweet and "Instep Today" interview and later the details of three alleged incidents, as pleaded in her written statement and deposed by the defendant **Meera Shafi (DW-4)**, may be summarized as follows:

"The first incident occurred at a social gathering at the residence of the plaintiff's father-in-law, where she had arrived with her husband. She alleges that while greeting the plaintiff inside

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the house near a counter, he suddenly groped her. According to her, although other people were present in the room, they were positioned in front of them and may not have noticed the act. She states that she felt embarrassed and upset, went outside and informed her husband, who wanted to confront the plaintiff, but she requested him to leave instead to avoid a public altercation and controversy. She further states that she chose to forgive and forget the incident and did not inform the plaintiff's wife out of respect for both families.

"The second incident occurred a few years later at the plaintiff's residence during a social event, possibly the birthday celebration of his wife. She alleges that the plaintiff made inappropriate physical contact by grabbing her waist and pulling her close without her consent. She further states that photographers were present at the event and, following this incident, her social interaction with the plaintiff reduced significantly."

"The Third incident occurred during a rehearsal for a concert at the basement studio of the plaintiff's residence, where several musicians were present. She states that while standing beside the plaintiff and reading lyrics during the rehearsal, he came very close and again groped her.

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25. According to the defendant, she did not react immediately due to her contractual obligation to perform at the concert the next day, but instructed her Manager (DW-3) not to arrange any future projects involving the plaintiff and described him as a "very sleazy man. She further stated that she later faced difficulty when she learned that the plaintiff might join the judging panel of Pepsi Battle of the Bands, on which she served as a judge, and after unsuccessfully attempting to resolve the matter privately through the producers and legal intermediaries, she publicly shared her experience through a tweet and filed a complaint before the Ombudsperson; she also claimed that after her tweet several other women, including Momina Mustehsan, Leena Ghani, Hamna Raza, and Maham Javaid, spoke about similar experiences, while asserting that her allegation was true and that the defamation suit was filed to intimidate her, adding that her complaint was dismissed on technical grounds and subsequent proceedings were pursued before the Lahore High Court and the Supreme Court of Pakistan, and that she herself suffered reputational and professional loss after speaking publicly. In her examination in chief, the defendant maintained that all three alleged incidents occurred in two social and in one professional gatherings where other persons were present; however, according to her own stance, no one directly witnessed the alleged acts, as such conduct of the plaintiff, was momentary and discreet in nature and could have gone unnoticed by others present there. In her examination-in-chief, the defendant (DW-4) stated:

"I have been sexually harassed by the plaintiff in the past time and again... the first time he groped

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me... the second incident he grabbed my waist and pulled me very close without my consent... the third incident he groped me again."

She further stated:

"My tweet is sharing a true experience and is not a defamatory statement."

In cross-examination she admitted the absence of corroboration.

Regarding the first incident she stated:

"Is it your evidence that there are no witnesses to the incident?"

Ans: Yes."

Regarding the third incident she stated:

"Is it correct that there are no eye witnesses to this incident?"

Ans: Yes, even I myself am not an eye witness to this incident. I felt it but I did not see it."

She deposed:

"There were quite a few people, maybe somewhere in between 10 to 15 at its fullest."

"These incidents happened in gatherings where people were around, but sexual harassment does not happen loudly. Nobody noticed except me."

"No one else was present in a position to see what happened. These things happen very quickly and quietly, even in rooms where other people are present."

She further reiterated in cross-examination:

"I did not say that there were no people around. There were people present, but nobody noticed because sexual harassment does not happen loudly."

She further stated in cross-examination:

"I never said that there were no people present. There were people present, but nobody saw what happened because it happened very quickly."

The defendant's case, therefore, rests primarily upon her own testimony. It is a settled principle of law that in allegations of sexual harassment, the statement of the aggrieved person constitutes substantive evidence and may be relied upon even in the absence of corroboration by independent eyewitnesses, provided it inspires confidence. Nevertheless, such testimony is not immune from scrutiny and must be evaluated on the touchstone of settled evidentiary principles, particularly in light of the surrounding circumstances, inherent probabilities, consistency of the narrative, and the post-incident conduct of the parties. It is significant to note that in the tweet dated 19.04.2018, the defendant alleged that she had experienced sexual harassment of a physical nature at the hands of the plaintiff on more than one occasion. In the Instep interview dated 21.04.2018, however, she referred to two specific incidents: one, at a social gathering at the residence of the plaintiff's father-in-law, and second, during a jamming session at the plaintiff's residence. Subsequently, in the formal complaint filed before the Ombudsperson, another incident was also introduced, allegedly occurring at a birthday party of the plaintiff's wife. This constitutes a material contradiction in her overall narrative of alleged sexual harassment. It is further noteworthy that the defendant, while appearing as DW-4, did not depose anything in her examination-in-chief regarding the said Instep Today interview, nor did she produce the same in her

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own evidence. The interview was, in fact, confronted to her during cross-examination by learned counsel for the plaintiff. This omission assumes significance and undermines the consistency and credibility of her stance regarding the allegations. The further evidentiary value of her testimony shall be examined in the subsequent findings on this issue.

26. The remaining witnesses produced by the defendant, DW-1, DW-2 and DW-5 to DW-7, were neither present at nor eyewitnesses to any of the alleged incidents of sexual harassment, except DW-3, who was present during the jamming session relating to the third alleged incident.

DW-1:- SABA HAMEED, the real mother of the defendant, is not a witness to any of the alleged incidents of sexual harassment. She deposed that she had been told about the alleged incidents by the defendant while travelling in a car to attend a dinner at the house of DW-2, Iffat Umar. Significantly, the defendant Meera Shafi herself neither claimed nor deposed that she had narrated the alleged incidents to her mother. Had such disclosure actually been made, it would ordinarily have been expected to be mentioned by the defendant herself. The absence of such reference substantially weakens the probative worth of DW-1's statement and renders it hearsay in nature. During cross-examination, DW-1 admitted:

"I know that after a jamming session and concert Meesha Shafi sent a message in a WhatsApp group on 23.12.2017 stating: 'Had a great time jamming and performing. Hectic but memorable. And so grateful for the kind words Ali Zafar had to say on stage.'"

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The screenshot of the said WhatsApp message was confronted to DW-1 as DW-1/Mark-A and also exhibited as Ex.PW-12/61. She further deposed in cross-examination:

“Q: So, is it correct that, according to you, only a Facebook post by Fahad Rehman leveling allegations against the defendant is not sufficient proof of your daughter’s character?”

Ans: Yes, of course.”

Fahad Rehman did work with the defendant as Manager. His Facebook Post was confronted to the defendant in cross examination as (Ex.DW-4/B) which reads as under:-

“I have known both Meesha and Ali for a very long time. Before both were even famous. I’ve seen their stardom grow over the course of almost 2 decades. I have had the misfortune of working with Meesha. Other than her terrible temper and tantrums, on one occasion, I was blackmailed by her 5 minutes before a show to give up my share of the commission my agency was making, otherwise she will not perform. After returning from the trip back to Pakistan and firing her as a client, I was made aware that Meesha was telling friends and colleagues that I stole her performance fee. A few other incidents occurred that I don’t wish to get into but you get the gist. This was in 2008-09. Now I don’t know what happened between Ali and her, but what I do know is that she has the capability to blackmail and malign one’s reputation. Without hard evidence, I would take everything she says with a ton of salt.”

It is significant to note that, according to DW-1, a mere allegation made by Fahad Rehman against her daughter through a Facebook post (Ex.DW-4/B) is not sufficient proof; however,

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she treated the allegation made by her daughter against the plaintiff Ali Zafar through a tweet as authentic without requiring corroboration or proof. DW-1 asserted that the defendant disclosed three incidents of alleged sexual harassment to her about 10-15 days prior to the tweet dated 19.04.2018 concerning the plaintiff. However, in cross-examination she conceded that neither the written statement nor the examination-in-chief of the defendant mentions that such disclosure was made to her before the tweet. This omission assumes significance because the defendant specifically named several persons with whom she allegedly discussed the matter prior to making the public allegation, yet DW-1 was not included among them. DW-1 further admitted that she was not present at any of the alleged incidents and that her entire knowledge rests on what the defendant purportedly told her. Her evidence is therefore hearsay and not direct evidence of the occurrence of the alleged incidents. The testimony also reveals inconsistencies regarding the number and narration of the alleged incidents. While DW-1 stated that the defendant told her about three incidents, she admitted that the defendant's interview to Instep referred only to two incidents one during a jamming session and another at the house of the plaintiff's in-laws. DW-1 further conceded that she herself informed DW-2 about the alleged harassment but remained uncertain whether the defendant had personally narrated the same to DW-2. This creates uncertainty regarding the original source and consistency of the allegations circulated among the witnesses. Another aspect affecting the probative value of DW-1's testimony is her admission that, after

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the alleged jamming session, the defendant posted appreciative remarks on a WhatsApp group and social media about the event and the performance with the plaintiff, describing the experience as memorable and expressing gratitude toward him. Although DW-1 stated that she was not part of the said group, the existence of such a contemporaneous message tends to cast doubt on the immediacy and gravity of the alleged disclosure claimed to have been made to her. In view of these factors, the testimony of DW-1 appears to be predominantly based on maternal belief and personal conviction regarding the veracity of her daughter rather than independent knowledge of facts. Consequently, her testimony carries little probative worth in establishing the occurrence of the alleged incidents of sexual harassment attributed to the plaintiff, and being derivative rather than based on personal knowledge, it carries no evidentiary value for proving the truth of the alleged incidents.

27. DW-2 IFFAT UMAR is a professional actor, anchor and host of television programmes, and director of documentaries and talk shows, having worked in the field for about thirty years. She began her career as a model for commercial brands and later worked as an actor in television dramas, including the drama serial "Mohabbat Aag Si", for which she stated that she received a Best Actress award. She also hosts television programmes and participates in media discussions on social and entertainment-related issues. DW-2 testified that she has known both the plaintiff Ali Zafar and the defendant Meesha Shafi for many years through the entertainment industry. She stated that she had previously

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worked with the defendant's mother Saba Hameed, and that she also knew the plaintiff and his family, mentioning that the plaintiff's father had been her teacher. DW-2 expressly admitted that she was not present at the time of either of the alleged incidents of harassment. She stated in cross-examination that she came to know about the matter only when the defendant's mother informed her, and that later the defendant herself narrated the details after the tweet. In this regard she stated:-

"...Meesha told me regarding two incidents of sexual harassment by the plaintiff one was took place jamming session and second was in the house of in-laws of Ali Zafar. It is correct that I was not present on any occasion when alleged incidents of sexual harassment took place..."

Her statement that the defendant told her that "two incidents of sexual harassment" had occurred, one during a jamming session and another at the house of the in-laws of the plaintiff, is therefore purely derivative information, originating from the defendant herself. DW-2 also admitted that she does not remember the exact details of those incidents and could not confirm the precise date, time or circumstances in which the defendant disclosed these allegations. Thus, the foundation of her testimony regarding the alleged incidents rests entirely upon what was communicated to her by the defendant or her mother rather than upon any direct observation. The circumstances described by DW-2 also reveal uncertainty. She testified that a few days before the tweet the defendant came to a dinner hosted by her and appeared "very upset", yet when confronted with a photograph of the same dinner she admitted that the defendant appeared in a pleasant mood. The photograph of that dinner confronted her as Exh.DW-2/1, which she acknowledged was

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related to the same occasion. While she volunteered that a guest might conceal her feelings at a social gathering and therefore appear pleasant, the contemporaneous photographs nonetheless do not corroborate her earlier assertion regarding the defendant's visible distress. Another significant aspect affecting the worth of DW-2's testimony is her openly expressed opinions regarding the plaintiff prior to appearing as a witness. She admitted that she operates a twitter account and had posted comments about the controversy involving the plaintiff. She acknowledged that she had used expressions such as **"stop lying harasser"** while referring to the plaintiff and clarified that by the word **"harasser"** she meant Ali Zafar. In this regard she stated:

"...It is correct that in some programmes I have expressed my opinion and belief about Ali Zafar's reputation of being a harasser. It is correct that the interviews in which I expressed my opinion have been watched by thousands of people..."

She further admitted commenting about the plaintiff after his appearance with his wife in a morning show:

"...It is correct that I am aware of a morning show by the name of Ba-Khabar Sawiara. It is, in my knowledge that the plaintiff and his wife appeared as guests in that morning show... I have mentioned 'stop-lying harasser'. By harasser I meant Ali Zafar. I have mentioned the word stop lying harasser before recording my statement on 2.11.2019..."

She also admitted posting criticism of media anchors who hosted the plaintiff, including a tweet stating:

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"Disgusted with you both, especially the girl. Don't you know she has a gag order??? ... Shame on you all, stop lying Ali Zafar."

In another response she wrote:

"The same harasser is written all over his face."

These admissions demonstrate that DW-2 had already formed and publicly expressed a firm opinion that the plaintiff was a harasser, even though she simultaneously acknowledged that she had no personal knowledge of the alleged incidents. Her statement in cross-examination that "it is my opinion and belief that he is a harasser" reinforces the conclusion that her stance was based upon personal belief rather than evidence. Her testimony further reveals inconsistency in the approach she adopted towards allegations of harassment in other contexts. While she stated in examination-in-chief that "98% women generally speak truth about these matters and when they are doing it collectively they are never wrong," she admitted that in another controversy involving Cynthia D. Ritchie she believed that a woman could falsely allege sexual harassment against Yousaf Raza Gillani and Rehman Malik, describing those allegations as politically motivated "political stunts." Learned counsel for the plaintiff put the question on the witness and also wants to exhibit the video clip as Exh.DW-2/5. Her own words;

"It is correct that in my video clip I have said that Cynthia Ritchie had launched a defamatory campaign against Yousaf Raza Gillani and Rehman Malik. It is correct that Cynthia Ritchie being a woman has falsely alleged serious crime of sexual harassment and rape against Yousaf Raza Gillani and Rehman Malik. I did not believe Cynthia Ritchie".

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Likewise, when asked about allegations made by students of Lahore Grammar School against Omair Rana, she stated that she could not support the complainants because she lacked firsthand knowledge. Despite the same absence of firsthand knowledge in the present case, she maintained that her earlier statement regarding the plaintiff being a harasser was valid. These positions reveal inconsistencies in her approach: she dismissed or remained uncertain about allegations in other cases without proof, while asserting the allegations against the plaintiff as factual despite admittedly lacking personal knowledge. DW-2 stated in cross examination about another unrelated matter;

"I am aware of Ayesha Gullali (MNA) allegations against Imran Khan. I believe in the allegations of Gullali because Imran Khan is capable of doing such things. Again said this is my opinion which is not based on any evidence."

The above statement shows that DW-2 Iffat Umar formed and expressed a definite opinion regarding the allegation made by Ayesha Gulalai against Imran Khan the then Prime Minister, while simultaneously acknowledging that such opinion was not based on any evidence. In judicial proceedings, a witness is expected to depose facts within her knowledge rather than conjectures or beliefs about the conduct of others. The above statement therefore demonstrates that DW-2's approach in forming opinions on allegations of harassment is influenced by personal perception rather than by verifiable facts, which correspondingly affects the evidentiary weight that may be attached to her testimony.

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28. At the same time, she acknowledged the broader principle that false accusations can undermine genuine cases of harassment. In this regard she admitted:

"...I agree that if a false allegation is made by a woman against any person then she is damaging the case of real victims..."

She was further confronted with her own statements made in an interview relating to controversies within the entertainment industry. In that context she admitted that she had earlier stated that;

"...people from the industry make false allegations in their personal revenge..."

These admissions reflect that, according to DW-2's own understanding, false allegations can occur and may sometimes be motivated by personal animosity or revenge, and that such conduct ultimately harms the credibility of genuine victims of harassment. Regarding herself, she stated in cross examination,

"It is correct that in my video while referring to my own case against a channel I have said that people from the industry make false allegations in their personal revenge. It is correct that I belong to a privileged class. My husband was a CSP Officer and then he resigned and now he is a consultant. My brother in law is IG, Police. It is true that I said in this video that an owner of a Pakistan news channel has run a campaign against me by leveling a false accusation and it almost resulted in nerves breaking down."

This extract shows that DW-2 publicly stated that a news channel owner ran a campaign against her with false accusations, which she claimed caused significant personal distress ("almost resulted into nerves breakdown"). DW-2 also

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acknowledged that she never confronted the plaintiff or his family regarding the allegations before posting comments about him. She further admitted that an FIR under the Prevention of Electronic Crimes Act, 2016 had been registered against her on the complaint of the plaintiff, in which she was on bail and the investigating agency had found her involved in the alleged offence. Although the pendency of such proceedings does not by itself determine the truthfulness of her testimony, it nevertheless reflects her active participation in the public controversy surrounding the plaintiff. Importantly, DW-2 also stated in cross-examination that even if the plaintiff's suit was decreed she would still believe the defendant. This indicates a pre-existing commitment to a particular version of events irrespective of the judicial determination of the matter, which inevitably affects the neutrality expected from a witness. The testimony of DW-2 shows that her support for the defendant is grounded primarily in personal belief, friendship with the mother of the defendant, and general views about harassment, rather than in any direct knowledge of the alleged incidents. Her own admissions regarding public statements labeling the plaintiff a "harasser," her acknowledgment that these were expressions of opinion, and her statement that she would continue to believe the defendant regardless of the court's decision demonstrate a clear predisposition against the plaintiff. Consequently, while her testimony may reflect the social context in which the allegations gained support, it does not materially advance proof of the alleged incidents themselves, and its probative value remains limited due to its hearsay character and

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the evident bias reflected in her own admissions. In view thereof, DW-2 merely expressed her personal views regarding the defendant's allegations and commented upon unrelated accusations in other matters. Such opinions, however strongly expressed, are legally irrelevant for determining the truth of the facts in issue and therefore carry no evidentiary value.

