2025:DHC:1178

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

Reserved on: 29th August, 2024

Date of Decision: 20th February, 2025

\+ CS(OS) 570/2024 & I.A. 34094-34098/2024

ADDICTIVE LEARNING TECHNOLOGY LIMITED & ANR.

.....Plaintiffs

Through: Mr. Raghav Awasthi, Adv. (Through VC)

versus

ADITYA GARG & ORS. .....Defendants

Through: Mr. Himanshu Bhushan and Mr. Shagun Srivastava, Advs. for D-2

%

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

1. The captioned suit has been filed seeking a decree of permanent injunction along with damages. The subject matter of the suit are the tweets published by defendant nos. 1, 2, 4 and 5 on the social media platform known as 'X' (formerly 'Twitter'), which has been impleaded as defendant no. 3 in the present suit. It is the case of plaintiff nos. 1 and 2 that the impugned tweets are harmful and derogatory to the said plaintiffs and has defamed plaintiffs in Cyber Space.

2. This Court considered it fit to examine the plaint and the documents on the basis of a demurer and assess the contentions therein, particularly

since it was prima facie apparent to this Court that there was no cause of action for defamation on the basis of which the suit was filed. Post the detailed assessment of the case at hand given below, this Court indeed concluded that plaint fails to disclose cause of action and, therefore, the present plaint ought to be rejected.

Case setup by the Plaintiffs

3. In the plaint, the plaintiffs have challenged two (2) tweets published by defendant no. 1 and one (1) tweet published by defendant no. 4, which forms part of a '*Conversation Thread No.1*' initiated by defendant no. 1 on his personal X handle. Similarly, the plaintiffs have challenged two (2) tweets published by defendant no. 2 and one (1) tweet published by defendant no. 5, which forms part of a '*Conversation Thread No.2*' initiated by defendant no. 2 on his personal X handle.

3.1 It is stated in the plaint that the conversation threads initiated by defendant no. 1 and defendant no. 2 are reactionary and finds its genesis in a tweet which was first published by plaintiff no. 2 on his personal X handle at 11:20 a.m. on 22.06.2024 ('Lead Tweet'). It is stated in the plaint[1] that the plaintiff no. 2 posted the said Lead Tweet in good faith, with the intention of shedding light on a significant trend in the legal industry that impacts law students, law firms and educational institutions. It is stated that the said Lead Tweet was intended to motivate law students, who may not have the financial means to attend top National Law Universities ('NLUs').

Conversation Thread No.1 (Inter-se between Defendant no.1 and 4)

4. It is stated that defendant no. 1 as a response to the aforesaid Lead Tweet, quote tweeted[2] the said Lead Tweet on his personal X handle on

[1] Paragraph '13' to the plaint.

[2] A re-tweet with comment. In other words, when a user reposts, another user tweet and adds their own comment or thoughts to it. This feature allows user to share someone else's tweet and add their own context and perspective to it.

22.06.2024 at 01:41 p.m. with his reactionary comment, which started a conversation thread between defendant no. 1 and other users of the X platform. During the course of this conversation thread, defendant no. 1 while responding to another 'X' user posted a reply tweet[3] at 06:32 p.m. on 22.06.2024, which according to the plaintiffs herein contained defamatory elements ('**Impugned Tweet No. 1**').

4.1 Plaintiff no. 2 has stated that the quote tweeted his response to defendant no. 1's aforesaid reply tweet from his personal X handle at 06:43 p.m. on 22.06.2024. Plaintiff no. 2 has placed on record[4] his response tweet (Plaintiff no.2's response tweet).

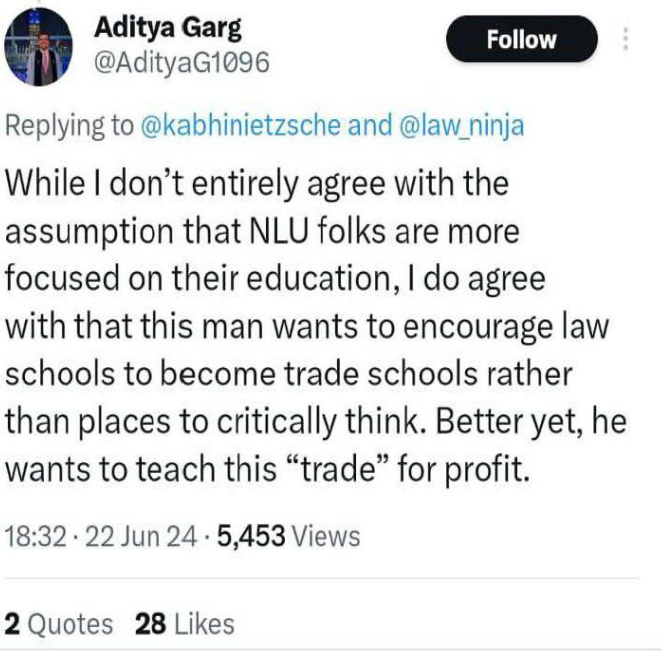
4.2 It is stated that defendant no. 1 once again in reply to aforementioned Plaintiff no. 2's response tweet (quote tweet) published his response on his personal X handle at 06:51 p.m.[5] on 22.06.2024 ('**Impugned Tweet No. 2**') and as per the plaintiffs this reply tweet of defendant no. 1 is defamatory in nature.

4.3 It is stated that defendant no. 4, who is anonymous to the plaintiffs published a reply tweet at 12:37 a.m.[6] on 23.06.2024 in this conversation thread, which contained the alleged unwarranted and malicious attack on plaintiff no. 2's character, causing damage to his reputation ('**Impugned Tweet no. 3**').

4.4 The impugned tweet nos. 1, 2 and 3 reads as under:

(i) Impugned Tweet No.1:

[3] Document no. 8 to the plaint.
[4] Document no. 9 to the plaint.
[5] Document no. 10 to the plaint.
[6] Document no. 11 to the plaint.



(ii) Impugned Tweet No.2:

(iii) Impugned Tweet No.3:

Conversation Thread No.2 (Inter-se between Defendant No.2 and 5)

5. It is stated in the plaint that defendant no. 2 independently at 04:04 p.m.[7] on 23.06.2024 published a tweet on his personal X handle ('**Impugned Tweet No. 4**'). It is alleged that the contents of the said tweet portray the plaintiffs in poor light and causes damage to the reputation of the plaintiffs.

5.1. It is stated that defendant no. 5, who is anonymous to the plaintiffs, published a reply tweet at 04:33 p.m.[8] on 23.06.2024 to the said tweet of defendant no. 2. Which as per the plaintiffs spreads false and damaging information against the plaintiffs ('**Impugned Tweet No. 5**').