29. DW-3, SYED FARHAN ALI, the Manager of the defendant, was not present during the first and second alleged incidents. He was present only during the rehearsal/jamming session where the third incident is alleged to have occurred. He deposed:

"I was present in the jamming session held in the house of the plaintiff Ali Zafar. I did not see any act of sexual harassment by the plaintiff as alleged by the defendant. I was not focusing my eyes on the plaintiff and the defendant and, a couple of times, I went out of the room and could not confirm whether it happened or did not happen, but I had not seen."

According to him, after the jamming session, the defendant Meesha Shafi told him that the plaintiff had made her uncomfortable and that she would not like to work with him in future. DW-3 further stated that the defendant later disclosed to him that she had been sexually harassed by the plaintiff in the past. In cross-examination, DW-3 conceded that he did not personally witness any act of harassment and that his knowledge regarding the allegation was based solely on what the defendant subsequently communicated to him. He also admitted that he was not present during the first two alleged incidents and, even regarding the third incident, he could not state

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whether it occurred because he had left the room multiple times. He further acknowledged that the defendant had posted a message on 23.12.2017 in a WhatsApp group appreciating the jamming session (Ex.PW-12/61) and had also posted a picture of the concert on social media (Ex.PW-12/62), matters about which he expressed no personal knowledge. His testimony therefore does not provide direct corroboration of the alleged acts of harassment and remains hearsay regarding the alleged incidents, except to the limited extent that it shows that the defendant expressed discomfort and later claimed to him that harassment had occurred. His admission that musicians must remain focused on the lead performers, making it "rare" not to observe them, renders the occurrence of any such act in a room full of professionals, including a recording individual, highly improbable, though not entirely impossible. However, on a balance of probabilities, the likelihood of such an incident going completely unnoticed is significantly reduced. His credibility is further impaired by the omission in his examination-in-chief of the defendant's voluntary visit to the plaintiff's residence prior to the jamming session, later admit in cross-examination, which contradicts the suggestion of mere contractual compulsion and reflects a Lack of Candour. Moreover, his account of the alleged incidents is admittedly based on what he learned later through public statements, as no particulars were disclosed to him at the relevant time, rendering his testimony hearsay and of limited evidentiary value. His acknowledgment of negotiations involving an "amicable resolution" with prospects of further financial benefit lends support to an alternative motive and does not

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advance the defence case. Finally, his inability to reconcile the defendant's contemporaneous appreciative conduct with the alleged incidents further weakens the defence narrative. Consequently, the evidentiary value of DW-3's testimony lies mainly in showing subsequent disclosure by the defendant rather than proving the occurrence of the alleged incidents themselves. Thus, the witness DW-3, though present during the jamming session, remains unable to support the defendant's stance. His testimony assumes significance because, when a witness present at the jamming session produced by the defendant does not corroborate the allegation, it weakens the evidentiary support available to the party bearing the burden of proof. Taken cumulatively, his testimony is partly hearsay, lacks reliability, and fails to corroborate the defendant's allegations

30. (DW-5), MAHMOOD REHMAN, husband of the defendant Meesha Shafi, appeared mainly to narrate what the defendant allegedly told him about the conduct of the plaintiff, Ali Zafar. At the outset, he conceded that he was not an eyewitness to any of the three alleged incidents. In cross-examination, he admitted:

"It is correct that I am not the eye witness of all the three alleged incidents of sexual harassment."

In his examination-in-chief, he stated that at a social gathering at the house of the plaintiff's father-in-law he was outside in the garden when the defendant came to him and said that "the plaintiff had touched me inappropriately," whereupon he became angry and wanted to confront the plaintiff, but the defendant insisted that they should immediately leave the house. However, he further conceded:

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"It is correct that I did not mention any witness... as soon as I heard... She asked me to leave immediately. I did not get any chance to react publicly."

Thus, even regarding the first alleged incident, his knowledge of the alleged act itself was not based on personal observation but only on what the defendant told him, rendering that portion of his testimony hearsay. In cross examination he further stated:

"...We remained at the social gathering at plaintiff father-in-law house for about one or one and half hour to the best of my knowledge. It is possible that she may have been singing songs but I cannot confirm or deny because I was outside and she was inside...."

The above statement in cross examination of DW-5 stands in conflict with the defendant's stance/statement that the first incident occurred at a social gathering at the residence of the plaintiff's father-in-law, where she had arrived with her husband. She alleges that while greeting the plaintiff inside the house near a counter, he suddenly groped her. She stated that she felt embarrassed and upset, went outside and informed her husband, who wanted to confront the plaintiff, but she requested him to leave instead to avoid a public altercation and controversy. As regards second alleged incident, the defendant (DW-4), in her cross-examination, made a material admission in the following terms;

"I cannot remember the exact date as to when I told my husband about 2nd incident of sexual harassment. I told my husband later after incident of sexual harassment but I do not remember either after first incident or the second"

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incident I told my husband. I did not tell anyone about the second incident for a long time."

This statement clearly establishes that the alleged second incident remained un-communicated to her husband (DW-5) for a considerable period, thereby creating uncertainty regarding its timing and surrounding circumstances. In his examination-in-chief, DW-5 stated:-

"Since after the first incident, we have reduced meetings with the plaintiff and after the second incident we discontinued our meeting."

He also stated:-

"I do not exactly remember as to when my wife told me about the alleged 2nd incident of sexual harassment."

In cross-examination, he admitted uncertainty both about the event and about his presence at the venue of the alleged second incident:-

"I am not 100% sure as to whether I was present at the event when the 2nd incident... took place. I do not remember that I, along with my wife, went to the house of the plaintiff on the eve of the birthday party of his wife."

During cross-examination he was confronted with photographs of the said gathering, including Ex.D4/K and Ex.D4/L. He stated:

"I can neither confirm nor deny that Ex.D4/K and Ex.D4/L are the pictures of the birthday party where the alleged second incident of sexual harassment took place."

Another photograph featuring DW-5 with the plaintiff (Ex.DW-5/3) was also acknowledged by him. He further stated:

"It is correct that Ex.DW-4/D is my picture with the defendant. However, I cannot confirm that the

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picture was of the birthday event when the alleged second incident of sexual harassment occurred.

31. Contrarily, the defendant (DW-4) acknowledged during cross-examination:

"It is correct that photograph Ex.DW-4/D is of the same occasion and the person with me is my husband."

The said photograph shows the defendant and her husband sitting on a piano at the birthday event held at the house of the plaintiff. These circumstances demonstrate uncertainty on the part of DW-5 regarding the factual setting of the alleged second incident. Subsequently, during re-examination, DW-5 sought to clarify his earlier statement. He stated that, at the time of the first alleged incident, the defendant had immediately informed him about it and that, after the occurrence of the first incident, a considerable period had passed during which both of them chose to ignore or forgive the said incident allegedly attributed to the plaintiff. However, with regard to the second alleged incident, DW-5 stated that he came to know about it from the defendant after a long time. He candidly admitted that he did not remember when exactly the second incident had occurred and that he was "not 100% sure" whether it had taken place before or after the Toronto concert, adding that it could have occurred either before or after the said event as considerable time had passed. He nevertheless denied the suggestion that no incident of sexual harassment had occurred and rejected the suggestion that the defendant had never informed him about the alleged second incident. The re-examination requires scrutiny. While DW-5 attempted to clarify that he had eventually been

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informed by the defendant about the second alleged incident, his testimony reveals a significant degree of uncertainty regarding the timing and circumstances of such disclosure. Notably, he candidly admitted that he does not know when the alleged second incident occurred and that he is "not 100% sure" whether it took place before or after the Toronto concert. This admission materially affects the probative value of his testimony on this aspect. If the second alleged incident had indeed occurred prior to the Toronto concert, the natural expectation would be that the defendant would have informed her husband about it in the same manner as she claimed to have done immediately after the first incident. However, DW-5's own statement suggests that he was not aware of any such second incident at the time when he accepted the professional engagement offered by the plaintiff for the Toronto concert. He himself admitted that, at the time of the concert, he was not aware that the plaintiff had allegedly harassed the defendant "many times." Thus, the testimony of DW-5 in re-examination does not provide any contemporaneous corroboration regarding the occurrence or disclosure of the second alleged incident. At best, it establishes that the witness claims to have been informed about it at some unspecified later stage. His inability to state with certainty whether the alleged second incident occurred before or after the Toronto concert, coupled with the admitted lapse of time, considerably reduces the evidentiary weight of his statement on this point. It is also significant to note that in her earlier public version of events, particularly in the Instep Today interview, the defendant (DW-4) did not make

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any reference to the alleged second incident of sexual harassment. This omission assumes importance because the said second incident was later specifically narrated in the formal complaint filed before the Ombudsperson on 30.04.2018 and subsequently reiterated in her written statement. The non-mention of such a material allegation at an earlier stage raises doubt regarding its subsequent introduction and affects the overall consistency and credibility of the defendant's version. As regards the third alleged incident during the rehearsal/jamming session at the plaintiff's residence, DW-5 again admitted that he was not present. He deposed that the defendant later told him and her manager that the plaintiff had again behaved inappropriately. Thus, with respect to this incident as well, his knowledge was derived from the defendant's narration rather than from direct observation.

32. Certain admissions made by DW-5 during cross-examination are also relevant in assessing the credibility and weight of his testimony. He acknowledged that after the first alleged incident he continued to work professionally with the plaintiff, including at a concert in Toronto in August 2016. He explained:

"After the first incident we decided to forgive and forget... on this basis I had chosen to work with the plaintiff in the said concert."

He further admitted that the defendant had posted a message in the WhatsApp group (Ex.PW-12/61) appreciating the jamming session and the plaintiff's remarks, stating:

"It is correct that the defendant sent a message on WhatsApp group... 'had a great time jamming

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and performing... grateful for the kind words Ali had to say on stage."

He also acknowledged that the defendant had posted a photograph with the plaintiff on her Twitter account on 23.12.2017 (Ex.PW-12/62) with the caption;

"I guess I post slower than I travel and perform?"

Last night in Islamabad crooning with @AliZafarsays #MeeshaShafiLIVE."

DW-5 also referred to allegations made by other women, including Hamna Raza, but admitted that Hamna Raza had issued a public apology and had not appeared before the Court to testify. His suggestion that the apology was the result of pressure from the Federal Investigation Agency was admittedly based on his personal belief, as he conceded that Hamna Raza had not appeared before any court to state that she had been threatened. In view of the above, the relevance of DW-5's testimony is limited primarily to the alleged subsequent disclosures made by the defendant to her husband. Since he admittedly did not witness any of the alleged acts, his statement does not constitute direct corroboration of the incidents. Moreover, his admissions regarding continued professional association with the plaintiff after the first incident, his uncertainty about the second incident, and the existence of contemporaneous photographs and social media posts showing cordial interaction between the parties are factors that bear upon the weight of his testimony. Accordingly, the probative worth of DW-5's testimony remains limited, as it largely consists of hearsay regarding the alleged incidents rather than independently establishing the occurrence of the alleged acts attributed to the plaintiff.

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33. **DW-6, LEENA GHANI**, is an artist with a Bachelor's degree in Fine Arts from the National College of Arts (NCA). She has held exhibitions, including Out of the Box at NCA and Impromptu in London, and is actively pursuing a career in the arts. She is the sister of Maheen Ghani and has been involved in public advocacy, including participation in social movements and reporting online harassment. She deposed that she studied at the National College of Arts, where the plaintiff Ali Zafar was her junior. She stated that although they knew each other during their student days, they were not close at that time. Later she became socially acquainted with the plaintiff and his wife through common friends. According to her, the defendant Meesha Shafi was not known to her during NCA days and she first met her professionally in 2012. DW-6 narrated certain alleged experiences with the plaintiff during a visit to London in June 2014. She alleged that during a gathering the plaintiff placed his hand around her shoulders and made a remark suggesting he felt like kissing her because of the rain. She further alleged that during dinner he asked her whether she was a "virgin" and laughed while referring to her being divorced. According to her, these remarks made her uncomfortable, though she admitted that the group continued to meet socially during the same trip. DW-6 further stated that after the defendant's tweet dated 19.04.2018 she posted a Tweet in support of the defendant, which was exhibited as (Ex.DW-6/1). The contents of the tweet mainly expressed solidarity with the defendant and referred generally to women speaking out about harassment, but did not contain detailed particulars of the

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incidents later narrated by the witness in her testimony. She stated that she posted the tweet independently and that she subsequently faced online trolling and threats. It also came on record that the plaintiff lodged complaints before the Federal Investigation Agency under the Prevention of Electronic Crimes Act 2016 against DW-6 and certain other individuals, including Hamna Raza and Maham Javaid, on the ground that he had been maliciously targeted through false online allegations. The plaintiff maintained that the complaints were filed to seek lawful redress and not to threaten anyone. It was also brought on record that Hamna Raza subsequently issued a public apology, acknowledging that her statement regarding the plaintiff was incorrect. Proceedings relating to the FIA complaints were later examined before the august Supreme Court of Pakistan, where investigation was stayed; however, the plaintiff maintained his stance that he had invoked lawful remedies to protect his reputation. During cross-examination, DW-6 was confronted with numerous photographs and social interactions between herself and the plaintiff (Ex.DW-6/23 to Ex.DW-6/48), including group photographs taken during the London trip in June 2014. She admitted that these photographs were genuine and acknowledged that despite the alleged incident on 09.06.2014 the group continued to meet socially during the following days. She also admitted that the specific incidents narrated in her testimony were not mentioned in her tweet dated 19.04.2018, which merely expressed support for the defendant. Various tweets from her Twitter account were also confronted and exhibited (Ex.DW-6/6 to Ex.DW-6/22). One out of these is

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Exh.DW-6/16 reads as “Womxn who all agree that men are more deadly than a virus”. From this, it can be observed that DW-6 holds strong gender-based personal views, which are reflected in her tweets. In the context of the plaintiff’s case, this indicates a potential predisposition, as her publicly expressed views may influence her perception of the plaintiff and the allegations. While such views do not automatically discredit her testimony, they suggest that her opinions could be shaped by gender-based perspectives rather than being entirely neutral or objective. From the evidentiary standpoint, the tweet Ex.DW-6/1 is relevant only to show a subsequent public expression of support for the defendant and the broader discourse regarding harassment. DW-6 admittedly was not present at any of the three incidents alleged by the defendant, and therefore her testimony does not constitute direct corroboration of those incidents. Moreover, the truthfulness of the alleged experience narrated by DW-6 has yet not been established by her before any competent forum, and thus it cannot be treated as a proven fact in the present proceedings. The FIA complaints and related proceedings merely reflect the adversarial legal actions that followed the controversy and do not, by themselves, establish the truth of the allegations. DW-6 explicitly stated that she “totally believes Meesha that she is telling the truth,” which at best constitutes a subjective opinion. Her testimony primarily relates to personal beliefs, professional opinions, or unrelated experiences. It is well settled that an opinion, however sincere or strongly held, cannot substitute for direct or legally admissible proof of facts in issue consequently, while the testimony of DW-6

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may lend moral support to the narrative advanced by DW-4, its evidentiary value remains limited. It neither corroborates the specific incidents alleged by the defendant nor supplies independent proof thereof. DW-6's testimony explains her support for the defendant and narrates her own allegations, its probative worth in proving the incidents forming the basis of the present suit remains limited.

34. DW-7, MS. HAMNA ZUBAIR, appeared as a journalist witness. At the outset, she stated that she did not know the defendant personally and had never met her in person, and that her interaction with the defendant occurred only in April 2018 when the defendant contacted her to discuss the allegation against the plaintiff and the possibility of coverage in DAWN Images. She explained that she had already taken the defendant's statement before the public tweet, but publication only occurred after the defendant herself made the allegation public on Twitter on 19.04.2018. DW-7 further testified that, after the defendant's tweet, she contacted the plaintiff Ali Zafar for his version and subsequently published an article on DAWN Images on 19.04.2018 (Ex.DW-7/41). During cross-examination she admitted that the article was published within a few minutes after contacting the plaintiff, before receiving his detailed response. Although she explained that such timing was consistent with the practice of reporting breaking news and that the plaintiff's response was later incorporated, the circumstance nonetheless indicates that the initial publication proceeded substantially on the basis of the defendant's version. The witness also deposed that other women had privately contacted

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her alleging harassment by the plaintiff, though she declined to disclose their identities on the ground of journalistic confidentiality. She further stated that reporting on harassment-related issues formed part of her professional work and that the plaintiff's case was not the only matter she had covered. During cross-examination, the witness was confronted with several of her tweets and social-media posts (Ex.DW-7/1 to Ex.DW-7/39) relating to the controversy, including reporting about court proceedings and public reaction to the dispute. She admitted some of these tweets and acknowledged that she had tweeted about the defendant's court appearance and protests at the premiere of the plaintiff's film. While DW-7 maintained that the said Twitter account was personal and not affiliated with DAWN, the admitted posts show that she had publicly commented upon the controversy while simultaneously reporting on it. The witness also admitted that she knew the defendant's counsel Nighat Dad and other persons working in women's rights advocacy in a professional capacity, and that she had participated in events such as Aurat March and conferences organized by organizations including Digital Rights Foundation. However, she denied that these associations indicated bias or any coordinated effort to target the plaintiff. Learned counsel for the plaintiff argued that the testimony of DW-7 reveals bias against the plaintiff and a tilt towards the defendant, contending that the reporting in this matter went beyond the limits of neutral journalistic practice. This argument is primarily based on the circumstances that the witness had obtained the defendant's version prior to the public tweet, that the article was

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published almost immediately after contacting the plaintiff without waiting for his detailed response, and that she had posted multiple tweets commenting upon the controversy. Nevertheless, it is equally clear from the testimony of DW-7 that she did not witness any of the alleged incidents of sexual harassment, nor did she claim that the defendant made any contemporaneous disclosure of such incidents to her before the tweet. Her testimony essentially concerns the circumstances in which the allegation came to be reported in the media, the journalistic process followed by her, and the subsequent public discourse surrounding the controversy. However, DW-7, prayed dismissal of suit, which does not commensurate her job description as a journalist to report the matter with neutrality.

35. On the contrary thereto, the **plaintiff's (PW-12)** reaction was immediate. On the very day of the tweet, he publicly denied the allegations and declared his intention to seek legal recourse (Ex.PW-12/58). He thereafter issued a legal notice dated 24.04.2018 (Ex.PW-12/59) demanding retraction and apology. The defendant responded to the legal notice but neither apologized nor disclosed that she had already filed a complaint of harassment against the plaintiff before the Ombudsperson on 30.04.2018 which was dismissed for want of Jurisdiction on 03.05.2018. The plaintiff (PW-12) categorically and consistently denied all allegations. In his examination-in-chief, he deposed:

"I have never touched the defendant inappropriately, nor have I ever harassed her physically or otherwise. These allegations are completely false."

He further stated:

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"I have worked in the entertainment industry for almost twenty years, in Pakistan and internationally, with countless women. No such allegation was ever made against me before this tweet."

During cross-examination, the plaintiff maintained the same stance and highlighted the improbability of the incidents:

"There was never any incident of sexual harassment. The defendant continued to meet me socially and professionally even after the dates she now alleges. That conduct is inconsistent with her allegations."

In view thereof, the PW-12 maintained the same stance and reiterated that no incident of sexual harassment had occurred. He emphasized that the defendant continued to meet him socially and professionally even after the dates of the alleged incidents, conduct that is wholly inconsistent with her present claims. He also pointed out that the alleged incidents took place in the presence of gatherings, including family members, colleagues, and other musicians, making the alleged acts highly improbable to have occurred although even if unnoticed by the several persons present. Further, PW-12 highlighted the defendant's subsequent conduct, continued cordial interactions, participation in social gatherings, exchange of messages appreciating professional collaboration, and social media posts featuring joint appearances which materially supports the improbability of her allegations and casts doubt upon the credibility of her narrative. He also identified an improvement in the defendant's version, the progression from initially alleging two incidents of sexual harassment in her first public interview in Instep dated 21.04.2018 (Ex.DW-4/I) and then in her formal

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complaint claiming three incidents of sexual harassment, which adversely affects the weight of the defence evidence. Learned counsel for the plaintiff argued that the plaintiff's detailed and categorical denial, coupled with the inherent improbabilities in the alleged incidents, the admitted presence of several persons, and the defendant's own subsequent conduct, collectively establish that the allegations were false. He further contended that although the defendant has claimed good faith, the timing, manner, and extent of publication without prior recourse to any competent forum together with the failure to substantiate the allegations, demonstrates a reckless disregard for the truth, thereby satisfying the legal conception of malice in defamation. It was further maintained that in civil proceedings, where the standard of proof is that of preponderance of probabilities, the plaintiff is not required to establish his case beyond doubt; rather, it is sufficient if his version appears more probable, consistent, and trustworthy in light of the entire record. According to the learned counsel, the cumulative effect of the oral and documentary evidence tilts the balance of probabilities in favour of the plaintiff, whereas the defendant has failed to substantiate the allegations or legally justify their publication.

36. The plaintiff produced witnesses who were admittedly present at the rehearsal/jamming session. The testimony of **PW-1, BAQIR ABBAS (Flute Player)**, reflects his distinguished professional profile as a flute player with over three decades of experience, having performed with renowned artists such as Nusrat Fateh Ali Khan, Noor Jehan, Mehdi Hassan, Ghulam Ali, Abida Parveen, Asha Bhosle, and

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Hariharan. This demonstrates his long-standing association with the music industry and his international exposure. He deposed that he had known the plaintiff, Ali Zafar, for the past 18-20 years, and the defendant, Meesha Shafi, since her collaboration in the song "Jugni," thereby establishing his familiarity with both parties. Being present throughout the jamming session and knowing to both the plaintiff and the defendant, he provided an account of the physical setting and the conduct of the parties. He categorically stated that no act of sexual harassment occurred. PW-1 Baqir Abbas deposed:

"I was already present there when Meera Shafi Defendant came there. The defendant remained there for 45 minutes. Plaintiff and other 6/7 artists were present when Meera Shafi Defendant left."

"Defendant Meera Shafi did not meet anyone except Asad Ahmad GUITARIST and when she left, she only hugged Ali Zafar plaintiff."

"The jamming session at the house of Ali Zafar went very well in a good and friendly atmosphere."

"Similarly, the event also went very well and it was a remember-able performance. I was present close to the plaintiff and defendant and no act causing sexual harassment to defendant was done by the plaintiff which I could observe. I have travelled with plaintiff abroad in a group including female artists. I have not seen plaintiff misbehaving with female artist in last 18/20 years."

"I was present close to the plaintiff and defendant and no act causing sexual harassment to defendant was done by the plaintiff which I could observe"

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"When the defendant came to the session, she hugged the plaintiff, and she did the same when she left the session."

Learned counsel for the plaintiff argued that this witness stated that the artists were stationed in a circle and was not in a position to observe the act of sexual harassment by the plaintiff. PW-1 stated in his evidence that he did not observe the act of sexual harassment, he did not say that the act did not occur but he could not observe the same.

37. PW-2, KINZA MUNIR (Vocalist Singer) described the jamming session at the plaintiff's residence, denied the allegation of groping, and stated that all musicians remained focused on the rehearsal throughout. Upon learning that the defendant's allegations related to the same session, she posted a public response on Instagram on 21.04.2018, which she produced as Exh.PW-2/1. PW-2 stated:

"When the defendant joined the jamming session, I was already present there. The defendant greeted the plaintiff, and they hugged each other. After the session, the defendant again hugged the plaintiff. During the session, the plaintiff and the defendant stood in the center while the other musicians formed a circle around them."

She further stated:-

"I have performed many concerts with the plaintiff, including those held outside Pakistan. My experience with him has always been very pleasant and professional."

"I could not discern from the behavior or body language of the defendant that she was being sexually harassed during the jamming session."

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She produced her contemporaneous Instagram post exhibited as Ex.PW-2/1. The testimony of PW-2 remained consistent during cross-examination. Her acknowledgment of the #MeToo Movement reflects a balanced and unbiased approach, while her categorical denial of the alleged act, despite accepting the existence of workplace harassment generally, enhances her credibility. Learned counsel argued that this witness stated in cross examination that was not in a position to see the hand movement of the plaintiff if it was placed at the back of the defendant. The video clip of the jamming session also belies the claim of the witness that the inter-se distance between the plaintiff and defendant was 3 to 4 feet.

38. **PW-3, AQSA ALI** (Vocalist Singer) produced her affidavit (Ex.PW-3/1), described the jamming session at the plaintiff's residence, denied the allegations of sexual harassment, and stated that the defendant hugged the plaintiff upon arrival and departure. She confirmed the continuous presence of musicians and vouched for the plaintiff's good character. After learning that the defendant's allegations concerned the jamming session she had attended, the witness posted a response on Instagram on 21.04.2018, which she produced as Exh. PW-3/2. In her words;

"I was already present at the plaintiff's residence and thus present at the jamming session. When the defendant entered, she waved at guitarist Asad Ahmed and hugged the plaintiff."

"The defendant came to the jamming session and left the jamming session happily, on both instances (arrival and departure) she hugged the plaintiff."

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"At the time of the defendant's departure, all the artists, including myself, were present."

"I was performing in close proximity to the lead singers. During the rehearsal, the eyes of all the artists were constantly towards the Defendant and the Plaintiff as we artists have to constantly look at the singers to adjust our vocals/instruments according to their ongoing beat as it was live music and not a track and in a live music artists have to constantly look at the lead singers to adjust cords etc. Likewise, my eyes were also constantly towards the Defendant and the Plaintiff."

"The concert featured excellent performances, and the jamming session was conducted in a professional and amicable manner."

"The first time when I heard regarding the allegation leveled by the Defendant against the Plaintiff, I was left shocked but when it came to my knowledge that the allegation included the jamming session of which I was a part, I at once knew that the Defendant Meera Shafi was leveling false allegations on the Plaintiff.

"I did not see any such incident occur before my eyes. I know the plaintiff to be a man of excellent character and manners."

During cross-examination, the witness expressed respect for the #MeToo Movement, acknowledged the possibility of workplace harassment, yet firmly denied any misconduct by the plaintiff. She reaffirmed the presence of other musicians. Learned counsel for the defendant argued that this witness admitted in cross examination that she was not in a position to see the movement of the plaintiff hand if it was placed on the back of the defendant. She also stated a 3-5 feet distance between the

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plaintiff and defendant contrary to the video clip of the jamming session.

39. PW-4: QAISER ZAIN-UL-ABEDIN (Vocalist Singer) denied the allegation of sexual harassment, stating that he was present throughout the jamming session and that all musicians remained focused on the rehearsal. He confirmed that the defendant arrived and departed in a normal, cheerful manner and hugged the plaintiff on both occasions, with all participants continuously present. He stated:

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مدعا علیہا نے وہاں ہینتالیس سے ساٹھ منٹ تک رہبرسل کی اور جاتے وقت بھی مدعا علیہا میرے سامنے مدعی علی ظفر کو ہر جوشی سے گلے مل کر گئیں اور خوشی سے رخصت ہو گئیں

میں نے پہلی بار مدعا علیہا میرا شفیق کے مدعی علی ظفر کے بارے میں الزامات سنے تو مجھے بہت حیرت ہوئی۔ مگر مجھے جب پتا چلا کہ ان الزامات میں جیمنگ، رہبرسل والا سیشن بھی شامل ہے تو مجھے صاف نظر آگیا کہ میرا شفیق جھوٹا الزام لگا رہی ہیں۔ کیونکہ میں جیمنگ، رہبرسل میں سارا وقت خود موجود تھا۔ اور کوئی ایسا نہ خوشگوار واقعہ نہ ہوا۔ مدعا علیہا جیمنگ سیشن پر خوش آئی تھیں اور خوش گئی تھیں اور نہ جیمنگ سیشن اور کانسرٹ بہترین طریقہ سے سرانجام پائے تھے۔

The above statement in chief remained un-cross-examined by the learned counsel for the defendant; however he argued that this witness incorrectly stated the inter-se distance between the plaintiff and defendant was about 3-4 feet. He also incorrectly stated while performing on the back side of the plaintiff and defendant, he was easily able to observe both plaintiff and defendant despite the fact his face was towards a wall and not towards the backside of plaintiff and defendant and this witness also admitted to the jamming session video clip as being true. In this video, it is clear that the witness was facing the wall and he could not constantly observe the hand of the plaintiff. During

cross-examination, the witness stated that he had only recently become aware of the #MeToo Movement. He reaffirmed the presence of other musicians during the session and categorically denied the occurrence of any alleged incident.

40. PW-5, MUHAMMAD ALI ZAFAR (Base Player) denied the allegation of sexual harassment allegedly occurred at Jamming session, stating that he remained present throughout the jamming session and, along with the other musicians, stayed focused on the performance as it was a rehearsal for a live concert. He confirmed the continuous presence of all musicians, noted that the defendant arrived and left in a cheerful manner, and that she hugged the plaintiff on arrival and departure. He further stated that both the jamming session and the concert were conducted in a professional and amicable environment. He stated:

میں اس پیشہ سے پندرہ سے سولہ سال سے منسلک ہوں۔ اور میں اس دوران کافی آرٹسٹ کے ساتھ کام کر چکا ہوں، سجاد علی کے ساتھ میں پچھلے چھ سال سے کام کر رہا ہوں۔ احمد جہانزیب کے ساتھ بارہ سال سے کام کر رہا ہوں۔ رچل وکاجی کے ساتھ دو سال سے کام کر رہا ہوں۔ میں نے علی عظمت کے ساتھ کیا، فاخر کے ساتھ کام کیا، کوک سٹوڈیو میں شفقت امانت علی کے ساتھ کام کیا۔ پیپسی بیٹل آف دی بینڈ میں "جوش" کے ساتھ کام کیا۔ میں نے فیوزن اور فاخر کے ساتھ بھی کام کیا

جس وقت مدعا علیہا، مدعی کی رہائشی گاہ پر ریہرسل میں حصہ لینے کے لیے تشریف لائی تھیں، میں پہلے سے وہاں موجود تھا۔ مدعا علیہانے آتے وقت اسد احمد کو ہاتھ بلایا اور علی ظفر سے گلے ملیں۔ مدعا علیہا نے وہاں پیتالیس سے ساٹھ منٹ تک ریہرسل کی اور جاتے وقت بھی مدعا علیہا میرے سامنے صرف مدعی علی ظفر کو ہر جوشی سے گلے مل کر گئیں اور خوشی سے رخصت ہو گئیں

میں نے پہلی بار مدعا علیہا میرا شفیع کے مدعی علی ظفر کے بارے میں الزامات سنے تو مجھے بہت حیرت ہوئی۔ مگر مجھے جب پتا چلا کہ ان الزامات میں جیمنگ۔ ریہرسل والا سیشن بھی شامل ہے تو مجھے صاف نظر آگیا کہ میرا شفیع جھوٹا الزام لگا رہی ہیں۔ کیونکہ میں جیمنگ۔ ریہرسل میں سارا وقت خود موجود تھا۔ اور کوئی ایسا نہ خوشگوار واقعہ نہ ہوا۔ مدعا علیہا جیمنگ سیشن پر خوش آئی تھیں اور خوش گئی تھیں اور یہ جیمنگ سیشن بہترین طریقہ سے سرانجام پایا تھا

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The above statement in chief remained un-cross-examined by the learned counsel for the defendant, however he argued that in cross examination this witness also admitted that he could not observe the plaintiff's hand if the same was placed on the back of the defendant. This witness also incorrectly stated that the inter-se distance between the plaintiff and defendant was 3 to 4 feet. The witness also admitted the small video clip of the jamming session confirming it to be true During cross-examination, the witness stated that he had no knowledge of the #MeToo Movement. He confirmed that other musicians were present during the jamming session and categorically denied the occurrence of any alleged incident.

41. **PW-6, ASAD AHMAD** (Lead Guitarist) denied the allegation of sexual harassment, stating that he remained present throughout the jamming session and, along with the other musicians, stayed focused on the performers as it was a rehearsal. He confirmed that the defendant arrived and left in a cheerful manner, hugged the plaintiff on both occasions, and that all musicians were continuously present during the session. He stated:-

"I am a producer and a professional guitarist. I have played with Ali Zafar, Awaz, Vital Signs, Karavan, Junoon, Nusrat Fateh Ali Khan; Sajjad Ali and countless other musicians. I have been associated with this profession for the better part of the past 30 years."

"I was already present at the residence of the Plaintiff at that time thus present at the jamming session. When the Defendant entered, she waived her hand towards me and hugged the Plaintiff. The Defendant was present at the

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residence of the Plaintiff for a period of 45 minutes to an hour. The Defendant came to this jamming session and left this jamming session happily, on both instances (arrival and departure) she hugged the Plaintiff.”

“I was performing at a distance of about 5 feet to the lead singers. During the rehearsal, the eyes of all the Artists were constantly towards the Defendant and the Plaintiff as we artists have to constantly look at the singers to adjust our vocals/instruments according to their ongoing beat as it was live music and not a track and in live music artists have to constantly look at the lead singers to adjust cords etc. Likewise, my eyes were also constantly towards the Defendant and the Plaintiff. Prior to the concert dated 23.12.2017, there was a sound check where all the Artists, the Plaintiff and the Defendant were present. The concert witnessed excellent performances and the jamming session was also conducted in an excellent, amicable way.”