5.2. It is stated that in the same conversation thread that defendant no. 2 while interacting with another 'X' user, namely, Shahjahan Raza Khan responded with a tweet at 02:23 p.m.[9] on 24.06.2024 which as well has the potential to cause loss of opportunities to the plaintiffs and discourage

[7] Document no. 12 to this plaint.
[8] Document no. 13 to this plaint.
[9] Document no. 14 to this plaint.

students from enrolling for the courses offered by the plaintiff no.1 Company under the brand name of Lawsikho ('**Impugned Tweet No. 6**').

5.3. Though the plaint and the documents filed with it fails to disclose that plaintiff no.2 had published a tweet at 8:48 p.m. on 23.06.2024, which is effectively a response to Impugned Tweet No. 4; however, the same has come on record during arguments.

5.4. The Impugned Tweet Nos. 4, 5, and 6 reads as under:

(i) Impugned Tweet No.4:

(ii) Impugned Tweet No.5:

(iii) Impugned Tweet No.6:

Averments qua potential harm to the reputation of the plaintiffs

6. It is stated that the actions of defendant nos. 1, 2, 4 and 5 have the potential to harm the reputation and financial stability of plaintiff no. 1 and pose a significant threat to value of its share which is listed on National Stock Exchange . It is stated that the impugned tweets have the potential of spreading false information and undermining the trust of the investors in plaintiff no. 1 Company. The details of the threat perceived by plaintiffs are set out at paragraphs '2', '36' and '37' of the plaint. The relevant part of paragraphs '2', '36' and '37' read as under:

> "2: …..
> Moreover, the Plaintiff No.1 is a listed company and the actions of the Defendants No.1 & 2 which are detailed herein below are **not only damaging to the reputation and financial stability of the Plaintiff No.1, but also undermine the integrity of the entire stock market.** The Defendants No.1 & 2's unethical behaviour, including spreading false information and engaging on X platform by writing of derogatory posts not only harms investors who rely on

accurate information to make informed decisions, but also erodes trust in the financial system as a whole.

…..

36. The Defendants' actions **not only have the potential to harm** the reputation and financial stability of the Plaintiff No.1, **but they also pose a significant threat to the integrity of the entire stock market.** By spreading false information and engaging in derogatory posts on X platform, they undermine investor trust on Plaintiff No.1 company. It is crucial to take immediate and decisive action to hold the Defendants No.1, 2, 4 and 5 accountable and protect innocent shareholders from further harm.

37. **The Defendants' unethical behaviour, including spreading false information and engaging in derogatory posts, not only harms investors who rely on accurate information to make informed decisions, but also erodes trust in the financial system as a whole. This can lead to a decline in stock prices, loss of shareholder value**. It is crucial for the Hon'ble Court to take swift and decisive action to hold the Defendants No.1, 2, 4 and 5 accountable and prevent further harm to innocent shareholders and the reputation of the Plaintiffs."

(Emphasis supplied)

6.1 The **details of plaintiff no. 1's reputation** has been pleaded and set out at paragraphs '2' and '38' to '40' of the plaint. Further details of plaintiff no. 2's reputation has been pleaded and set out at paragraph '4' of the plaint.

6.2 In these facts the plaintiffs seek a permanent injunction against defendant nos. 1, 2, 4 and 5 to cease and resist them from publishing or tweeting on any online or offline platforms including the platform X. The plaintiffs also seek a permanent injunction restraining the defendant nos. 1, 2, 4 and 5 from contacting the plaintiffs or any person concerned with them through online or offline mode. The plaintiffs further seek a decree of damages against defendant nos. 1, 2, 4 and 5 for the defamation caused to the plaintiffs in Cyber Space.

6.3 It is stated in the plaint that plaintiffs are not aware about the physical

addresses of defendant nos. 1, 2, 4 and 5. It is stated that defendant nos. 4 and 5 are anonymous to the plaintiffs. It is stated that thus service on defendant nos. 1, 2, 4 and 5 be affected via X itself i.e. defendant no. 3.

6.4 Learned counsel for the plaintiffs has relied upon the judgments of the Co-ordinate Benches of this Court in **T.V. Today Network Ltd. v. The Cognate & Ors.**[10], **Kairaviview [OPC] Pvt. Ltd. & Ors. v. Hindustan Times/Mint & Ors.**[11], **Gaurav Bhatia v. Naveen Kumar & Ors.**[12] and **Rajatrangini India Media Pvt. Ltd. & Anr. v. Sanjay Sharma & Ors.**[13] to contend that an ad-interim injunction at the pre-trial stage ought to be granted in the facts of this case, as prayed for in I.A. 34094/2024.

Arguments by Defendant no.2

7. This suit was first listed on 24.07.2024 when defendant no. 2 entered appearance through counsel on advance service and opposed issuance of summons. In the plaint as noted above Impugned Tweet Nos. 4 and 6 forming part of Conversation Thread No. 2 have been attributed by the plaintiffs to defendant no. 2.

7.1 It was contended by defendant no.2 that plaintiff no. 1 has absolutely no cause of action against defendant no. 2 as there is no reference to plaintiff no. 1 in defendant no. 2's Impugned Tweet No. 4. It was stated that Impugned Tweet No. 4 only referred to plaintiff no. 2 and in this regard defendant no. 2 asserted that the said tweet was based on an honest opinion held by defendant no. 2, which falls under the exception of fair comment against the claim of defamation.

7.2 It was contended that defendant no. 2 is a practicing advocate and the opinion expressed in Impugned Tweet No. 4 was based on his experience

[10] 2021 SCC OnLine Del 3244.
[11] 2022 SCC OnLine Del 5198.
[12] 2024 SCC OnLine Del 2704.
[13] 2024 SCC OnLine Del 5072.

gained from actual practice of law. Defendant no. 2 relied upon an e-mail dated 11.03.2020 circulated by plaintiff no. 1 to law students by way of a newsletter enlisting the advantages of enrolling with the courses offered by the plaintiff no. 1 and contended that defendant no. 2 verily believes that the promises enlisted in the said newsletter are false hopes.

7.3 Defendant no. 2 has placed on record with his written submission a tweet published by plaintiff no. 2 at 08:48 p.m. on 23.06.2024 on his personal X handle responding to defendant no. 2's Impugned Tweet No. 4. It is stated that the contents of plaintiff no. 2's tweet contains language which ridicules defendant no. 2 and belies that plaintiff no. 2 considered Impugned Tweet No. 4 to be defamatory at the contemporaneous time.

7.4 Defendant no. 2 contends that plaintiff no. 2's Lead Tweet posted at 11:20 a.m. on 22.06.2024 was provocative and intended to engage other X users to respond to the said Lead Tweet as is a common modus on platform X i.e. defendant no.3.