“The first time when I heard regarding the allegation levelled by the Defendant against the Plaintiff, **I was left shocked but when it came to my knowledge that the allegation included the jamming session of which I was a part, I at once knew that the Defendant Meera Shafi was levelling false allegations on the Plaintiff.** I could say this as I was part of the jamming session regarding which the Defendant had levelled the allegation (and I was there throughout the time the Defendant remained there and I was also there during the entire tenure of the jamming session). Nothing untoward happened and the Defendant came and left happily. Nothing happened that is being claimed to have happened. When the Defendant left the

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jamming session she hugged the Plaintiff and she left both the jamming session and the event very happily. I know the Plaintiff to be a man of excellent character and mannerisms."

The above statement in chief remained un-cross-examined by the learned counsel for the defendant, however, he argued that this witness incorrectly stated that he could easily see the hand movement of the plaintiff even if his hands were at the back of the defendant because of his close distance with the plaintiff and defendant. This statement was designed to favor the plaintiff considering that witnesses before him had admitted the fact that they were not in a position to witness plaintiff's hand movement. The witness has also admitted to the jamming session video clip Exh.DW-4/F. He further argued that most of the instrument players like this witness have to focus on their instruments during rehearsal and it is not possible that their eyes gaze is consistently fixed on the plaintiff and defendant for the entire 45 to 60 minutes. Therefore it is impossible for them to state with certainty that the act of groping by the plaintiff did not occur and that the defendant is making a false statement. During cross- examination, the witness stated that he was not aware of the #MeToo Movement. He gave an account of the seating and standing arrangement in the jamming room, confirmed the presence of other musicians, and categorically denied the occurrence of any alleged incident.

42. PW-7, KASHIF CHAMAN (Percussionist) rejected the allegation of sexual harassment, stating that he remained present throughout the jamming session and, along with the other musicians, remained attentive to the performers. He

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confirmed that the defendant arrived and departed in a cheerful state, hugged the plaintiff on both arrival and departure, and that all musicians were present throughout the session. He further added that both the jamming session and the concert were conducted in a cordial and professional manner. He stated:

میں پیشہ سے پرکشنسٹ ہوں اور تقریباً اٹھارہ سال سے میوزک انڈسٹری سے وابستہ ہوں۔ میں مدعی علی ظفر کے علاوہ دیگر فنکاروں کے ساتھ بھی پر فارم کر چکا ہوں۔ جن میں سجاد علی، احمد جہانزیب، ساحر علی بگا، شجاع حیدر شامل ہیں۔ حال ہی میں، میں نے گلوکارہ میشا شفیع کے ساتھ بھی پیپسی بیٹل آف دی بینڈ میں پر فارم کیا ہے۔

جس وقت مدعا علیہا، مدعی کی رہائشی گاہ پر ریہرسل میں حصہ لینے کے لیے تشریف لائی تھیں، میں پہلے سے وہاں موجود تھا۔ مدعا علیہانے آتے وقت اسد احمد کو ہاتھ بلایا اور علی ظفر سے گلے ملیں۔ مدعا علیہا نے وہاں پینتالیس سے ساٹھ منٹ تک ریہرسل کی اور جاتے وقت بھی مدعا علیہا ریہرسل کے بعد مدعی کی رہائشی گاہ سے رخصت ہوئیں، اُس وقت مدعا علیہا میرے سامنے صرف مدعی علی ظفر کو ہر جوشی سے گلے مل کر گئیں اور خوشی سے رخصت ہو گئیں۔

میرا بھی مدعی اور مدعا علیہا سے بہت کم فاصلہ تھا اور وہ مسلسل میری نظر میں تھے۔ مدعی اور مدعا علیہا چونکہ لیڈ سنگر تھے۔ اور انہوں نے لائیو پر فارم کرنا تھا نہ کہ ٹریک پر۔ سب فنکاروں کی نظر مسلسل مدعی اور مدعا علیہا پر رہتی تھی۔ کیونکہ ہمیں فنکاروں کی آواز کا اٹھاؤ اور اتراؤ کو مدنظر رکھتے ہوئے میوزک بجانا ہوتا ہے اور دوران ریہرسل ہم اپنی نظریں فنکاروں سے ہٹا نہیں سکتے۔ 23.12.2017 کو کانسرٹ سے پہلے ساؤنڈ چیک بھی ہوا تھا جس میں فنکار اور مدعی اور مدعا علیہا بھی موجود تھے۔ دوران کانسرٹ بہترین پر فارمینسز ہوئیں اور جیمنگ سیشن بہت ہی پہلے اور بہترین انداز سے جاری اور ختم ہوا۔ ایونٹ بھی بہت اچھے طریقے سے سرانجام پایا اور یہ ایک یادگار ایونٹ تھا۔

میں نے پہلی بار مدعا علیہا میرا شفیع کے مدعی علی ظفر کے بارے میں الزامات سنے تو مجھے بہت حیرت ہوئی۔ مگر مجھے جب پتا چلا کہ ان الزامات میں جیمنگ، ریہرسل والا سیشن بھی شامل ہے تو مجھے صاف نظر آگیا کہ میرا شفیع جھوٹا الزام لگا رہی ہیں۔ کیونکہ میں جیمنگ۔ ریہرسل میں سارا وقت خود موجود تھا۔ اور کوئی ایسا نہ خوشگوار واقعہ نہ ہوا۔ مدعا علیہا جیمنگ سیشن پر خوش آئی تھیں اور خوش گئی تھیں

The above statement in chief remained un-cross-examined by the learned counsel for the defendant, however he argued that this witness claimed that the inter-se distance between the plaintiff and defendant was 3 to 4 feet. In cross examination, he

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stated that the inter-se distance between the plaintiff and defendant was 2-3 feet. He also incorrectly stated that he was in a position to observe the hand movement of the plaintiff even if it was at the back side of the defendant. He argued that these witnesses were trying to unsuccessfully cover the truth revealed by PW-2, 3 and 4 that it was not possible for them to see the act of harassment by the plaintiff on account of their standing position. He also admitted the jamming session video clip as being of said event. During cross-examination, the witness accepted that sexual harassment exists in society, while stating that reporting it is a matter of individual choice. He confirmed that other musicians were present during the jamming session and provided an account of the seating and standing arrangements in the room.

43. **PW-8, JOSHUA KEITH BENJAMIN** (Key board player) rejected the allegation of sexual harassment, stating that he remained present throughout the jamming session along with other musicians who were focused on the performers He stated:

یہ پیشہ سے کیبورڈ پلیئر اور میوزک مینجر ہوں۔ میں گزشتہ ہندسہ سالوں سے میوزک ہالے کر رہا ہوں۔ میں مدعی علی ظفر کے علاوہ دیگر فنکاروں کے ساتھ بھی کام کر چکا ہوں۔ میں پاکستان کے نامور فنکاروں کے ساتھ ہالے کر چکا ہوں جن میں مدعی علی ظفر ہیں، سجاد علی ہیں، احمد جہانزیب ہیں، عابدہ پروین، استاد راحت فتح علی خان، کیو۔ بی، حدیقہ کیانی وغیرہ شامل ہیں۔ میں کوک سٹوڈیو سیزن 9 اور 10 میں بھی ہالے کر چکا ہوں۔ پیپسی بیٹل آف دی بینڈ پر فارم کر چکا ہوں۔

جس وقت مدعا علیہا، مدعی کی رہائشی گاہ پر ریہرسل میں حصہ لینے کے لیے تشریف لائی تھیں، میں پہلے سے وہاں موجود تھا۔ مدعا علیہانے آتے وقت اسد احمد کو ہاتھ بلایا اور علی ظفر سے گلے ملیں۔ مدعا علیہا نے وہاں ہپتالیس سے ساٹھ منٹ تک ریہرسل کی اور جاتے وقت بھی مدعا علیہا میرے سامنے صرف مدعی علی ظفر کو پُر جوشی سے گلے مل کر گئیں اور خوشی سے رخصت ہو گئیں۔

جیمنگ سیشن پر خوش آئی تھیں اور خوش گئی تھیں اور یہ جیمنگ سیشن بہترین طریقہ سے سرانجام پایا تھا۔

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The above statement in chief remained un-cross-examined by the learned counsel for the defendant, however he argued that this witness claimed that the inter-se distance between the plaintiff and defendant was 3 to 4 feet. His statement is also incorrect because plaintiff and defendant as per se the jamming session video clip were at times less than an inch away from each other. He also incorrectly stated that he was constantly looking at both the plaintiff and defendant. The witness also admitted the jamming session video. Most of the instruments like this witness have to focus on their instruments during rehearsal and it is not possible that their eye gaze is constantly fixed on the plaintiff and defendant for a 45 to 60; minutes jamming session. During cross- examination, the witness acknowledged the existence of sexual harassment in society but stated that reporting it is a personal choice. He confirmed the presence of other musicians during the jamming session, described the seating and standing arrangements in the room.

44. PW-9, MUHAMMAD TAQI (Saxophone Player) rejected the allegation of sexual harassment, stating that he was present throughout the jamming session with other musicians who remained focused on the performers. He confirmed that the defendant arrived and departed in a cheerful mood, hugged the plaintiff on both arrival and departure, and that all musicians were continuously present, with both the session and the concert conducted in a cordial and professional manner. He stated:

میں پیشہ سے سیکو فون پلیئر ہوں۔ میں بچہ چالیس سال سے فلم انڈسٹری سے منسلک ہوں۔ میں نے بڑے بڑے لیجنڈز کے ساتھ کام کیا

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ہے۔ جن میں میڈم نور جہاں اور نصرت فتح علی خاں صاحب سر فہرست ہیں۔

جس وقت مدعا علیہا، مدعی کی رہائشی گاہ پر ریہرسل میں حصہ لینے کے لیے تشریف لائی تھیں، میں پہلے سے وہاں موجود تھا۔ مدعا علیہا نے آتے وقت اسد احمد کو ہاتھ بلایا اور علی ظفر سے گلے ملیں۔ مدعا علیہا نے وہاں پینتالیس سے ساٹھ منٹ تک ریہرسل کی اور جاتے وقت بھی مدعا علیہا میرے سامنے صرف مدعی علی ظفر کو ہر جوشی سے گلے مل کر گئیں اور خوشی سے رخصت ہو گئیں۔

2017.12.23 کو کانسرٹ سے پہلے ساؤنڈ چیک بھی ہوا تھا جس میں 2017.12.23 کو کانسرٹ سے پہلے مدعا علیہا بھی موجود تھے۔ دوران کانسرٹ بہترین ہر فارمینسز ہوئیں اور جیمنگ سیشن بہت ہی بھلے اور بہترین انداز سے جاری اور ختم ہوا۔ ایونٹ بھی بہت اچھے طریقے سے سرانجام پایا اور یہ ایک یادگار ایونٹ تھا۔

میں نے پہلی بار مدعا علیہا میرا شفیع کے مدعی علی ظفر کے بارے میں الزامات سننے تو مجھے بہت حیرت ہوئی۔ مگر مجھے جب پتا چلا کہ ان الزامات میں جیمنگ، ریہرسل والا سیشن بھی شامل ہے تو مجھے صاف نظر آگیا کہ میرا شفیع جھوٹا الزام لگا رہی ہیں۔ کیونکہ میں جیمنگ، ریہرسل میں سارا وقت خود موجود تھا۔ اور کوئی ایسا نہ خوشگوار واقعہ نہ ہوا۔ مدعا علیہا جیمنگ سیشن پر خوش آئی تھیں اور خوش گئی تھیں اور نہ جیمنگ سیشن اور کانسرٹ بہترین طریقہ سے سمجھتا ہوں کہ مدعا علیہا نے جیمنگ کے تجربہ کو مدنظر رکھتے ہوئے سمجھتا ہوں کہ مدعا علیہا کا بیان سراسر جھوٹ ہے۔

The above statement in chief remained un-cross-examined by the learned counsel for the defendant, however he argued that this witness also claims the inter se distance between the plaintiff and defendant was 3 to 4 feet. His statement is also incorrect because plaintiff and defendant as per the jamming session video clip were at times less than an inch away from each other.

45. The testimonies of PW-1 to PW-9, when appreciated collectively and in the light of the arguments advanced by learned counsel for the defendant, the evidence on record shows that they were present at the jamming session in question. They are independent professionals of the entertainment industry hired on a project basis and not employees or subordinates of

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the plaintiff who have worked across the music industry with a range of artists and productions. Notably, several of them have also collaborated with the defendant herself. Their professional standing and independence negate any suggestion that they were compelled to support the plaintiff or any ulterior motive on their part. No pecuniary or personal interest in the outcome of the case has been demonstrated. Mere professional association does not render a witness legally interested. The evidence of said PWs converges on material particulars, namely that the jamming session was conducted in a professional, cordial, and amicable atmosphere; that the defendant and the plaintiff interacted normally, including mutual greetings and embraces upon arrival and departure; and that no untoward or inappropriate conduct was observed by any of them during the course of the jamming session. The principal criticism raised by the defence pertains to alleged inconsistencies between the witnesses regarding the estimated distance between the plaintiff and the defendant, and the asserted limitations in their ability to observe specific physical movements, particularly in view of their positioning and engagement during live rehearsal. These aspects, however, do not materially erode the evidentiary value of their testimony. Variations in estimation of distance are a result of recollection based on human perception rather than precise measurement, and such discrepancies do not go to the root of the matter so as to discredit uniformly consistent accounts on core facts. Similarly, the argument that musicians were primarily focused on their instruments and therefore could not continuously observe the parties, even if accepted to some extent, does not

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negate their presence or their capacity to observe general conduct, interactions, and any conspicuous or overt act occurring within their vicinity. It is further noted that a video clip of very short duration of the jamming session (Exh.DW-4/F) was produced by the plaintiff and it was put to the defendant (DW-4) during cross-examination. This clip must be appreciated in its proper context. Even assuming that the inter-se distance between the plaintiff and the defendant appears relatively close in the video, the clip represents only a fleeting and limited segment of an event that lasted approximately 40 to 45 minutes. The video clip of the jamming session was played before the Court. Learned counsel for the defendant invited the Court to observe that the plaintiff and the defendant were standing in very close proximity at the microphone stand. Conversely, learned counsel for the plaintiff drew the Court's attention to the fact that, during the rehearsal of the lyrics, the plaintiff largely remained at his position, while it was the defendant who moved closer towards him. Upon viewing of the clip, the Court finds substance in both submissions. The footage does depict moments of close proximity between the parties; however, it also reflects that such proximity was not static and could vary during the course of the rehearsal, including instances where the defendant appears to move closer to the plaintiff. These observations, therefore, are not mutually exclusive and must be appreciated in the context of a live rehearsal setting, where movement and positioning of performers around a shared microphone are neither unusual nor inherently suggestive of any impropriety. As such, it cannot be treated as a comprehensive or

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conclusive record of the entire Jamming session. The evidentiary worth of the video is therefore circumscribed by its brevity and must be assessed alongside the oral testimonies of witnesses who were continuously present throughout the jamming session. The defence has also advanced the argument that incidents of sexual harassment, particularly those of a physical nature, are often discreet and momentary, may not leave any visible marks or signs, and therefore may not be capable of being corroborated by independent witnesses, with the aggrieved person being the best or primary witness to such an occurrence. This submission, as a general proposition, is not without force. Allegations of this nature may, in certain circumstances, occur in a manner that is not easily perceptible to bystanders, and the testimony of the person alleging such conduct can indeed be central to adjudication. However, the applicability of this principle depends on the facts and circumstances of each case. In the present matter, the alleged incident is stated to have occurred in a setting where multiple individuals were present in close proximity throughout the jamming session. The witnesses were not casual observers but participants engaged in a manner that required their attention to remain on the performers, and they have consistently deposed that no such incident came to their notice. While it is accepted that discreet acts may escape immediate detection, the presence of several witnesses who were in the same confined environment and who uniformly deny any observation of the alleged conduct is a relevant factor that cannot be ignored. Thus, the argument that such incidents are inherently incapable of corroboration must be weighed against

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the specific evidentiary record before the Court. Where multiple witnesses present at the scene provide consistent testimony negating the occurrence of the alleged act, their collective evidence assumes significance on the standard of probability. The court is required to assess whether, in the given circumstances, it is more probable that the alleged incident occurred without being perceived by any of the present witnesses, or whether the consistent account of those witnesses denying its occurrence is more credible. The argument regarding possible limitations in observation, particularly given the nature of musical performance requiring attention towards instruments and lead performers, may explain why witnesses may not be in a position to observe every minute movement at all times. However, this does not detract from their ability to notice any conspicuous or overt conduct occurring within their immediate surroundings. In the present case, none of the witnesses have deposed to having observed any behavior consistent with the allegation, despite their admitted continuous presence. Accordingly, when the oral testimonies of PW-1 to PW-9 are evaluated in conjunction with the short video clip and the defence arguments, it emerges that while minor discrepancies exist regarding peripheral aspects such as estimated distance, the core narrative remains consistent and unshaken. The video clip, being limited in duration, does not displace the weight of the consistent oral evidence. Likewise, although sexual harassment allegations may in some cases rely heavily on the testimony of the complainant, in the present factual matrix, the absence of any supporting observation from multiple

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independent witnesses present at the scene is a significant factor that enhances the probative value of the plaintiff's witnesses. Furthermore, the examination in chief of PW-4 to PW-9 on material aspects as reproduced in preceding paragraphs were not subjected to cross examination by the learned counsel for the defendants shall be deemed to have been admitted. Reliance in this respect can be placed on the case of Abdul Rehman and another vs. Zia ul Haque Makhdoom and others (2012 SCMR 954). In view of the foregoing, the testimonies of PW-1 to PW-9, read as a whole, retain strong probative value and, when assessed on the balance of probabilities, support the inference that the alleged incident did not occur, notwithstanding the arguments advanced by the learned counsel for the defendant.

46. PW-10, MUHAMMAD SARFARAZ SALEEM NIAZI AND PW-11, MUHAMMAD RIZWAN RAEES KHAN being business and talent managers of the plaintiff, further testified regarding the plaintiff's professional reputation and the adverse consequences of the allegations. Their evidence, though primarily relevant to damages, also indicates that during the long professional association no complaint of misconduct was ever reported against the plaintiff. The plaintiff produced **PW-13, SARA REHMAN**, a long-standing social acquaintance of both parties, whose testimony is relevant with respect to the conduct and relationship of the parties before and after the alleged incidents. She deposed that she had known the defendant since school days and the plaintiff for about twenty years and regularly met both socially. She deposed that she had

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never observed any hostility, hesitation or awkwardness between the parties and described their interaction as normal and friendly even after the alleged incidents. Her testimony remained unshaken. According to her:

"Ali and Meesha, whenever they meet, have a very normal social relationship. Every time I see them meet, there has never been any hesitation or hostility..."

Regarding the birthday gathering at the plaintiff's house, she stated:

"I did not notice anything out of the order. Meera was very normal with Ali Zafar... she was sitting at his piano."

During cross examination, the defendant admitted it as correct that photograph Exh.DE-4/D is of the same occasion and the person with her is her husband. The said picture showed that the defendant and her husband were sitting at the piano in a pleasant manner in the house of Ali Zafar at the birthday gathering where the alleged second incident happened.

47. A critical aspect in this regard is the post-incidents conduct of the defendant and her husband, which assumes evidentiary relevance. The conduct of the defendant, Meera Shafi, when examined alongside her own admissions, assumes particular significance. With regard to the first alleged incident, the defendant consistently maintained that she immediately informed her husband, Mahmood Rehman (DW-5), and that both of them decided to "forgive and forget." DW-5 (husband of the defendant) testified that after the first incident, they decided to "forgive and forget" and to continue normal interaction with the plaintiff. He admitted that he later worked with the plaintiff

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in Toronto in August 2016, albeit as a sound engineer. In cross-examination, he stated:

"After the first incident we decided to forgive and forget what Ali Zafar did. On this basis I had chosen to work with the plaintiff in the said concert."

Even if accepted at face value, this assertion demonstrates that the defendant did not suppress the alleged incident and was capable of sharing such a grievance with her spouse. The decision to forgive and forget further indicates that the matter was consciously closed at that stage. While forgiveness is humanly possible, continued professional engagement, social interaction, and absence of any contemporaneous protest or distancing after such a serious allegation raises questions of probability when viewed cumulatively. The defendant's account of the first alleged incident reflects certain inconsistencies across versions, though not all are of equal weight. In the Complaint and Written Statement, she provided a specific and graphic description of the alleged first incident of sexual harassment, whereas in her Examination-in-Chief, she used the more general expression "groping," thereby reducing the earlier level of detail. As regards the presence of her husband and others, the version in the Written Statement uses the term "around," which is inherently imprecise and may reasonably denote presence within the premises rather than at the exact spot of the greeting. Therefore, her subsequent statement in Examination-in-Chief, placing her husband in the garden while she was inside reflects a lack of precision in narration. Notably, the emphasis in Examination-in-Chief on a relatively screened

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position ("nobody behind us," with a wall and counter) introduces an aspect that tends to reduce the likelihood of observation, which was not clearly articulated earlier. While this may give the impression of an improvement in narrative, the omission or variation of this incident in her initial public narrative (Instep interview) remains a relevant inconsistency. Taken cumulatively, these variations, though partly explainable, still bear upon the overall consistency and reliability of her account.

48. However, the defendant's narrative materially changes with respect to the second alleged incident, which the defendant described as: "the plaintiff grabbed my waist and pulled me very close without my consent." During cross-examination, she was confronted with photograph Exh.DW-4/C and was specifically asked whether the alleged act occurred at the time when the said photograph was taken. She answered in the affirmative, though adding that it was "not limited to just that moment." Despite alleging an act of serious misconduct of physical nature, it stands admitted that the defendant did not disclose this incident to her husband. On the contrary, the record shows that immediately thereafter the defendant herself uploaded the photograph on her Facebook account, exhibited as Exh.DW-4/C/1, captioned: "Tonight we party Happy Birthday Ayesha Fazli," dated 06.03.2016. Such contemporaneous conduct, while not conclusive in isolation, constitutes a relevant circumstance under the law of evidence and materially weakens the probability of the occurrence as alleged, particularly when the burden lies upon the defendant. The additional photographs

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from the same event (Ex.DW-4/D, Ex.DW-4/J, Ex.DW-4/K, Ex.DW-4/L) depict the defendant interacting comfortably with her husband, other attendees, and the plaintiff in a visibly congenial setting. Such consistent portrayal of normal, friendly engagement in a social gathering context is difficult to reconcile with the allegation of a contemporaneous act of harassment, thereby significantly weakening the probability of the occurrence as alleged. Further, the omission of this alleged incident from the defendant's earliest public account in Instep (Ex.DW-4/I), issued immediately after her tweet dated 19.04.2018, indicates that it was not contemporaneously treated as an instance of harassment. This omission, coupled with her inability to recall when she disclosed it to her husband and her later attempt in cross-examination to downplay its significance, reflects a material improvement in her version, thereby weakening its credibility. After the alleged second incident, the defendant still maintained social and professional proximity with the plaintiff. Photographs were produced showing their presence at social events. Further, after the alleged second incident, the defendant, accompanied by her husband, admittedly met the plaintiff, Ali Zafar, in Toronto in August 2016 and took a selfie with him and one Ali Kazmi. The said photograph (Exh.DW-4/Q) was posted on the Facebook account of the defendant on 13.08.2016 with the caption: "Speaking of crazy coincidences." This picture was also posted on the Instagram account of the defendant and was later deleted. The meeting was merely coincidental, the defendant, in the context of the alleged first and second incidents of sexual harassment, would not have taken a selfie

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and posted it on social media platforms. Learned counsel for the plaintiff also referred to a WhatsApp chat allegedly exchanged between the plaintiff and the defendant in Toronto, dated 10.08.2016. The witness (DW-4) stated: "I have no recollection of the said chat." At this stage, learned counsel for the plaintiff showed the cell phone device of the plaintiff by opening the chat box containing the conversation between the plaintiff and the defendant. The cell phone number appearing in the chat was confirmed by the witness as belonging to her. Learned counsel then put the following question to the witness:-

Q: *Is screen shot Ex.D-W-4/P (Original seen from the cell phone device of the plaintiff and confronted with the same, which is a true copy of the screen shot of the chat box in the cell phone device of the plaintiff) Is chatting between you and the plaintiff?*

Ans: *It is possible that these messages may have exchanged and I cannot remember as this was long time ago.*

DW-4 also admitted during cross-examination that, after the first and second alleged incidents, she shared another photograph with the plaintiff from her personal verified Facebook account on 01.08.2016 (Exh.DW-4/O), captioned: "Lahore in Karachi! These smiles are real!!!. The defendant tagged said post to all featuring in the photograph as #meeshashafi#HSY#AliZ#Kami#LSA2016. The defendant admitted that she also shared the said picture/photograph from her personal Instagram account. When confronted with the suggestion that she later deleted the post from her personal Instagram account after making the allegations public, she

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replied: "That is not the reason." The picture Exh.DW-4/C, relating to the happening of the alleged second incident, and the subsequently taken picture Exh.DW-4/O (showing the plaintiff and the defendant together and also with two others), vis-à-vis the picture of the defendant with Atif Aslam (Exh. DW/V) and one another picture (Ex.DW-J) are in the same pattern, and all were posted by the defendant on her social media accounts. Learned counsel for the plaintiff put a specific question to the DW-4:

Q: *Is it correct that after both alleged incidents, which left you traumatized and furious, you yet again chose to share with plaintiff's pictures and videos on your public and personal social media accounts with positive captions?*

Ans: *It is possible. As I said before I was making every effort to carry on as normal because I had no plans to let anybody know or create controversy.*

The above reply is inconsistent to her stance of immediate disclosure of the alleged first incident to her husband.

49. After the alleged second incident, the defendant also shared the plaintiff's concert video on her official verified Facebook account on 12.12.2016. The Facebook page of the defendant (DW-4) was shown to her, which she confirmed, and a screenshot of the said post was exhibited as (Ex. DW-4/N). The post was captioned: "You tell 'em #Aliz 'Papa kehtay hain bara naam karay gee, beti humari aisa kaam karey gee!' #GirlPower." To this post, Ali Zafar's account commented: "Can girls dare to have the same dreams and aspirations as boys? This is what Ali had to say. What do you think? #AliZafar #GirlPower #Pakistan."

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This conduct is highly telling. At the time she now alleges harassment, the defendant neither exposed nor distanced herself from the plaintiff; rather, she publicly praised and promoted him, even linking his work to themes of female empowerment. Such contemporaneous conduct is wholly inconsistent with her present allegations and significantly undermines her credibility. Before the rehearsal/jamming session, the defendant admittedly had WhatsApp communication/chat with the plaintiff (Exh. DW-4/R) and acknowledged that she had also visited the plaintiff's house for finalizing songs prior to the session. This meeting was neither a requirement nor was scheduled under her contract. After the third alleged incident, she further admitted sending a message with a photograph of the concert/event in the WhatsApp group titled "ISB Event Ali & Meesha" (Exh. DW-4/T), showing a live performance moment of the concert focusing on the plaintiff and the defendant, with the caption: "Love this picture ❤️". It is also an admitted position that, after the concert, the defendant sent a message in the same WhatsApp group stating: "Had a great time jamming and performing and so grateful for the kind words Ali had to say on stage," (Exh. PW-12/61). DW-5 also admitted that the defendant sent a message in a WhatsApp group appreciating the jamming sessions, stating:-

"Had a great time jamming and performing... so grateful for the kind words Ali had to say on stage."

This message was sent after the alleged third incident. Learned counsel for the defendant argued that the said message was merely a courteous response to appreciative remarks made by

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the plaintiff, Ali Zafar, during the concert and that such a response should not be construed as inconsistent with her allegation, particularly in view of the professional context in which the message was sent. It is true that, in professional contexts, individuals may sometimes maintain outward courtesies despite personal discomfort or disagreement; therefore, an appreciative message by itself may not conclusively disprove the occurrence of an alleged incident. While the defendant attempted to explain this conduct as professional compulsion, the Court cannot ignore that such expressions of appreciation are inconsistent with the natural reaction expected from a person who had allegedly been subjected to repeated sexual harassment of a physical nature. However, the timing and tenor of the message assume significance. According to the defendant's own version, the third incident of alleged sexual harassment had occurred during the rehearsal only a day prior to the concert. In such circumstances, the expression of enthusiasm and gratitude in the message stating that she "had a great time jamming and performing" and thanking the plaintiff for his kind words appears inconsistent with the natural conduct that would ordinarily be expected immediately after such an alleged experience. While professional compulsion may explain the defendant's participation in the scheduled performance, the voluntary and appreciative tone of the message sent after the event, and after the expiry of her contract tends to weaken the probability of the defendant's stance when assessed particularly in light of her own statement that, after the jamming session, "my Manager and I sat in the car. I told him please be

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absolutely careful to check and not book or forward any queries or project to me where the plaintiff is involved in the future. I told him that the plaintiff is a very sleazy man and I will not work with him again. I did not react immediately because I had a contract." Consequently, the explanation offered by the defence does not sufficiently reconcile the inconsistency between the alleged incident and the subsequent conduct reflected in Exh.PW-12/61. Learned counsel for the defendant further argued that the WhatsApp message related only to the concert and not to the rehearsal. However, the plain language of the admitted message expressly refers to both "jamming and performing." The subsequent explanation was given by the defendant during a programme on Geo News hosted by the renowned anchor Shahzeb Khanzada (Exh. DW-4/U), that the message concerned only the concert and not the jamming session, stands in contradiction to the contemporaneous record and therefore adversely affects her credibility. She attempted to dissociate her WhatsApp message from the jamming session, despite its plain wording to the contrary. This is not a mere discrepancy; it reflects a conscious misstatement of an objective and documented fact. Such conduct directly undermines her credibility, as it demonstrates a clear tendency to distort or disown contemporaneous evidence when it contradicts her narrative. Moreover, the defendant herself posted a photograph of the concert with the plaintiff on her Twitter account on 23.12.2017 (Exh. PW-12/62) with the caption: "I guess I post slower than I travel and perform? Last night in Islamabad crooning with @AliZafarsays #MeeshaShafiLIVE." This

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interaction again reflects a degree of normalcy and cordiality inconsistent with the allegation of repeated sexual harassment of a physical nature, particularly when viewed cumulatively with the earlier conduct. With regard to the third alleged incident during the rehearsal/jamming session, the defendant was confronted with a video clip of the session (Exh.DW-4/F), which was produced and relied upon by the plaintiff and subsequently also relied upon by the defendant. This video clip has also been considered in the preceding findings while appreciating the testimonies of PW-1 to PW-9. Learned counsel for the defendant also stressed that the drummer behind the plaintiff and defendant was facing away and both the plaintiff and defendant were standing in close proximity at the microphone. Even if accepted, such physical layout, in the context of a rehearsal, does not by itself suggest that the alleged incident occurred. Mere proximity cannot be equated with proof of misconduct. A careful perusal of the video clip played during arguments reveals that it is of very short duration and does not depict or represent the entire rehearsal or the continuous interaction between the parties. The footage neither clearly shows any act amounting to sexual harassment nor affirmatively establishes that such an act occurred. At best, the video clip is neutral and inconclusive. It neither corroborates the defendant's allegation nor conclusively disproves it. Consequently, the said video clip does not provide any affirmative support to the defence version regarding the occurrence of the alleged third incident and, by itself, is insufficient to discharge the burden of proof resting upon the defendant.

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50. The defendant relied upon statements made on social media by certain women, including Leena Ghani, Hamna Raza, Maham Javaid and others, who alleged inappropriate conduct by the plaintiff, Ali Zafar. However, none of these individuals except Leena Ghani (DW-6) appeared before the Court to support the defendant's specific allegations of physical sexual harassment through sworn testimony. DW-5 referred to one "Hamna" as an individual who had made allegations, but admitted that she later issued a public apology. DW-7, Hamna Zubair, stated that certain women contacted her confidentially after the controversy became public; however, she neither disclosed their identities nor were they produced as witnesses. In civil proceedings, assertions made on social media without sworn testimony carry limited probative value. Allegations, however numerous, do not mature into proof unless tested through evidence before the Court. DW-6, Leena Ghani, alleged inappropriate comments and conduct on the part of the plaintiff but admitted that no formal complaint had been filed prior to the matter being raised on social media. DW-7, Hamna Zubair, stated;

"Some women contacted me privately after the allegations went public."

She further admitted;

"They did not want to come forward or testify."

No evidence was produced to establish that any woman was unlawfully coerced by the plaintiff into retracting truthful allegations. The plaintiff's stance that he exercised his legal right to approach the Federal Investigation Agency or other forums against persons, who, in his view, maliciously maligned him on

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social media, was not rebutted by any evidence demonstrating unlawful pressure or coercion. It is also pertinent that the august Supreme Court of Pakistan had stayed the investigation being conducted by the Federal Investigation Agency in the case lodged by the plaintiff. Even thereafter, Hamna Raza did not withdraw or retract her public apology. If the apology had indeed been extracted through unlawful coercion by the plaintiff, nothing prevented her from withdrawing the same once the investigation had been stayed. Her failure to do so further weakens the allegation of coercion. Accordingly, the Court finds no reliable material on record to conclude that the non-appearance of other women was the result of intimidation or unlawful pressure rather than their own independent choice.

51. Learned counsel for the defendant contended that, despite a long-standing cordial family and professional relationship between the parties, the plaintiff had, on more than one occasion, subjected the defendant to sexual harassment, which she initially chose to endure in silence, confiding only in her husband. It was argued that she made bona fide efforts to resolve the matter privately, including raising concerns with representatives of Pepsi during the "Pepsi Battle of the Bands" project and even attempting to have her account reported through the media by DW-7; however, when these efforts failed and she found herself with no viable alternative, she resorted to speaking publicly through twitter on 19.04.2018 to protect her dignity, followed by a formal complaint before the Ombudsperson wherein full particulars were disclosed, and that her stance has remained consistent throughout the proceedings.

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The defendant admitted that prior to making the tweet dated 19.04.2018 (Ex.DW-4/1), she had shared her experiences with others and had taken legal advice. In her cross-examination, she stated:-

"Yes, I had spoken to people in the press and I had taken legal advice before tweeting."

In cross-examination, the defendant further stated:

"My intention was to help myself as nobody was helping me."