7.5 With respect to Impugned Tweet No. 6, it was stated that defendant no. 2 had only sought to seek a clarification due to the incorrect use of grammar by another X user Shahjahan Raza Khan in the said user's reply/ tweet at 04:30 p.m. on 23.06.2024 and thus Impugned Tweet No. 6 did not reflect his opinion on the courses offered by plaintiff no. 1.

7.6 Defendant no. 2 also submitted that the plaintiff no.2 has supressed in the plaint the fact that parties are known to each other.

In light of the said submission, plaintiff no.2 was directed to file an affidavit disclosing its association with defendant no. 2. In response, plaintiff no. 1 filed an affidavit dated 26.08.2024 and disclosed the past history of disagreements between plaintiff no. 2 and defendant no. 2 with respect to the effectiveness of the courses offered by plaintiff no. 1.

7.7 Defendant no. 2 further submitted that plaintiff no. 2 is a habitual

litigant who frequently files suits for injunction against persons, who post negative reviews against the courses offered by plaintiff no. 1 by way of social media posts; and sought a direction for disclosure of the said litigations. In response, plaintiffs have filed a Note enlisting details of six (6) cases for injunction filed by them against persons (including clients) who have posted comments or reviews against plaintiff no. 1 on online platforms including social media platforms and which as per the plaintiffs were defamatory or untruthful.

7.8 Defendant no. 2 submitted that in the prayer clause of the plaint no relief with respect to mandatory injunction or permanent injunction has been sought against the defendant nos. 1, 2, 4 and 5 to take down the impugned tweets and in the absence of the said main relief, no relief for seeking interim injunction for *take down* of the impugned tweets as sought in I.A. 34094/2024 is maintainable. Defendant no. 2 sought rejection of the plaint for failing to disclose any cause of action.

Analysis and findings

8. At the outset, this Court would like to note that the cause of action, if any, of the plaintiffs qua each of defendant nos. 1, 2, 4 and 5, is separate and distinct. There is absolutely no relation between the Conversation Thread No. 1 and Conversation Thread No. 2 except that they began independently in response to the Lead Tweet published by plaintiff no.2. Similarly, inter-se defendant nos. 1 and 4 the impugned tweets forming part of Conversation Thread No. 1 are independent and tweet by one cannot be attributed to another. This is also applicable to the impugned tweets inter-se by defendant nos. 2 and 5 forming part of Conversation Thread No. 2. The plaint as well recognizes this fact and, therefore, for each impugned tweet, the plaintiffs have pleaded their cause of action separately in the plaint. In these facts, the averments in the captioned plaint have to be examined qua

each defendant separately so as to ascertain if the plaint discloses any cause of action qua the said defendant for having published the impugned tweet attributed to him/her.

9. It is relevant to note that as a matter of fact, in the prayer clause of this plaint, the plaintiffs have not prayed for the relief of permanent injunction of *take down* of the impugned tweet(s) from the X platform.

Nature and Characteristic of Lead Tweet of Plaintiff No. 2

10. Before proceeding to examine the issue at hand, this Court would like to refer to plaintiff no. 2's tweet published at 11:20 p.m. dated 22.06.2024 on his personal X handle which led to the publication of the reactionary impugned tweets by the defendants. Plaintiff no.2's tweet (Lead Tweet) read as under:

> "Large law firms created the NLU boom by hiring extensively from a few campuses.
>
> They would pick up many talented kids as A0 and hope some of them would get trained enough to do legal work in a year or so.
>
> Most of these firms did not or could not retain even 50% of this cohort after a year though.
>
> While it was great in theory, and it allowed them to tell the clients that they are hiring the top talent in the country, campus placement often did not work very well for these law firms.
>
> What worked much better was hiring long term interns from traditional colleges that allowed their students to intern through the year. These long terms interns were far more well adjusted, developed better skills, built good relationships within the firm and worked better in a firm setting when they graduated. Still, making offers in top campuses every year remained a matter of prestige.
>
> However, number of campus placement offers are not growing, and even dwindling in some cases although the economy is booming, FDI is growing, capital market is at its hectic best, new practice areas are emerging and corporate India's legal spending is steadily growing.
>
> What is the reason?
>
> Are the law firms hiring less?

No. Law firms are hiring a lot. They are just hiring less from campus.

The fact is that the number of tier 2 and tier 3 firms, along with highly specialised boutique firms have grown in numbers very rapidly in the last 5 years. They are better at spotting undervalued talent, and train the talent over a few years.

Large law firms can hire from those who worked in such firms for 2-4 years and find better talent at the same or even lesser cost compared to hiring from campus placement.

The pandemic disrupted hiring practices. It made law firms rethink what works and what doesn't. While this change was slowly underway for many years, 2025 is the year when we are seeing a very obvious shift.

It has become harder to justify hiring people with no experience for 1.5 lakhs per month when you can get trained and experienced lawyers at a lower cost.

NLUs are of course oblivious to this shifting reality, they would continue to be the rent seeking organisations they are. They can afford to do so after all. They will get their fees, the professors will get their salary on time, nothing will change for the admin people.

But can the students afford to ignore the trend?"

(Emphasis supplied)

10.1 The criticism of National Law Universities (NLUs) and the imputation with respect to the lack of competence of NLU graduates hired by top law firms through direct campus placement is palpable in this Lead Tweet. Given this background, the reaction of defendant nos. 1 and 2, who are an alumnus of NLUs, to the said Lead Tweet and the conversational nature of medium 'X' on which the impugned tweets have been published would have to be examined by this Court to see if the impugned tweets are defamatory so as to disclose a cause of action in favour of the plaintiffs so as to allege defamation.

10.2 Considering the nature of controversy on hand, this Court would like

to refer to an article[14] published by Sage Publications, which deliberates about '**Online Trolling: A New Typology**' and recognizes the modus where a user intentionally publishes post on its social media handle with the intent to provoke emotional responses, which are intended to inter-alia increase its followers and social media presence. The relevant portion of the article reads as under:

> "Definitions of online trolling have evolved substantially over time. Donath (1999) defined it as an identity game in which the troll endeavors to present themselves as a legitimate participant by posting bait comments to elicit emotional reactions from others….
> …..
> Some scholars have defined online trolling as a deceptive and destructive online behavior aimed at provoking hostile reactions from others and disrupting the flow of communication (Buckels et al., 2014; Hopkinson, 2013).
> …..
> March and Marrington (2019) recognized trolling as aggressive and malicious behaviors that aim to distress victims by sending inflammatory and provocative messages. A meta-review study conceptualized trolling as deliberative, deceptive, and mischievous attempts intended to elicit reactions from others to benefit trolls and harm targeted individuals (Golf-Papez & Veer, 2017)
> …..
> Finally, provocation is the principal mechanism underpinning different types of trolling behaviors, suggesting that the ultimate goal of online trolls is to provoke reactions (Demsar et al., 2021; Golf-Papez & Veer, 2017)
> …..
> It is particularly prevalent on social media platforms and online discussion forums, where users can post inflammatory and offensive comments; engage in swearing, insulting, trash-talking, flaming, and spamming; and use other aggressive and abusive tactics to provoke emotional responses and disrupt conversations (Cheng et al., 2017; Cook et al., 2018; Sun & Fichman, 2020).
> …..
> Trolling can also differ in its goals. Most trolling behaviors aim to elicit reactions by causing harm, distress, and sarcasm to others,

[14] Yuanyi Mao, Tianyi Xu & Ki Joon Kim, Motivations for Proactive and Reactive Trolling on Social Media: Developing and Validating a Four-Factor Model (2023), https://journals.sagepub.com/doi/full/10.1177/20563051231203682 (last visited Feb 13, 2025).

although some are intended to be harmless or even entertaining (e.g., kudos trolling or humorous trolling; Bishop, 2014; Sanfilippo et al., 2018)

…..