Another important aspect merits consideration. In her examination-in-chief, the defendant deposed that there was initially no plan to go public with the impugned tweet. She stated that after consulting Ms. Hamna Zubair, Digital Editor for Dawn (DW-7), realized that, in order to "help herself" and to stay away from a sexual harasser, she would have to use her own voice. This admission assumes particular significance when read in conjunction with her cross-examination, wherein she was specifically asked:

"Is it correct that you received legal advice in terms of the tweet published on 19th April 2018 prior to its publication?"

Ans: "Of course."

This unequivocally establishes that the defendant consciously and deliberately opted to make her allegations public after receiving legal advice, rather than first resorting to a competent legal or statutory forum for the redressal of her grievance. The decision to publish the allegations was, therefore, not impulsive or compelled by immediacy, but a considered course of action taken with full awareness of its legal implications. Despite

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having access to legal advice, the defendant chose to first disclose the allegations through social media and a press interview (Ex.DW-4/I), reaching millions nationally and internationally, before approaching a competent legal forum. The formal complaint before the Ombudsperson was filed on 30.04.2018 (Ex.DW-4/2), i.e., after the public dissemination. This admission is material. If legal advice had been sought, and if the defendant intended to pursue a legal remedy, the question arises: why was the first recourse public dissemination through social media and press, rather than approaching a competent forum? The law does not prohibit speaking out; however, when grave allegations of a criminal and stigmatizing nature are levelled publicly against a well-known individual, the choice of forum and timing becomes relevant for assessing bona fides. Such conduct materially undermines the plea that the impugned publication was made for public good. The defendant's own testimony reveals that the dominant purpose of the publication was to "help herself" and to assert her personal narrative in the public domain. While personal vindication or self-protection may be subjectively understandable, it does not, by itself, satisfy the statutory requirement of public good under the Defamation Ordinance, 2002. Public good contemplates a demonstrable benefit to society at large, grounded in established truth, and not the advancement of an individual grievance through publicly levelling accusation. Furthermore, the availability of legal and effective remedies such as approaching the Ombudsperson or other competent forums was admittedly open to the defendant at the relevant time. Her choice to first publish serious allegations

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against a named individual, after legal consultation, without prior adjudication or determination by a competent forum, reflects a conscious preference for public allegation over legal process. This course of conduct is inconsistent with the protection afforded by law to the defence of truth and public good. Noble social objectives, however laudable, cannot dilute or override the mandatory statutory requirement of proof imposed by the Defamation Ordinance, 2002. The law does not sanction the public branding of an individual as a sexual harasser on the basis of unproven allegations. Thus the argument that the defendant had "no option" but to resort to twitter is not borne out from the surrounding circumstances. The law provides adequate and accessible remedies for grievances of this nature, including recourse before statutory forums, which the defendant eventually approached only after making public accusations. The sequence of events indicates that the public dissemination of allegations preceded the invocation of any formal legal mechanism, which is inconsistent with the conduct expected of a person exercising due care and caution. The failure to avail appropriate legal remedies at the relevant time, despite their availability, undermines the credibility of the justification offered and weakens the defence plea of good faith and responsible conduct. Consequently, the defendant's own testimony further reinforces the conclusion that the impugned publications were driven by personal grievance rather than by any demonstrable or legally cognizable public benefit.

52. Learned counsel argued that the defendant's act of raising her voice to share her personal experience of sexual


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harassment of a physical nature at the hands of the plaintiff, and to bring the same to the attention of the public, was for the public good; therefore, it was justified and did not constitute actionable defamation. This Court fully endorses that raising grievance and awareness against sexual harassment is essential. However, the question is not whether awareness should be raised, but how and in what manner. Any person claiming to be a victim has the first option to approach a competent forum for establishing her stance and redressing her grievance. The law does not confer a right to publicly name and accuse any individual of serious misconduct without first establishing such allegations before a competent forum. Every person has a fundamental right to dignity, honour, and reputation, which is equally protected by law as well as the Constitution. On the contrary, the plaintiff (PW-12) categorically denied all allegations, deposing:

"I categorically deny the allegations of sexual harassment. They are absolutely false, incorrect, malicious and fabricated."

Immediately upon publication of the tweet, the Plaintiff publicly responded (Ex.PW-12/58) expressing his intention to seek legal recourse. Nothing material emerged in his cross-examination to substantiate the defendant's allegations. This Court is also mindful that sexual harassment may occur without witnesses and that delayed or restrained reactions are not uncommon. However, the present case is not being decided on delay. It is the entire mosaic of conduct, continued socialization, professional collaboration, positive public messaging after alleged incidents, absence of contemporaneous complaint regarding first and

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second alleged incidents, and choice of public accusation despite availability of legal advice weakens the probability of the defendant's stance when weighed against the consistent denial by the plaintiff, his unblemished professional career up till the defendant made allegation, and lastly the lack of corroboration. It is an admitted position that, subsequent to publishing the impugned tweet and interview, the defendant filed a complaint under Section 8 of the Punjab Protection Against Harassment of Women at the Workplace Act, The Workplace (Amendment) Act, 2012, before the Ombudsperson on 30.04.2018 (Ex.DW-4/2) against the plaintiff, relying on the Agreement dated 07.12.2017 executed between the defendant and JS Events and Production. The said complaint was rejected by the Ombudsperson for want of jurisdiction on the basis of Clause 6.11 of the Agreement vide order dated 03.05.2018, and such dismissal was upheld by the Governor of Punjab on the representation made by the defendant (Ex.DW-4/10) vide order dated 11.07.2018. Writ Petition No.227635 of 2018 filed against the same (Ex.DW-4/11) was dismissed by the Honorable Lahore High Court, Lahore, vide order dated 02.10.2019. A CPLA is pending before the august Supreme Court of Pakistan. Communications made before a statutory or quasi-judicial forum attracts qualified privilege. However, such privilege does not extend retrospectively to earlier publications. The tweet dated 19.04.2018 and the interview dated 21.04.2018 were independent public publications addressed to the public at large and, therefore, do not enjoy such protection. The defendant, in her written statement, did not expressly claim qualified privilege. Rather, such privilege is

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not available regarding the tweet and interview published prior to the filing of the formal complaint before the Ombudsperson. Instead, she adopted the defence that her statements were true and made for public good. Once such a defence is adopted, the burden of proving truth lies heavily upon the defendant. There is no cavil with the proposition that, although in civil proceedings the standard of proof is that of preponderance of probabilities, even such a standard requires some degree of objective corroboration, which is conspicuously lacking in the present case. Good faith, in legal contemplation, is not merely a matter of subjective belief but requires due care, caution, and responsible conduct. The act of publicly disseminating serious allegations of sexual misconduct against a named individual, without first seeking redress through a competent forum or ensuring the availability of verifiable supporting material, reflects a lack of due diligence expected under the law. While the issue of sexual harassment is undeniably one of public importance and social sensitivity, the plea of public interest cannot be invoked in abstraction. It must coexist with truthfulness and responsible communication. Public interest is not a licence to make unverified/unproven allegations that have the effect of irreparably damaging another person's reputation. In the absence of proof neither truth and public good, nor privilege can be presumed. Unproven allegations of sexual harassment, publicly disseminated to millions, cannot be legally justified merely on the basis of subjective belief or personal conviction.

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53. Learned counsel for the defendant relied on the case of "**SHAIKH MUHAMMAD RASHID VS. MAJID NIZAMI, EDITOR-IN-CHIEF**", wherein the Honourable Supreme Court held as under:-

*".....In the tort of defamation, the law presumes malice in the sense of wrongful act done intentionally by publishing defamatory matter, but there is a lawful excuse for the publication of such matters as in the ordinary case of privileged communication or of fair comments upon a matter of public interest. The onus is upon the plaintiff to establish the fact of malice in order to maintain the action. It means that malice must be proved as a fact irrespective of the mere inference arising from the libellous character of the publication. **The state of mind of the publisher who publishes defamatory matter is, therefore, material where occasion is privileged or a plea of fair comments on a matter of public interest is properly raised; in that case, the plaintiff has to prove actual malice in the ordinary meaning of the words, that is to say, spite or ill-will or any indirect or improper motive. When the plaintiff fails to prove malice by cogent evidence, then he can be non-suited on this ground. The burden of proving express malice, both by extrinsic and intrinsic evidence, lies on the plaintiff to show that the publications were actuated by some indirect or improper motive....."***

Relying upon the above principle, learned counsel for the defendant argued that the plaintiff has failed to establish any malice or ill-will on the part of the defendant, emphasizing the admittedly cordial and longstanding family relations between the parties, including close personal ties between the defendant and the plaintiff's wife, and the absence of any discernible motive for


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falsely implicating the plaintiff. It was further contended that the defendant did not engage in any sustained media campaign after the tweet dated 19.04.2018 and the interview dated 21.04.2018, which, according to the defence, negates any suggestion of publicity-driven or malicious intent. This argument, however, is misconceived in its application to the facts of the present case. The principle enunciated in the cited case becomes relevant only where the defendant successfully brings the case within the fold of a recognized lawful excuse, such as qualified privilege or fair comment on a matter of public interest. The defendant has not expressly taken the plea of qualified privilege as a defence. Although learned counsel referred to preliminary objection No.1 of the written statement to suggest that it contained such a plea, even if so construed, the same is of no avail. Section 7 of the Defamation Ordinance, 2002 provides: "Any fair and accurate publication of parliamentary proceedings, or judicial proceedings which the public may attend, and statements made to the proper authorities in order to procure the redress of public grievances shall have the protection of qualified privilege." The impugned publications do not qualify for protection under qualified privilege within the parameters of Section 7 of the Defamation Ordinance, 2002, as they advance a personal grievance and were not made to proper authorities. Where the defendant sets up truth as a defence, qualified privilege cannot be logically pleaded. In the present case, as already discussed, the defendant has failed to establish her defences of truth and public good. In such circumstances, the presumption of malice in law, arising from the intentional publication of defamatory


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imputations, remains intact and is not displaced. Moreover, the absence of proven personal enmity or prior ill-will is not determinative. Malice in defamation is not confined to spite or personal animosity alone; it extends to making a statement with reckless disregard for the truth or without due care and verification. The act of publicly levelling serious allegations of sexual misconduct against a named individual, without substantiation, constitutes conduct from which malice in law is not only inferred but is deemed established. The contention that the defendant did not pursue further media publicity also does not materially advance her case. The initial publication through widely accessible platforms, namely twitter and a published interview, was sufficient to cause reputational harm, and the extent or frequency of subsequent appearances is not decisive of intent. Accordingly, it is held that the plaintiff was not required, in the facts of the present case, to prove express malice in the strict sense once the defendant failed to establish any lawful justification. The argument advanced by learned counsel for the defendant, the absence of malice, therefore, carries no weight and stands rejected. In light of the entire evidence, this Court finds that, although allegations of sexual harassment must be treated with sensitivity, the defendant has failed to establish the alleged sexual harassment of a physical nature on the touchstone of preponderance of evidence and balance of probabilities. The surrounding circumstances, post-incident conduct, absence of corroboration, and inconsistencies between the allegations and the defendant's behaviour collectively render her version improbable.


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54. The plaintiff, Ali Zafar, alleged that the defendant, DW-4, Meesha Shafi, in collusion with Leena Ghani, Nighat Dad, Hamna Raza, Maham Javed and others, orchestrated a coordinated defamatory campaign under the banners of the Aurat March, the Me Too Movement, and the Digital Rights Foundation. The plaintiff deposed in his examination in chief as;

"I can prove that all of these women are related to each other and were working in sync for a common agenda... The conspiracy began much before Meesha Shafi's first tweet on 19th of April 2018."

He further relied upon alleged threats from anonymous social media accounts, including an Instagram message dated 21.02.2018, and claimed that multiple fake accounts were created to malign him. He also alleged that certain accounts were connected with Nighat Dad, and that some individuals associated with these accounts had links with the Aurat March. However, a careful scrutiny of the said testimony reveals that the entire case of the plaintiff, on this aspect, rests primarily upon: i) Alleged social media posts from anonymous or unverified accounts; ii) Personal inferences regarding connections between individuals; iii) produced as "Mark" documents, which are neither proved in accordance with law nor shown to have been authored or directly attributable to the defendant. The defendant DW-4 in her examination-in-chief, has categorically denied any such coordination or conspiracy. The relevant verbatim extracts of her testimony are as follows:

"The Aurat March, which I attended last year, was a wonderful event. It was about equal rights of women and gender minorities in all aspects."

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There is no connection between this case and the Aurat March. I went as a free citizen."

"There is no funding or organization or conspiracy of any kind of the Me Too Movement in this regard."

These statements clearly reflect that DW-4 has dissociated her allegations from any organized platform or collective campaign. As regards Nighat Dad, it is an admitted position that her name appears as counsel for the defendant in the written statement and is associated with the Digital Rights Foundation. However, such association alone does not establish any coordinated effort. In this context, the cross-examination of DW-5 assumes significance. The witness stated:-

"I am aware of the fact that Nighat Dad runs an NGO namely Digital Rights Foundation (DRF). I do not know whether Nighat Dad ran a campaign by the title of 'Ab aur Nahi' for the 'Me Too' movement."

"It is correct that I am not aware that Maham Javed is associated with Nighat Dad and DRF since 2017 or before."

Even after being confronted with material from the official website of the Digital Rights Foundation suggesting that Maham Javed had participated in activities with Nighat Dad, the witness maintained that;

"I don't know."

Similarly, upon being shown a video clip and asked to identify whether Maham Javed appeared alongside Nighat Dad, the witness responded:

"I guess so; I have met her only for once."

The above testimony demonstrates a lack of personal knowledge regarding any association between the individuals allegedly involved and falls short of establishing any organized or coordinated campaign.


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55. At the same time, the plaintiff, while appearing as PW-12, attempted to substantiate the allegation of a coordinated campaign by asserting that multiple individuals were acting "in sync for a common agenda" and that the alleged conspiracy predated the first tweet of the defendant. He further relied upon alleged threats from anonymous social media accounts, the existence of multiple fake accounts, and their purported linkage with certain individuals, including Nighat Dad, Leena Ghani, and Maham Javed. However, a careful appraisal of this testimony shows that these assertions are primarily based on inferences drawn from unverified social media activity and alleged connections between individuals, rather than on direct or independently corroborated evidence. The material relied upon by the plaintiff, including various social media posts and complaints, has been produced as "Mark" documents (Mark PW-12/18 to PW-12/29), to which objections have been raised by learned counsel for the defendant on the ground that the same were neither previously relied upon nor proved in accordance with law. The objections carry substance to the extent that no legally admissible proof of these documents has been produced, nor has their authorship or authenticity been established through any independent or forensic evidence. There is no proof identifying any person responsible for the creation or operation of the alleged accounts. Accordingly, such documents cannot be treated as substantive evidence and are inadmissible for proving the truth of their contents. At best, they may be considered for limited or collateral purposes, but they do not advance the plaintiff's case in establishing a coordinated campaign.

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Moreover, the mere attachment of the hashtag “#MeToo” to the impugned post cannot, in itself, be conclusively construed as an attempt to place the plaintiff in the same category as internationally accused individuals so as to amplify the impact of a defamatory imputation. It may equally be interpreted as the defendant’s attempt to highlight or contextualize her allegations within the broader discourse of the MeToo movement, which, at the relevant time, was a platform for individuals to share experiences of harassment. Learned counsel for the plaintiff further argued that the defendant sent messages to the plaintiff’s agent, Rizwan Raees (PW-11), and his wife Sileena, demanding that he withdraw from “Pepsi Battle of the Bands” and threatening public allegations with support from the MeToo movement, the press, and other women. The plaintiff also proposed a face-to-face meeting with the defendant and her husband to resolve any genuine grievances, which she declined. On the other hand, learned counsel for the defendant argued that the plaintiff was aware of his involvement in incidents of sexual harassment but, despite this, did not apologize, which compelled the defendant to express her grievance publicly despite her alleged wish to resolve the matter privately. As regards the argument of learned counsel for the plaintiff, it is observed that, at best, this exchange reflects a situation of professional rivalry surrounding participation in “Pepsi Battle of the Bands.” Even if taken at its highest, the communication suggests competitive maneuvering within the industry rather than lending any credible support to the serious allegations now advanced. As regards the argument of learned counsel for the

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defendant, the same is misconceived; absence of an apology, in such circumstances, is equally consistent with a denial of the allegations and does not, by itself, lend any credence to the defendant's claims. Which the plaintiff reiterated in his cross examination as "I was very sincere and honest, in my offer to apologize had I committed any such act". A cumulative assessment of the testimony of PW-12 and DW-4, along with the overall evidentiary record, reveals that no cogent, direct, or circumstantial evidence has been produced by the plaintiff to demonstrate any prior or concerted plan between the defendant and other individuals, including Leena Ghani, Hamna Raza, and Maham Javed, to launch a coordinated defamatory campaign or to misuse the ME Too Movement as well as Aurat March. In view of the foregoing, the allegation of a coordinated campaign remains unsubstantiated.

56. As regards, onus of proof in the reported case titled **"MUDASSAR IWBAL BUTT VERSUS SHAUKAT WAHAB AND OTHERS" (P L D 2006 LAHORE 557)** which held as:-

(4). The contents of the news items are patently defamatory. Truth of the contents of the news items could of course have constituted a good defence. The plaintiff and his witness, namely Fayyaz-ul-Hassan deposed that the news items were false. The onus of proving that the news items were true, shifted on to the defendant's. They have been unable to prove the correctness of the scandalous allegations made in Exh.P.8 to Exh.P.10. The solitary statement of one of the defendants as DW-1 was certainly not enough on this score. Consequently, the defence set up in

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the written statement that the news report was true has not been established on record".

Reliance may also be placed on the case reported as **"SYED MUSHIR ALAM VS. NETWORK TELEVISION MARKETING (PVT.) LTD. AND ANOTHER" (2005 C L D 840) AND "FARRUKH SAEED KHAN VS. ANIS-UR-REHMAN BHATTI 2006 C L C (KARACHI)**. When the entire sequence of conduct is considered in totality, the defendant's own actions ranging from voluntary meetings, cordial interactions, social media engagement, and expressions of appreciation both after and well beyond the alleged incidents create a pattern that is irreconcilable with her allegation. These contemporaneous acts, viewed cumulatively, substantially erode the probability of the incidents of sexual harassment as alleged and weigh heavily against her credibility. It is true, as argued by learned counsel for the defendant, that human behaviour is not uniform; individuals may, for professional or personal reasons, maintain outward courtesy despite internal discomfort, and the timing or manner of disclosing a grievance may vary from person to person. However, while such considerations may explain isolated instances of polite or neutral conduct, they do not sufficiently account for a consistent and repeated pattern of voluntary, warm, and appreciative engagement, both publicly and privately, extending beyond the immediate professional context. Thus, on a balance of probabilities, the cumulative effect of these circumstances does not merely weaken the defendant's allegation regarding the alleged incidents but renders them inherently improbable and unreliable, particularly in the absence of any corresponding conduct from the plaintiff.

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Consequently, upon appraisal of the entire evidence, tested on the touchstone of preponderance of probabilities, this Court finds that the defendant has failed to establish the truthfulness of the allegations and that their public dissemination was for public good whereas the plaintiff's denial is reinforced by the PWs and by the defendant's own conduct. Under Section 5 (c) of the Defamation Ordinance, 2002, where a defendant asserts truth and public good as an affirmative defence, failure to establish such defence does not leave the statement in a neutral zone of being merely "**not proved.**" Once the circumstances affirmatively negate credibility and probability, the statements in question cross the threshold from being merely unproved into falsity. In such a situation, the absence of proof is not neutral; rather, it is reinforced by contradictory conduct and contemporaneous evidence, rendering the statements unsustainable on any standard of probability. The falsity herein is not inferred mechanically, but emerges from the cumulative evidentiary assessment. Mere failure on the part of the defendant to prove allegations cannot be neutralized by contending that falsity has not been affirmatively established by the plaintiff. Failure to discharge this burden renders the defence of justification untenable, and the defamatory character of the statement remains un-rebutted and falsity is presumed once publication of a defamatory imputation is established, unless the defendant successfully proves its true. Consequently, the impugned allegations are not merely unproved; they stand judicially assessed as false for the purposes of Section 3 of the Defamation Ordinance, 2002, and thus constitute actionable

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defamation. Accordingly, it is held that the allegations of sexual harassment of a physical nature levelled by the defendant against the plaintiff through the tweet dated 19.04.2018 (Ex.DW-4/1) and the interview dated 21.04.2018 published in Instep Today (Ex.DW-4/1) subsequently detailed as three incidents of sexual harassment in the written statement while alleging based on truth and for public good, have not been proved to be true and do not qualify as publications made for public good. These publications remain defamatory and actionable in law. The protection of qualified privilege does not extend to the impugned tweet and interview under Section-5 (h) read with Section-7 of the Defamation Ordinance as the impugned statements have not been made to proper authorities rather were made to the public at large. Accordingly, Issue No.4 is decided in favour of the plaintiff and against the defendant

57. ISSUE NO. 6.

Whether the suit of the plaintiff does not fulfill the requirements of Section-3 of Defamation Ordinance 2002 and is liable to be dismissed? OPD

The onus to prove this issue rests upon the defendant. It is for the defendant to establish that the present suit does not satisfy the essential ingredients of Section 3 of the Defamation Ordinance, 2002 and is, therefore, not maintainable in law. Learned counsel for the defendant argued that the suit is misconceived and falls outside the ambit of the said provision. He contended that the defendant merely narrated her personal experience and grievance relating to alleged harassment and that such expression, even if defamatory, remains unproven, cannot be termed false rather it lacks malice which is also not

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established through evidence of the plaintiff, therefore does not amount to an actionable defamation. It was further argued that after a few days after the tweet dated 19.04.2018 and "Instep Today" interview dated 21.04.2018, the defendant opted for a lawful remedy under the Protection Against Harassment of Women at the Workplace Act, 2010 in shape of filing formal complaint before the ombudsperson, and, therefore, the plaintiff, if aggrieved at all, could only pursue an action for malicious prosecution and not a claim for defamation. According to the learned counsel, the suit has been instituted to pressurize and silence the defendant and is liable to be dismissed at the threshold. Conversely, learned counsel for the plaintiff argued that the defendant publicly levelled grave and specific allegations of sexual harassment of a physical nature against the plaintiff through social media and the press. It was submitted that such allegations squarely fall within the definition of libel as provided under Section 3(4) of the Defamation Ordinance, 2002. It was contended that publication is admitted, the imputations directly assail the moral, social and professional character of the plaintiff, and the evidence on record establishes reputational injury. According to the learned counsel, all statutory ingredients of defamation stand fully satisfied and the suit is legally maintainable.

58. I have heard the learned counsel for the parties at length and have carefully examined the pleadings, the oral and documentary evidence, as well as the relevant provisions of law along with the case law. The principal contention of the learned counsel for the defendant is that the impugned statements


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merely reflect the personal grievance of the defendant regarding alleged harassment and, even if not proved, cannot be treated as false or actionable in the absence of proof of actual malice. It is further argued that the defendant subsequently availed a lawful remedy by filing a complaint before the Ombudsperson under the Protection Against Harassment of Women at the Workplace Act, 2010 and, therefore, the plaintiff, if aggrieved, could only pursue a remedy for malicious prosecution and not a claim for defamation. These submissions have been carefully considered but are not persuasive.

59. At the outset, an important question arises as to whether a statement containing serious imputations of sexual harassment, made publicly without prior adjudication, can be treated merely as an expression of grievance. In my considered view, the answer must be in the negative. Under the law of defamation, the character of a statement is determined not by the subjective intention of its maker alone, but by its content, form and effect. A defamatory statement does not lose its character merely because it is described as a personal grievance. The test is objective, namely, whether the imputation is of such a nature as would tend to lower the plaintiff in the estimation of right-thinking members of society. A grievance communicated privately to a competent authority for redress may, in appropriate circumstances, attract qualified privilege. However, where an allegation is made publicly to an unrestricted audience, naming a specific individual and imputing conduct affecting his moral and professional standing, such publication assumes a defamatory character unless it is proved true or

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otherwise protected by law. In the present case, it is an admitted position that the defendant published the impugned tweet dated 19.04.2018 (Ex.DW-4/1) and gave an interview published in Instep Today dated 21.04.2018 (Ex.DW-4/1). These publications were made in written and electronic form and were disseminated to the public at large. Thus, the element of publication stands fully established. The contents of the impugned publications unmistakably attribute allegations of sexual harassment of a physical nature to the plaintiff. Such imputations, by their very nature, directly attack the character, dignity and professional standing of the plaintiff. Allegations of sexual misconduct, particularly against a person of public stature, are inherently capable of lowering him in the estimation of society and are defamatory per se, not requiring proof of special damage. The defendant's principal defence has been that the statements were true, made in good faith and for public good. However, under Issue No.4, the burden to prove truth and public good was upon the defendant. For reasons already recorded, the defendant has failed to substantiate the alleged incidents of sexual harassment to the required standard of proof in civil proceedings. Consequently, the defence of justification is not available. It is necessary to clarify that failure to prove truth does not leave the statement in a neutral or indeterminate state. Under the scheme of the Defamation Ordinance, 2002, once a defamatory imputation is published and the defendant pleads justification, the burden lies upon her to establish its truth. If such burden is not discharged, the statement remains unjustified and is treated as false for the purposes of civil liability. An unproved


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imputation of a serious nature cannot be permitted to operate without legal consequence. The contention of the learned counsel for the defendant that absence of proof of actual malice defeats the claim is also misconceived. The learned counsel for the defendant has placed reliance upon the judgment rendered in 'MAJID NIZAMI VS. SHEIKH MUHAMMAD RASHEED' (PLD 1996 LAHORE 410), which was later affirmed by the Hon'ble Supreme Court in "SHAIKH MUHAMMAD RASHID VS. MAJID NIZAMI, EDITOR-IN-CHIEF" (PLD 2002 SC 514), to contend that in a case involving a public figure, the plaintiff is required to prove not only falsity of the imputation but also actual malice, and that in the absence of such proof, the defendant is entitled to protection from liability. It has further been argued that the conduct of the defendant, as reflected from her own testimony as well as from portions of the cross-examination of the plaintiff, demonstrates good faith, bona fide belief, and absence of malice, particularly in view of the alleged prior attempts to raise the issue and the plaintiff's willingness to resolve the matter. This argument has been examined in the light of the evidence on record as well as the governing legal principles. There is no cavil with the proposition laid down in PLD 2002 SC 514 that in certain contexts, particularly where publications are made by media entities reporting statements of third parties in public interest, the element of actual malice assumes significance, and where such publication is shown to have been made in good faith after due verification, the presumption of malice may stand displaced. However, the applicability of that principle is entirely context-specific and must be appreciated within the factual and

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legal framework of each case. In the cited judgment, the Hon'ble Supreme Court was dealing with a situation where a newspaper had merely published statements and counter-statements of contesting parties, and the publisher was not the originator of the allegations. The publication was held to have been made in good faith and public interest, particularly as the plaintiff was afforded an opportunity to rebut the allegations, and the same were verified from the maker thereof. It was in those peculiar circumstances that the burden was held to shift upon the plaintiff to prove actual malice on the part of the publisher. The present case, however, stands on a fundamentally different footing. Here, the defendant is not a neutral publisher or reporting agency but the originator of the allegations herself. The impugned tweet and interview are not balanced reproductions of competing versions but are direct and categorical imputations made by the defendant against the plaintiff. Therefore, the protective principle recognized in **PLD 2002 SC 514** is not attracted to the facts of the present case. The statutory framework governing the present lis, namely Defamation Ordinance, 2002, under which proof of actual malice is not a foundational requirement for maintaining a civil action for defamation.

60. The case "**AIR 1961 PATNA 164 (V 48 C 43)**" which held as:-

(21). It may, however, be mentioned that, although both in England and in India, it is unnecessary for the plaintiff to prove the following facts, it has been customary to allege

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them in the plaintiff's pleadings (a) Falsity of the statement. It is for the defendant to prove that it is true; (b) **Malice of the defendant. The plaintiff has to prove malice to rebut the defence of privilege or fair comment, but otherwise it is not necessary in order to make out the plaintiff's case.** The allegation of malice means nothing more than that the defendant published a defamatory statement without lawful excuse; and (c) damage to plaintiff's reputation. The law presumes it from the defamatory tendency of the words. The above points the plaintiff need not to prove.

(24). The defence of justification is the plea of truth of the words or statements published by the defendant. The form of the plea is that "the words complained of are true in substance and in fact" Truth is a defence in a civil action. For the law will not permit a man to recover damages in respect of an injury to a character which he either does not or ought not to possess" **No action, therefore, will lie for the publication of a defamatory statement if the defendant pleads and proves that it is true.** This is so even though the defendant is proved to have been actuated by malicious and improper motives. In a civil action the defendant has to plead and prove the truth of the defamatory words, and not

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merely his belief in their truth, though honest. Therefore, if the words, or the statements, turn out not to be true, he is liable, however honestly and carefully he may have acted and however inevitable his mistake, the liability is almost.

However, the case law cited by learned counsel for the defendant, namely "DR. MUKHTAR AHMED VS. MST. SHAMIM HASHMI" (2007 CLC 941), is distinguishable on facts; as noted in paragraph No.4 thereof, the impugned application in that case was made to a competent authority for the protection of the respondent's own interest, and it was held to be doubtful whether such communication could constitute defamation. Likewise, "ALI ADNAN SHEIKHA VS. I.G. POLICE" (2026 SCMR 77) does not pertain to a civil suit for defamation and is, therefore, inapplicable to the present controversy. Similarly, the judgments reported as "A. ABDUL RASHID KHAN VS. PAK SHAHUL HAMID" (2000) 10 SCC 636, "MILKOVICH VS. LORAIN JOURNAL CO." 497 U.S. 1 (1990), AND "SUBEDAR VS. DUBEY JAGAT NARAIN" (AIR 1924 ALLAHABAD 848) arise in entirely different factual and legal contexts and are distinguishable from the facts and circumstances of the present case under the Defamation Ordinance. The primary consideration remains whether a defamatory imputation was published and whether it stands justified in law. The element of malice cannot be elevated to a foundational requirement for maintainability of the suit. Civil defamation is primarily concerned with injury to reputation, and the object of the law is compensatory in nature. A person may honestly believe a

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statement to be true and yet be liable if he fails to legally justify it. Even otherwise, malice in defamation is not confined to personal spite or ill-will; it extends to making a statement without lawful justification or with reckless disregard for its truth. In the present case, the act of publicly levelling serious allegations of sexual misconduct against a named individual, without substantiation, constitutes conduct from which malice in law is legitimately inferred.

61. Good faith, in the context of defamation, is not merely a subjective belief; it requires due care, caution, and responsible conduct, particularly before making serious allegations publicly against a named individual. The reliance placed by the learned counsel on the alleged efforts to resolve the matter privately, including the reference to the intervention of PW-11 and her wife Salina Rashid, and the plaintiff's statement expressing willingness to apologize if any misunderstanding had occurred, also does not materially advance the defendant's case. The testimony of the plaintiff, when read as a whole, reflects that he had shown readiness to address any perceived grievance through private or appropriate channels, and even indicated willingness to step aside professionally if the matter so warranted. However, the defendant admittedly did not pursue such avenues to their logical conclusion and instead chose to publicly disseminate the allegations through social media and press. This sequence of events is of legal significance. Even if it is assumed that the defendant initially entertained a grievance, the decision to broadcast serious and stigmatic allegations to the public at

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large, without prior adjudication or substantiation, cannot be equated with the exercise of due care and caution required to establish good faith in law. The argument that the plaintiff's remedy lay only in an action for malicious prosecution is equally untenable. Defamation and malicious prosecution are distinct causes of action operating in different legal spheres. The cause of action in the present case arose from the public dissemination of defamatory imputations, which is independent of any subsequent proceedings before a statutory forum. It is also to be noted that while a complaint made before a lawful authority may, in appropriate circumstances, enjoy qualified privilege, such protection does not extend to prior publication made to the general public at large. The impugned tweet and interview were not confined to any privileged occasion but were widely published in public domain and, therefore, constitute independent actionable publications. Moreover, no specific plea of qualified privilege has been properly raised or established; rather such a defence is not available to the defendant regarding impugned tweet and interview under Section-5 (h) read with section 7 of the Defamation Ordinance. The subsequent filing of a complaint before the Ombudsperson on 30.04.2018 does not retrospectively legitimize or protect the earlier public statements, as both operate in distinct legal spheres.

62. Section 3 of the Defamation Ordinance, 2002 provides that any wrongful act or publication of a false statement, made orally, in writing or through electronic means, which injures the reputation of a person or tends to lower him in the estimation of others, shall be actionable as defamation. The

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essential ingredients emerging from the statute are: publication of a statement or representation; falsity of such statement or failure to establish its truth; and injury to reputation or tendency to lower the person in the estimation of others. Applying these ingredients to the present case, publication stands admitted and proved; falsity is established in law, as the defendant has failed to prove truth and public good; and injury to reputation is inherent in the nature of the allegations and stands sufficiently established. Thus, all statutory requirements stand fully satisfied. In view of the foregoing discussion, it is held that the defendant has failed to discharge the onus of proving that the present suit does not fulfill the requirements of Section 3 of the Defamation Ordinance, 2002. On the contrary, the plaintiff has successfully established that the impugned publications contain defamatory imputations, made/published by the defendant, referring to him and causing harm to his reputation. The failure of the defendant to prove the defence of truth and public good renders the statements unjustified and false in the eyes of law, while absence of proof of actual malice does not defeat the claim. The plea of qualified privilege is neither properly raised nor applicable. Consequently, the suit is legally maintainable and this issue is decided against the defendant and in favour of the plaintiff.