Despite the various types, forms, and contexts of trolling, this study specifically focuses on verbal and aggressive online trolling—an online behavior intended to provoke reactions from others using malicious and aggressive words, such as swearing, insults, and personal attacks— because malice and aggression are the most common and salient features of trolling.

…..

Thus, online trolling can also be distinguished through the lens of the proactive–reactive framework, which may aid in understanding the current online trolling phenomenon in a more nuanced manner. Moreover, the proactive–reactive aggression framework highlights that motivations and goals play a crucial role in shaping different types of aggression (Dodge et al., 1997); therefore, this study aims to explore the specific motivations that may lead to proactive and reactive trolling activities in the online environment.

…..

Proactive trolling refers to the online behavior of taking the initiative to provoke or harm another person using hostile or malicious words even without being provoked by others. It is a planned and intentional aggressive behavior that aims to achieve goals beyond simple provocation or harm. Some of these goals include pursuing social status, gaining a sense of dominance and control, and deriving personal enjoyment. For instance, trolls may use provocative or extreme language to draw attention to neglected social issues (Matthews & Goerzen, 2019), and stigmatized individuals may defame those with a higher social status to boost their own standing (Fichman & Sanfilippo, 2016).

…..

In contrast to personality-related factors, several social and psychological motivations that drive trolling have been identified in earlier studies utilizing an in-depth qualitative approach. First, the pursuit of hedonic benefits is found to motivate trolling behavior. Trolls derive pleasure and amusement from vandalizing online communities (e.g., Wikipedia) and disrupting online gaming (Cook et al., 2018; Shachaf & Hara, 2010). They also experience enjoyment and excitement from provoking others and eliciting reactions (Sun & Fichman, 2020). Another motivation for trolling is the desire for revenge. Trolls often seek retribution against those who have trolled them first, which is a common reason for trolling in online games (Cook et al., 2018). In addition, forum moderators

> who have blocked trolls may become targets of harassment and provocation as trolls seek revenge for being silenced (Shachaf & Hara, 2010). Third, the desire to seek attention and support from others is another motivation for trolling. For example, Shachaf and Hara (2010) discovered that trolls vandalize Wikipedia communities to receive attention and social recognition from other users. Ao and Mak (2021) further demonstrate that online influencers engage in trolling behavior to garner support from their followers and increase their in-group identity."

10.3 A holistic reading of the Lead Tweet published by plaintiff no. 2 and the various response tweets published by defendant nos. 1, 2, 4 and 5; as well as further tweets published by plaintiff no. 2 as a response to defendant no.1 and defendant no.2 as also other users shows that the impugned Conversation Threads Nos. 1 and 2 which emanated therefrom falls within the parameters of 'Online Trolling' as recognized in the aforesaid research study.

10.4 The Lead Tweet of the plaintiff no. 2, which comments upon NLUs, its professors and the calibre of the students who graduate from the NLUs and are hired through direct campus placements has the characteristics of pro-active/provocative trolling as explained in the aforesaid research study.

10.5 The record of this case shows that as a reaction to the Lead Tweet there was response tweet published by defendant no. 1 which led to the conversation thread between defendant no. 1, plaintiff no. 2 and defendant no. 4.

10.6 It is further evident from the record that plaintiff no. 2 in this engagement with defendant no. 1 published another provocative tweet at 06:43 p.m. on 22.06.2024 referring to ineffectiveness of the NLUs, its faculty, perhaps its curriculum and consequent lack of competence of its students which led to a reaction from defendant no. 2 and started a Conversation Thread no. 2 including defendant no. 2 and defendant no. 5. Plaintiff no. 2 as well responded to the said tweets of defendant no. 2.

Plaintiff no.2's said provocative tweet read as under:

> "I will teach my trade for profit irrespective of what NLUs do - been at it, and we are #1 at it in the world
> **NLUs being terrible at teaching trade is not bad for my business**
> However, one small correction, NLUs don't teach you to think critically, mostly just brainwash people into **leftist cults**
> If you could think critically, you will realise there is something wrong with charging 20 lakhs for 5 years of thinking training **after which you remain unemployable and hope some law firm will now pay to train you on the job**
> **You are perhaps a wannabe professor who look forward to participate in that scam**".
>
> (Emphasis supplied)

10.7 The plaintiff no. 2 playfully engaged in this banter with defendant nos. 1, 2, 4 and 5; plaintiff no. 2 responded to the said defendants' tweets and published his response tweets. In its response tweets, the plaintiff no.2 seemed to be enjoying the sparring with the defendants.

10.8 The plaintiff no. 2 initially did not take offence to the impugned tweets of defendant nos. 1 and 2. In fact, plaintiff no.2's responses to the impugned tweets showed that plaintiff no. 2 was pleased with the reactions of defendant nos. 1 and 2, as the Lead Tweet has had an intended effect.

10.9 However, subsequently when other users on 'X' joined the said conversation threads and trolled Plaintiff no. 2, the same appears to have led the plaintiff no. 2 to form an opinion that the impugned tweets are defamatory and led to filing of this suit.

10.10 In the considered opinion of this Court, the Lead Tweet of the plaintiff no.2 and the response tweets of the defendant nos.1, 2, 4 and 5 as well as the further tweets of plaintiff no.2 appear to have the characteristics of proactive and reactive trolling discussed and explained in the study '**Online Trolling: A New Typology**'(supra).

Definition of Defamation

11. Defamation had been statutorily defined under Section 499 of Indian Penal Code, 1860 (IPC) and the said definition without any alteration finds adoption in Section 356 of Bhartiya Nyaya Sanhita, 2023 ('BNS'). The relevant portion of the said reads as under:

> " (i) Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes in any manner, any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.
>
> Explanation 1: It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.
>
> Explanation 2: It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.
>
> Explanation 3: An imputation in the form of an alternative or expressed ironically, may amount to defamation.
>
> Explanation 4: No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.
> ……
> Exception 6: It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.
>
> Explanation: A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.
> Illustrations:
> …..