63. ISSUE NO. 2:

Whether plaintiff has suffered general and the special damages to the tune of rupees one hundred Crore due to defamatory statements of defendant and he is

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entitled to recover these damages from the defendant? OPP

The onus to prove this issue rests upon the plaintiff. Compensatory damages can be divided into general and special damages. Thus, the damages in defamation are broadly of two kinds: General damages, which are presumed upon proof of libel and compensate for injury to reputation, dignity, and mental anguish; and Special damages, which must be specifically pleaded and strictly proved through cogent evidence showing actual pecuniary loss directly attributable to the defamatory publication. The plaintiff has asserted that on account of the statements dated 19.04.2018 published through twitter and dated 21.04.2018 published in Instep Today, he suffered general as well as special damages to the tune of rupees one hundred crore and is, therefore, entitled to recover the same from the defendant. It was pleaded that the impugned publications tarnished his reputation, lowered him in the estimation of the public, caused mental agony and resulted in cancellation or non-renewal of several endorsement contracts, film projects and professional engagements. The defendant, in her written statement as well as through her evidence, categorically denied that the plaintiff suffered any loss of reputation or finances to the extent claimed. Her consistent stance was that the plaintiff remained professionally active and financially successful even after April, 2018.

64. I have heard the learned counsel for the parties at length and have carefully examined the pleadings, the oral as well as documentary evidence, and the case law cited at the bar.

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The onus to prove this issue rests upon the plaintiff, who has claimed general as well as special damages to the tune of Rupees 100 Crores on account of the defamatory statements made by the defendant through her tweet dated 19.04.2018 and the interview dated 21.04.2018. At the outset, it may be reiterated that while deciding Issues Nos.1 and 4, this Court has already held that the impugned publications contained defamatory imputations of sexual harassment of a physical nature against the plaintiff and that the defendant has failed to establish the truth of such allegations and that they were made for public good. Consequently, the publications constitute actionable libel within the meaning of Section 3 of the Defamation Ordinance, 2002. Once libel is established, the law presumes general damage to reputation, and the plaintiff becomes entitled to compensatory relief; however, the quantum of such damages must be determined on settled legal principles and evidence on record.

65. Insofar as general damages are concerned, it is well-settled that injury to reputation, mental anguish, humiliation, and loss of social esteem are presumed in cases of libel and need not be proved through strict evidence. The august Supreme Court of Pakistan in "ABDUL MAJID KHAN VS. TAWSEEN ABDUL HALEEM" (PLD 2012 SC 80) has held that such damages are to be assessed on the rule of thumb, keeping in view what is just, fair and reasonable in the circumstances of each case, while ensuring that the award is neither fanciful nor illusory. Similarly, in "MUNAWAR AHMED, CHIEF EDITOR DAILY SAMAA VS. MUHAMMAD ASHRAF AND OTHERS" (PLD

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2021 SC 564), it has been reiterated that general damages are compensatory in nature and are awarded to vindicate the reputation and feelings of the aggrieved person. In the present case, the nature of the allegation i.e., sexual harassment of a physical nature by its very character strikes at the core of a person's dignity, moral standing, and professional reputation. The plaintiff is a public figure whose profession is intrinsically dependent upon public perception, credibility, and acceptance. The dissemination of such allegations through social media and press, accessible to an unrestricted audience, was bound to cause reputational harm, mental distress, and social embarrassment. Even if exact quantification is not possible, the Court cannot lose sight of the fact that such imputations carry serious and lasting consequences. At the same time, the determination of quantum must also take into account the mitigating circumstances emerging from the record.

66. To establish pecuniary loss and earning capacity, the plaintiff examined PW-10 (his former business manager), PW-11 (his talent manager), and himself as PW-12. PW-10 produced documentary evidence Ex.PW-10/1 to Ex.PW-10/8, while PW-12 produced Ex.PW-12/7 to Ex.PW-12/63, comprising contracts and financial material relating to his professional engagements. PW-10 deposed that after the allegations of sexual harassment by the defendant, Nestlé cancelled its contract and declined association with the plaintiff, stating that companies avoid engaging controversial artists for campaigns. PW-11 deposed that Pepsi indicated it could not enter into any contract with the plaintiff until resolution of the dispute, and further

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stated that, since the allegations, the plaintiff had not secured works/contracts and suffered financial and reputational impact. The plaintiff (PW-12) himself stated that his income for 2019 was approximately Rs.1.18 Crore, that he was rejected from various opportunities, and that certain offers were withdrawn, while also claiming damages on account of loss of contracts, loss of business opportunities, loss of reputation and mental anguish. In support of loss of opportunity, reliance was placed upon email correspondence Ex.PW-12/84 (Mosaic Festival withdrawal) along with Ex.PW-12/85 and Ex.PW-12/86. However, during cross-examination, material admissions were made by PW-12, including that he continued to perform concerts after April 2018, that his film Teefa in Trouble was released after the tweet, and that he received approximately Rupees 8 Crores from Pepsi. PW-11 admitted that no written cancellation letter from Pepsi was produced, and PW-10 conceded that certain documents were merely proposals rather than concluded contracts. These aspects substantially weaken the claim of enforceable pecuniary loss. On the other hand, the defendant (DW-4) stated that the plaintiff continued to work, perform, release his film, and appear publicly after the impugned publication, and denied that his career was destroyed, while DW-7 also stated that the plaintiff remained active on television, in concerts, and in media discussions. It stands established that the plaintiff continued to remain professionally active after the impugned publications. His film "Teefa in Trouble" was released after the controversy and achieved substantial commercial success, generating business of approximately Rs.50 crores. The

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plaintiff also admittedly received approximately Rs.8 crores from Pepsi after pursuing legal remedies, continued to perform concerts, and was conferred the Pride of Performance award. He was also nominated for and received accolades at Lux Style Awards, and his work continued to receive recognition at international forums. These factors demonstrate that while the plaintiff did suffer reputational injury, his career was not brought to a complete standstill nor was his public standing entirely destroyed. The learned counsel for the defendant has rightly relied upon the settled principle that special damages must be strictly proved and cannot be awarded on conjecture or speculation, as laid down in authorities including "MALIK GUL MUHAMMAD AWAN VS. FEDERATION OF PAKISTAN (2013 SCMR 507), DR. SYED HAIDER BOKHARY VS. NWFP (1984 CLC 1280), RASHID KHAN VS. BADHIR (2013 MLD 1026), AND VIFOR (INTERNATIONAL) INC. VS. ME'MOM PHARMACEUTICAL (2013 CLD 1531)". There is no cavil with this proposition.

67. From the evidence, it clearly emerges that while the plaintiff has successfully demonstrated his pre-2018 earning capacity and has brought on record certain instances suggesting disruption of engagements, he has failed to establish, through strict and cogent evidence, the specific pecuniary loss claimed. No audited accounts, comparative financial statements, or enforceable contracts of the magnitude alleged have been produced. Much of the claim relating to future business opportunities remains speculative and cannot be accepted as such. The plaintiff has relied upon various email

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communications, including Ex.PW-12/84 and other correspondence, to demonstrate loss of contracts and withdrawal of engagements. However, the authors of these emails were not produced in the witness box, nor were such communications proved through primary evidence in accordance with law. In the absence of examination of the authors, the contents of these emails cannot be treated as conclusive proof of enforceable contractual obligations or definite pecuniary loss. Furthermore, no rebuttal evidence in the form of comparative post-publication financial records was produced by the plaintiff to substantiate actual loss of income. Consequently, the claim for special damages is not established.

68. At the same time, the evidence on record cannot be ignored in its entirety. It stands proved that serious allegations of sexual harassment of a physical nature were publicly made against the plaintiff and widely disseminated, which, by their very nature, are inherently damaging to reputation, dignity, and social standing. The law presumes general damages in cases of libel. The plaintiff, being a public figure whose professional standing is closely tied to public perception, would reasonably have suffered reputational harm, mental anguish, and loss of esteem. However, it is also an admitted position that the plaintiff continued to remain professionally active, performed concerts, released his film successfully, received remuneration from ongoing engagements, and was conferred national recognition. These factors materially mitigate the extent of damages and negate the claim of total reputational and financial collapse.

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69. In view thereof, this Court is required to strike a balance. While the defamatory imputations were grave and actionable, the plaintiff has failed to prove any specific pecuniary loss so as to justify an award of special damages. Applying the settled principles laid down in "ABDUL MAJID KHAN VS. TAWSEEN ABDUL HALEEM (PLD 2012 SC 80) AND MUNAWAR AHMED VS. MUHAMMAD ASHRAF (PLD 2021 SC 564)", this court holds that the plaintiff is entitled to general damages only. Accordingly, a sum of **Rs.5,000,000/- (Rupees five Million)** is awarded to the plaintiff as general damages for injury to reputation, dignity and mental anguish. The claim for special damages is **declined** for want of strict proof. This amount is considered just, fair, and reasonable in the circumstances of the case, being compensatory in nature and not punitive. This issue is, therefore, decided partly in favour of the plaintiff and against the defendant.

70. ISSUE NO.3:-

**Whether the plaintiff is entitled to a decree for permanent injunction restraining the defendant from making defamatory statements against the plaintiff?
OPP**

The onus to prove this issue rests upon the plaintiff. The plaintiff seeks a decree for permanent injunction restraining the defendant from making or publishing any further defamatory statements against him. It has already been conclusively held while deciding Issues No.1 & 4 that the impugned tweet dated 19.04.2018 and the subsequent publication dated 21.04.2018 contained defamatory imputations of sexual harassment of a physical nature against the plaintiff, which were neither proved

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to be true nor shown to have been made for public good, and thus constituted actionable libel within the meaning of Section 3 of the Defamation Ordinance, 2002. Issue No.2 has also been decided partly in favour of the plaintiff, holding that he suffered reputational injury attributable to the said publications. Furthermore, Issues No.5 and 6 have been decided against the defendant, thereby negating the legal objections raised to defeat the suit. In these circumstances, the existence of a legal injury to the plaintiff's reputation stands established on record. The question that now arises is whether the plaintiff is entitled to preventive relief in the nature of a permanent injunction. It is a settled principle of law that where a wrongful act has been proved and there exists a reasonable apprehension of its repetition, the Court is empowered to grant an injunction to prevent further injury. In cases of defamation, the Courts exercise such jurisdiction with caution, keeping in view the constitutional guarantee of freedom of speech under Article 19 of the Constitution, while simultaneously safeguarding the dignity and reputation of an individual as protected under Article 14. The balance, therefore, lies in restraining only unlawful and defamatory conduct, without imposing a blanket prohibition on lawful expression. In the present case, the defendant has not been able to justify the truth of the allegations nor establish any lawful defence. The defamatory nature of the imputations having been finally adjudicated, any repetition or republication of the same allegations would amount to perpetuation of an already adjudged wrong. The record further shows that the controversy

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attracted widespread public attention and circulation, and the likelihood of continued or repeated assertions cannot be entirely ruled out, particularly in the absence of any retraction or apology from the defendant. At the same time, the injunction cannot be framed in overly broad or vague terms so as to restrain the defendant from exercising her lawful right of expression in future on matters not adjudicated upon. The restraint must, therefore, be confined to the specific defamatory imputations which have been held to be false and unlawful by this Court. Accordingly, in view of the findings on the preceding issues, particularly Issues No.1, and 4, this Court holds that the plaintiff is entitled to a decree for permanent injunction to the limited extent of restraining the defendant from repeating, publishing, or causing to be published, directly or indirectly, the defamatory allegations of sexual harassment of a physical nature against the plaintiff which have been adjudged to be false and defamatory in the present proceedings. This issue is, therefore, decided in favour of the plaintiff accordingly.

71. ISSUE NO.7

**Whether the suit is false, frivolous and liable to be dismissed with special costs under Section 35-A CPC?
OPD**

The onus to prove this issue rests upon the defendant. It was for the defendant to establish that the present suit is false, frivolous or vexatious and thus liable to be dismissed with special costs under Section 35-A of the Code of Civil Procedure. Section 35-A CPC contemplates award of compensatory costs in respect of false or vexatious claims or defences, where the Court is satisfied that the litigation was

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initiated without any reasonable ground and with an element of abuse of the process of law. The provision, being penal in nature, is to be applied sparingly and only in cases where the claim is demonstrably dishonest, mala fide or entirely devoid of substance. In the present case, this Court has already, while deciding Issues No.1, 3 and 4, held that the impugned publications made by the defendant were defamatory in nature and the defence of truth and public good has not not been established. Issue No.2 has also been decided partly in favour of the plaintiff, holding that he has suffered reputational harm, mental anguish attributable to the defendant's statements made through impugned tweet and Instep interview. These findings, by their very nature, negate the contention that the suit is false or frivolous. Merely because the plaintiff has not been able to prove the entire quantum of damages as claimed, or that of special damages were found to be exaggerated and not strictly proved, does not render the suit false or vexatious. It is settled that overestimation of damages, by itself, is not a ground to invoke Section 35-A CPC, particularly where the foundational cause of action stands established. The record further reflects that the plaintiff approached this Court seeking redress against allegations which have been adjudged to be defamatory. The institution of such proceedings cannot be termed as an abuse of process; rather, it is a lawful exercise of the right to seek protection of reputation, which is recognized as an integral facet of dignity. The defendant has not brought on record any material to show that the suit was instituted with mala fide intent, ulterior motive, or in bad faith so as to attract the penal

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consequences envisaged under Section 35-A CPC. No evidence has been led to demonstrate that the claim was knowingly false or that the proceedings were initiated merely to harass the defendant. In view of the foregoing, this Court finds no merit in the objection raised by the defendant. The suit cannot, by any stretch of imagination, be termed as false or frivolous so as to warrant dismissal with special costs. This issue is, therefore, decided against the defendant and in favour of the plaintiff.

RELIEF:

72. In view of the findings recorded on the foregoing issues, the suit of the plaintiff partly succeeds and is decreed in the following terms:

- a) It is hereby declared that the tweet dated 19.04.2018 and the interview published on 21.04.2018 in Instep Today contain false, defamatory and injurious imputations against the plaintiff, whereby allegations of sexual harassment of a physical nature were levelled, which have not been proved to be true or made for public good, and thus constitute actionable defamation.
- b) The plaintiff is held entitled to compensatory damages on account of injury to reputation, dignity and mental anguish. However, the claim of special damages has not been proved through cogent and reliable evidence. Accordingly, a sum of **Rs.5,000,000/- (Rupees five Million)** is awarded to the plaintiff as general damages only, recoverable from the defendant.
- c) The defendant is further permanently restrained from repeating, publishing, or causing to be published, directly or indirectly, the aforesaid defamatory allegations of

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sexual harassment of a physical nature against the plaintiff, in any form of media, including print, electronic or social media.

d) The parties shall bear their own costs.

The decree sheet shall be drawn accordingly by the Reader of this court.


Announced
31.03.2026

پر جمع ڈکریا مرتب شد

Certified that this Judgment consists of (156) pages and each of which is dictated, read, corrected and signed by me.

Dated 31.03.2026
Zahid & Usman


ASIF HAYAT,
Addl. District Judge
Lahore.


Addl; District Judge,
Lahore.

DECREE SHEET

IN THE COURT OF
ASIF HAYAT, ADDL; DISTRICT JUDGE,
LAHORE.

C.S No: **334/1/16.11.2020.**
Date of Institution: 23.06.2018.
CMS No: 131918.
Date of Decision: **31.03.2026.**

ALI ZAFAR Son of Muhammad Zafar-Ullah, Resident Of House No. 191 Block L, Phase VI Defence Housing Authority, Lahore Cantt.

.....(PLAINTIFF)

VS.

MEERA SHAFI (MEESHA SHAFI) Daughter of Sayed Parvaiz Shafi Resident of House # 74, Block BB-Phase IV, Defence Housing Authority, Lahore Cantt.

.....(DEFENDANT)

=====

MEMO OF SUIT PRESENTED ON: 23.06.2018.

SUIT FOR DAMAGES, OF RS.100 CRORES UNDER THE
DEFAMATION ORDINANCE, 2002.

This suit coming before me today for final disposal in the presence of. Learned counsel for the plaintiff, Mr. Umer Tariq Gill advocates (Ali Sabtain Fazli & Associates). Learned counsel for the defendant Muhammad Saqib Jillani advocate alongwith associate Mr. Asad Ahmad Dhuddi advocate (Jillani and Co).

The suit of the plaintiff partly succeeds and is decreed in the following terms:

- a) It is hereby declared that the tweet dated 19.04.2018 and the interview published on 21.04.2018 in Instep Today contain false, defamatory and injurious imputations against the plaintiff, whereby allegations of sexual harassment of a physical nature were levelled, which have not been proved to be true or made for public good, and thus constitute actionable defamation.
- b) The plaintiff is held entitled to compensatory damages on account of injury to reputation, dignity and mental

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anguish. However, the claim of special damages has not been proved through cogent and reliable evidence. Accordingly, a sum of **Rs.5,000,000/- (Rupees five Million)** is awarded to the plaintiff as general damages only, recoverable from the defendant.

- c) The defendant is further permanently restrained from repeating, publishing, or causing to be published, directly or indirectly, the aforesaid defamatory allegations of sexual harassment of a physical nature against the plaintiff, in any form of media, including print, electronic or social media.
- d) The parties shall bear their own costs

COSTS OF SUIT

PLAINTIFFS	Rs.	DEFENDANTS	Rs.
Court Fee	15000-00	Court Fee	
Do for power	—	Do for power	—
Services of processes	—	Services of processes	
Pleader's Fee on Rs.	—	Pleader's Fee on Rs.	
Miscellaneous	2	Miscellaneous	36
Total		Total	
	15002		36

Given under my hand and seal of the court on 31st day of March, 2026.


ASIF HAYAT

Additional District Judge,
Lahore

Zahid & Usman