> (b) A person who makes a speech in public, submits that speech to the judgment of the public.
> ….
> Exception 9: It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good."

12. The aforesaid definition of defamation in Section 499 of IPC has been considered and relied upon while deciding a civil action of defamation by a Co-ordinate Bench of this Court in **Shobhna Bhartiya v. GNCTD**[15], wherein the Court at paragraphs 20 to 24 observed as under:

> " 20. The law of defamation is a culmination of a conflict between society and the individual. On one hand lies the fundamental right to freedom of speech and expression enshrined under Article 19(1)(a) of the Constitution of India, on the other is the right of individual to have his reputation intact. How far does the liberty of free speech and expression extend? And when does it become necessary for the law to step in to safeguard the right of the individual to preserve his honour. The law of defamation seeks to attain a balance between these two competing freedoms.
> 21. The classical definition of 'defamation' has been given by Justice Cave in the case of Scott v. Sampson (1882) Q.B.D. 491, as a '**false statement about a man to his discredit**'.
> 22. In the book The Law of Defamation, by Richard O'Sullivan, QC and Ronald Brown, 'defamation' is defined as a **false statement of which the tendency is to disparage the good name or reputation of another person.**
> 23. As per Section 499, Indian Penal Code, offence of defamation consists of three essential ingredients namely: (i) Making or publishing any imputation concerning any person. (ii) Such imputation must have been made by words either written or spoken or by visible representation. (iii) **Such imputation must be made with the intention to cause harm or with the knowledge or having reasons to believe that it will harm the reputation of the person concerned.**
> 24. In the light of above discussion, it has Jo been seen whether news items in question are defamatory or a fair report pertaining to the affairs of DDA, a statutory body charged with the planned development of Delhi."

[15] 2007 SCC OnLine Del 1301.

(Emphasis supplied)

Real Injury v. Perceived Injury

13. A Coordinate Bench of this Court in **Nidhi Bhatnagar (Dr.) v. Citi Bank N.A.**[16] drew a distinction between words which cause injury to the feelings of the plaintiff vis-à-vis words which have a tendency to incite an adverse opinion and feeling of other persons towards the plaintiff. The Court held that it is not sufficient for a plaintiff to sue for words which merely injure his feelings or annoys him. It was held that to maintain an action on the ground of defamation for claiming damages, the words of the defendant would have to be proven to be so offensive so as to lower the plaintiff's dignity in the eyes of the others right thinking people of the society. The relevant portion of the judgment reads as under: -

> "10. ….. Even otherwise under law of defamation, the test of defamatory nature of a statement is its tendency to incite an adverse opinion or feeling of other persons towards the plaintiffs. Where a person alleges his reputation has been damaged it only means he has been lowered in the eyes of right-thinking people of society or his friends or relatives. It is not enough for a person to sue for words which merely injure his feelings or annoys him. **Injuries to feelings of a man cannot be made a basis for claiming of damages on the ground of defamation**. For defamation the words must be such which prejudice to man's reputation or are so offensive as to lower the man's dignity in the eyes of others. **Insult in itself is not a cause of action for damages on the ground of defamation.**"

(Emphasis supplied)

Statutory remedy available with an aggrieved Social Media user against posts perceived to be a harassment and/or defamatory

14. There has been a significant legal development in year 2021 empowering the users of social media platform to seek immediate and

[16] 2007 SCC OnLine Del 1661.

efficacious relief against posts of users which in his/her opinion are defamatory or libellous. The aggrieved user has a statutory remedy under the Information Technology (Intermediary Guideline and Digital Media Ethics Code) Rules, 2021 ('IT Rules 2021') to file its protest against an alleged defamatory/vulgar/abusive Tweet with the 'Grievance Officer' defined under Rule 2(k) of the IT Rules 2021, who is an officer appointed by the intermediary (i.e., platform X-defendant no.3 in the present case) under Rule 3(2) and Rule 4(1)(c) of the IT Rules 2021. The said statutory regime has a mechanism of appeal against the decision of the Grievance Officer which is dealt with by a 'Grievance Appellate Committee' (defined under Rule 2(ka) of the IT Rules 2021) established by Central Government under Rule 3A of the IT Rules 2021. As per the scheme of the IT Rules 2021 the whole process of redressal of grievance raised by a user of an intermediary has been made time bound.

14.1 Upon accessing the website of a social media platform X under the tab help center[17], the user has the option to file a report against an offending tweet to the Grievance Officer for India. The report has to be filled up online and under the listed reasons available to the users for protesting against the offending tweet, abuse/harassment and defamation, are separately enlisted and recognised as grounds for filing a report.

14.2 In the facts of this case, the plaintiffs have not availed the said statutory remedy and have in fact elected to file the present suit on 12.07.2024. The effect of non-availing of the statutory remedy and not even praying for a permanent injunction for a *take down* in the prayer clause of the plaint is significant and has been considered in the later part of the

[17] https://help.x.com/en/forms/report-to-grievance-officer-india.

judgment while opining upon the cause of action pleaded in the suit.

Nature of Medium 'X'

15. The alleged acts of defamation in the facts of the present case have been published on a conversational Social Media Platform i.e., defendant no.3, therefore the longstanding jurisprudential understanding of defamation in the context of publications made in newspapers and magazines cannot be plainly applied to the facts of this case. In the case of newspapers and magazines, the readers presumably attach seriousness to the content published by the author/writer and rely upon it for information. The newspapers and magazines are read with the intent to collect and retain information and, therefore, it bears effect in forming of opinions. In contrast, the casual medium of a conversational social media platform such as 'X' is not perceived by the users of the said platform as a reliable verified source of information.

15.1. In this context it would be apposite to refer to a judgment of United Kingdom, Supreme Court in **Stocker v. Stocker**[18], wherein the Court observed that while examining defamation claims emanating from social media content/tweets, Courts must consider the casual and fast-paced nature of the medium. It observed that this entails avoiding extensive analysis or too logical deductions of the tweets, and instead focusing on how a normal social media user would naturally read and react to the statement in its given context. The said Court further opined that the medium such as twitter (now known as 'X'), Facebook, Instagram etc., are all casual conversational mediums. The relevant paragraph of the judgment reads as under:

> "39. The starting point is the sixth proposition in Jeynes —that the hypothetical reader should be considered to be a person who would read the publication—and, I would add, react to it in a way that reflected the circumstances in which it was made. It has been

[18] [2020] A.C. 593.

suggested that the judgment in Jeynes failed to acknowledge the importance of context see Bukovsky v Crown Prosecution Service [2018] 4 WLR 13 where at para 13 Simon LJ said that the propositions which were made in that case omitted "an important principle [namely] … the context and circumstances of the publication".

40. It may be that the significance of context could have been made more explicitly clear in Jeynes, but it is beyond question that this is a factor of considerable importance. And that the way in which the words are presented is relevant to the interpretation of their meaning— Waterson v Lloyd [2013] EMLR 17, para 39.

41. **The fact that this was a Facebook post is critical**. The advent of the 21st century has brought with it a new class of reader: the social media user. The judge tasked with deciding how a Facebook post or a tweet on Twitter would be interpreted by a social media user must keep in mind the way in which such postings and tweets are made and read.

42 In **Monroe v Hopkins** [2017] 4 WLR 68, Warby J at para 35 said this about **tweets posted on Twitter**:

> "The most significant lessons to be drawn from the authorities as applied to a case of this kind seem to be the rather obvious ones, **that this is a conversational medium; so it would be wrong to engage in elaborate analysis of a 140 character tweet; that an impressionistic approach is much more fitting and appropriate to the medium; but that this impressionistic approach must take account of the whole tweet and the context in which the ordinary reasonable reader would read that tweet.** That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter."

43 I agree with that, particularly the observation that it is wrong to engage in elaborate analysis of a tweet; it is likewise unwise to parse a Facebook posting for its theoretically or logically deducible meaning. The imperative is to ascertain how a typical (i e an ordinary reasonable) reader would interpret the message. **That search should reflect the circumstance that this is a casual medium; it is in the nature of conversation rather than carefully chosen expression; and that it is pre-eminently one in which the reader reads and passes on**.

> 44 That essential message was repeated in **Monir v Wood** [2018] EWHC 3525 (QB) where at para 90, Nicklin J said : "**Twitter is a fast moving medium. People will tend to scroll through messages relatively quickly.**" Facebook is similar. **People scroll through it quickly. They do not pause and reflect. They do not ponder on what meaning the statement might possibly bear. Their reaction to the post is impressionistic and fleeting.** Some observations made by Nicklin J are telling. Again, at para 90 he said: "It is very important when assessing the meaning of a Tweet not to be over-analytical … Largely, the meaning that an ordinary reasonable reader will receive from a Tweet is likely to be more impressionistic than, say, from a newspaper article which, simply in terms of the amount of time that it takes to read, allows for at least some element of reflection and consideration. The essential message that is being conveyed by a Tweet is likely to be absorbed quickly by the reader.
> ….."
>
> (Emphasis supplied)

16. Keeping in view that the impugned tweets have been published on the casual conversational medium of 'X' on which the users spar often and the users do not rely upon the said medium to form opinions this Court will advert to analyse if the plaintiffs have made out any cause of action against the defendants.

Cause of Action against Defendant No.1

17. In this background of facts and legal principles, this Court proceeds to examine if the plaint discloses any cause of action against defendant no. 1.

17.1 Defendant no. 1 is a graduate from NLU, Delhi as is apparent from the details available on X profile of the said defendant.

17.2 Defendant no. 1 reacted to plaintiff no. 2's Lead Tweet on his own X handle first at 01:41 p.m. expressing his dissent with the opinion expressed by the plaintiff no. 2 in the Lead Tweet. An independent user '*Neet*' responded to defendant no. 1's tweet and similarly expressed its dissent with the opinion expressed by plaintiff no. 2 in his Lead Tweet. Thereafter,

defendant no. 1 published a reply tweet to *Neet's* response tweet, which tweet has been impugned by plaintiffs as **Impugned Tweet No. 1**. The impugned tweet reads as under:

> "While I don't entirely agree with the assumption that NLU folks are more focused on their education, I do agree with that this man wants to encourage law schools to become trade schools rather than places to critically think. **Better yet, he wants to teach this "trade" for profit**."

(Emphasis supplied)

17.3 In the plaint, plaintiffs have set out their grievance qua Impugned Tweet No. 1 at paragraphs '18', '19' and '20'. In these paras of the plaint, plaintiffs have emphasized that the said Impugned Tweet No.1 seeks to inter-alia insinuate that the plaintiffs are profit driven and undermines the efforts of the plaintiffs to improve legal education. Paragraphs '18', '19' and '20' reads as under:-

> "18. That the defamatory element in the aforesaid statement lies in the implication that the Plaintiff No.1 & 2 wants to turn law schools into mere trade schools, suggesting a downgrade in the quality of education by focusing solely on practical skills at the expense of critical thinking. Additionally, the Defendant No.1's statement insinuates that Plaintiffs have a profit-driven motive behind this supposed agenda, implying that Plaintiffs financial gain by advocating for this transformation.
>
> 19. That this insinuation not only damages the reputation of Plaintiff No.1 & 2 but also undermines their integrity and commitment to providing a well-rounded education that combines practical skills with critical thinking. By suggesting that their motives are profit-driven, Defendant No.1 is attempting to discredit Plaintiffs' genuine efforts to improve legal education and prepare students for successful careers in the legal field. Furthermore, by spreading false and defamatory statements about Plaintiffs, Defendant No.1 is potentially causing harm to their professional relationships, career prospects, and overall standing in the legal community.
>
> 20. That it is essential to address and rectify these damaging accusations to protect the reputation and credibility of Plaintiff No.1 & 2 in the eyes of their peers, colleagues, and students. In conclusion, the defamatory nature of Defendant No.1's statement

> not only tarnishes the reputation of Plaintiff No.1 & 2 but also undermines their dedication to providing high-quality legal education. The 28 Defendant No.1's sole motive behind the aforesaid post is to cast Plaintiffs in a negative light, suggesting they prioritize financial profit over the intellectual development."

17.4 However, the response published by plaintiff no. 2 to Impugned Tweet No. 1 at 06:43 p.m.[19] on 22.06.2024 [**response tweet (i)**] belies that plaintiff no. 2 at the contemporaneous time understood and/or believed that the Impugned Tweet No.1 conveyed to the reasonable reader of the said tweets, the defamatory content which has now been set out at paragraphs '18' to '20' of the plaint. The response tweet (i) of plaintiff no. 2 to Impugned Tweet No. 1 reads as under:

> "I will teach my trade for profit irrespective of what NLUs do - been at it, and we are #1 at it in the world
> **NLUs being terrible at teaching trade is not bad for my business**
> However, one small correction, NLUs don't teach you to think critically, mostly just brainwash people into **leftist cults**
> If you could think critically, you will realise there is something wrong with charging 20 lakhs for 5 years of thinking training **after which you remain unemployable and hope some law firm will now pay to train you on the job**
> **You are perhaps a wannabe professor who look forward to participate in that scam**"
>
> (Emphasis supplied)

17.5 Plaintiff no. 2 in this response tweet (i) appears to be engaging with and in fact, belittling defendant no. 1's view expressed in Impugned Tweet No. 1, while continuing to criticise the education imparted by NLUs.

17.6 Defendant no. 1 having been thus, provoked by plaintiff no. 2's aforesaid response tweet (i) posted Impugned Tweet No. 2**.** In this Impugned Tweet No. 2, defendant no. 1 can be seen reacting by defending education imparted by NLUs and targeting plaintiff no. 2 with respect to its

[19] Document no. 9 of the Plaintiffs' documents.

own quality of work. The Impugned Tweet No. 2 reads as under:

> "NLUs may not be great institutions of learning, **but at least they're not selling pipe dreams to make profit off of legitimate insecurities.**
> Also, I'd imagine **those horrible reviews you often bury** are bad for your trade but **you're great at bullying everyone who raises them**:)"
>
> (Emphasis supplied)

17.7 This Impugned Tweet No. 2 drew a reaction from plaintiff no. 2 and he published a tweet at 06:52 p.m. on 22.06.2024 ['**response tweet (ii)**'], which has not been placed on record by the plaintiff. The same is however available by accessing the link provided in the plaint. The said response/reactionary tweet of plaintiff no. 2 is relevant and should have been placed on record by the plaintiff as it is also the post which led to issuance of **Impugned Tweet No. 3** by defendant no. 4 (which will be discussed later). The response tweet (ii) of plaintiff no. 2 and the ensuing reactions on this Conversation Threat No. 1 thereon are reproduced as under:

> "**Plantiff No.2's tweet**
> You have made serious false allegations, let's hope you are open to defending them in the Court as well.
>
> **Defendant No.1's tweet**
> Ramanuj - if having an opinion about your so-called service constitutes a false allegation, be my guest. If you're so confident about your business, at least please be willing to deal with the criticism. Threatening me with frivolous lawsuits isn't the way. Grow up.
>
> **Horsho's tweet**
> such an insecure little prick cries defamation over a fucking tweet what kind of a loser does that even
>
> **Rajesh's tweet**
> Isn't it a irony that you, the ramanuj, uses potentialy defamatory statements against NLUs which are likely to harm their reputation

> as well as the students associated with it by terming them as cults, brainwashed, etc.... On the other hand, you cry of defamation"

17.8 Upon a holistic perusal of the Conversation Thread No.1 between defendant no. 1 and plaintiff no. 2, this Court is satisfied that plaintiff no. 2 at the contemporaneous time did not perceive **Impugned Tweet No. 1** to be defamatory as is evident from plaintiff no. 2's response tweet (i). Plaintiff no. 2 in fact, merrily engaged with defendant no. 1 on the latter's X handle continuing to provoke him and belittle him personally as well as by criticising defendant no. 1's alma mater. It is evident from plaintiff no. 2's response tweet no. (ii) that it was only after plaintiff no. 2 felt that defendant no. 1 was not backing off from the argument that plaintiff no. 2 raised the plea of false allegations. Pertinently, in this thread a user 'Rajesh' expressed his opinion that in fact it is plaintiff no. 2's tweets which contained defamatory statement against NLUs and the students associated with it and the cause of action for defamation in fact lay with NLUs and its students.

17.9 It is apposite for the nature of issue which this Court is dealing with to refer to the judgment of Queen's Division Bench in **Monroe v. Hopkins**[20], wherein Warby J considered the approach and meaning which is to be applied to the publications on platform X, which are alleged to be defamatory. Warby J was of the opinion that X as a social media platform is dynamic and interactive and a single impugned tweet should not be considered by Courts in isolation to ascribe meaning to what is said and also to decide whether such words are defamatory or not. The relevant paragraphs of the judgment read as under:

> "34. These well-established rules are perhaps easier to apply in the case of print publications of long standing such as books, newspapers, or magazines, or static online publications, than **in the**

[20] [2018] EWHC 433 (QB).

> **more dynamic and interactive world of Twitter, where short bursts of pithily expressed information are the norm, and a single tweet rarely exists in isolation from others.** A tweet that is said to be libellous may include a hyperlink. It may well need to be read as part of a series of tweets which the ordinary reader will have seen at the same time as the tweet that is complained of, or beforehand, and which form part of what Mr Price has called a "multi-dimensional conversation.
>
> 35. The most significant lessons to be drawn from the authorities as applied to a case of this kind seem to be the rather obvious ones, **that this is a conversational medium; so it would be wrong to engage in elaborate analysis of a 140 character tweet; that an impressionistic approach is much more fitting and appropriate to the medium; but that this impressionistic approach must take account of the whole tweet and the context in which the ordinary reasonable reader would read that tweet.** That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter."
>
> (Emphasis supplied)

17.10 In the above conspectus, considering tone and tenor of the Lead Tweet, response tweet nos. (i) and (ii) posted by the plaintiff no.2 and the fact that they were published on widely used conversational social media platform i.e., defendant no.3, it leads to an irresistible conclusion that the said tweets were published with an intent to elicit response from the audience i.e., defendant no.1. A post published on a social media platform is bound either to be appreciated or criticised and the user has to have broad shoulders to bear the criticism. This has also been statutorily recognised in the sixth exception of the statutory defamation in Section 356 of BNSS and more septically in the statutory illustration (b) which reads as under:

> "(b) A person who makes a speech in public, submits that speech to the judgment of the public."

17.11 In the considered opinion of this Court, upon a holistic reading of the exchange of tweets between defendant no. 1 and plaintiff no. 2, this Court is unable to satisfy itself that the intention of the said Impugned Tweet no. 1

was to cause harm to the reputation of plaintiff nos. 1 and 2.

17.12 The exchange of tweets (including plaintiff's response tweets) and responses show that defendant no. 1's impugned tweets were reactionary to provocation by plaintiff no. 2 and only intended to rebut plaintiff's criticism of NLUs and its students, which defendant no. 1 perceived to be incorrect and unfair. This Court is unable to accept the submission of the plaintiff that reading of the Impugned Tweet no. 1 would lead the ordinary reader to draw the analysis and conclusions against the plaintiffs as pleaded at paragraph '18', '19' and '20' of the plaint. The contents of the Impugned Tweet No. 2 are not per-se defamatory and, therefore, evidence of plaintiff's loss of reputation is necessary as held in **Nidhi Bhatnagar** (supra). The averments made in the plaint qua the Impugned Tweet No. 2 at paragraphs '25', '26' and '27' and the documents filed with the plaint fails to show any specific legal injury which has been caused to the plaintiffs due to the said tweet. To maintain a suit for defamation the plaintiff must satisfy the Court that the reputation has in fact been injured. The averments at paragraphs '25', '26' and '27' of the plaint read as under:

> "25. That the statement "but at least they're not selling pipe dreams to make profit off of legitimate insecurities" is defamatory because it implies that Plaintiff No.1 and Plaintiff No.2 engage in unethical business practices. Specifically, it suggests that they exploit people's genuine insecurities for financial gain, offering false promises or "pipe dreams" without providing any real benefit or solution. This accusation directly attacks the Plaintiffs' integrity and professional ethics, painting them as manipulative and deceitful individuals who take advantage of vulnerable individuals for profit. Such a statement severely damages the Plaintiffs' personal and professional reputations, leading to a loss of trust and credibility among their clients and the general public.
>
> 26. That the statement "*also, I'd imagine those horrible reviews you often bury are bad for your trade but you're great at bullying everyone who raises them"* contains several elements that are defamatory. Such as:

> ➢ **Horrible Reviews:** The phrase "horrible reviews you often bury" implies that the Plaintiff No.1 and Plaintiff No.2 regularly receives negative feedback and intentionally hides it. This suggests dishonest behaviour and a lack of transparency at the end of the Plaintiffs, which harms their reputation.
>
> ➢ **Bad for Your Trade:** The assertion that these reviews are "bad for your trade" indicates that the negative feedback reflects poorly on the Plaintiff's business's professional competence, suggesting they provide subpar services.
>
> ➢ **Great at Bullying:** Accusing the Plaintiffs of being "great at bullying everyone who raises them" suggests they engage in aggressive, unethical, or intimidating behaviour to suppress criticism. This can severely damage their personal and professional reputation, painting them as hostile and unprofessional.
>
> 27. That the aforesaid statement in question suggests that the Plaintiffs business in focus habitually receives and subsequently conceals negative reviews, implying a deliberate effort to hide dissatisfaction from the public. This accusation not only questions the integrity and transparency of their practices but also insinuates that their trade suffers due to these negative reviews, indirectly labelling their services or products as inferior. Furthermore, the assertion that they are proficient at bullying those who voice these criticisms portrays them as engaging in unethical and aggressive behaviour. Such an accusation severely tarnishes their reputation, depicting them as hostile and unprofessional, which have a significant repercussion on their personal and professional standing."

17.13 Notwithstanding the above, assuming on a demurer the words used by defendant no. 1 in Impugned Tweet No. 2 are false and malicious, however, the said words are not of a character which would by itself cause legal injury to the plaintiffs; as considering the fact that X platform is a conversational social media platform and on perusal of the conversation thread it would be evident to any ordinary reader that these words have been heatedly exchanged between the plaintiff no. 2 and defendant no. 1 as a consequence of the criticism by plaintiff no.2 of the education imparted by NLUs and defendant no. 1 is the alumnus of a NLU.

17.14 The third-party users of a medium such as X while perusing the conversation threads between two sparring parties is unlikely to give credence to the words exchanged to the extent as has been pleaded by the plaintiff at paragraphs '25', '26' and '27' of the plaint and draw such elaborate conclusions.

17.15 This Court is of the considered opinion that the test of defamation settled by this Court in the judgment of **Shobhna Bhartiya** (supra) and **Dr. Nidhi Bhatnagar** (supra) is not satisfied qua the Impugned Tweet Nos. 1 and 2 and, therefore, the plaint fails to disclose any cause of action against defendant no. 1 and the plaint is liable to be rejected against the said defendant.

17.16 The delay on the part of the plaintiffs in approaching this Court after more than a month of posting of the said impugned tweets further shows that plaintiffs did not perceive that the impugned tweets at the contemporary time had caused any legal injury to them or their reputation. The plaintiffs failed to avail the statutory remedy available to them under the IT Rules of 2021 immediately or any time thereafter. This court is therefore of the opinion that the pleas of defamation now raised in the plaint are without any merit and therefore, the plaint qua defendant no. 1 is without any cause of action.

Cause of Action against Defendant No.4

18. With respect to **Impugned Tweet No. 3** issued by defendant no. 4, who is anonymous to plaintiffs, it needs to be noted that said tweet was posted on the X handle of defendant no. 1 and has been reproduced hereinabove. Impugned tweet no. 3 was a part of a response thread to Impugned Tweet No. 2 posted by defendant no. 1; however, the entire thread has not been placed on record by the plaintiff. For the ease of reference, the impugned tweet no. 3 is reproduced hereinunder, the entire

thread has already been reproduced above:

> "Such an **insecure little prick cries defamation** over a fucking tweet what kind of a loser does that even 😭😭😭😭"

18.1. In the plaint the plaintiffs at paragraph '29' have averred about the grievance which they have qua the said Impugned Tweet No.3. It is stated that the said tweet labels the plaintiff no.2 as a looser and the said statement is derogatory in nature. The relevant para '29' of the plaint reads as under:

> "29. That in the aforesaid post the Defendant No.4 is publicly calling Plaintiff No.2 as "such an insecure little prick cries defamation over a fucking tweet what kind of a loser does that even 😭 😭 😭 😭". This statement made by Defendant No.4 is damaging to the reputation and character of Plaintiff No.2. By publicly labelling Plaintiff No.2 as a "loser" and implying that he is insecure, the said Defendant No.4 is deliberately targeting his credibility and integrity. Such derogatory remarks not only harm Plaintiff No.2's public image but also tarnish his standing in the community. The use of emojis depicting crying faces further accentuates the humiliating tone of the statement, making it even more defamatory. This kind of unwarranted and malicious attack on Plaintiff No.2's character is unacceptable and constitutes clear defamation. Such harmful and baseless allegations can have serious repercussions on the personal and professional life of Plaintiff No.2, causing irreparable damage to his reputation."

18.2. In **Monroe** (supra), Warby, J. has discussed as to how heated arguments and use of strong words are intrinsic part of X platform as a conversational medium. In this light, it would also be relevant to refer to the judgment of **Vine v. Barton**[21], wherein Steyn DBE, J. was adjudicating upon a case which involved defamatory publication on X platform and held as under:

> "…..
> 17. The Defendant contends that the first 12 publications constitute "mere vulgar abuse", conveying no defamatory meaning.
> The "principle that 'mere vulgar abuse' is not actionable" is

[21] [2024] EWHC 1268 (KB).

established (Blake v Fox, Warby LJ, [27]), although its application to this case is in dispute. The following summary of the law in Gatley, 3-037, was endorsed by the Court of Appeal in Blake v Fox:

> "**Insults or abuse which convey no defamatory imputation are not actionable as defamation.** Even if the words, taken literally and out of context, might be defamatory, the circumstances in which they are uttered may make it plain to the hearers that they cannot regard it as reflecting on the claimant's character so as to affect his reputation because they are spoken in the 'heat of passion, or accompanied by a number of non-actionable, but scurrilous epithets, e.g. a blackguard, rascal, scoundrel, villain, etc.' for the 'manner in which the words were pronounced may explain the meaning of the words."

…..

19. A determination **that words constitute mere vulgar abuse is "not so much a defence … as an aspect of interpreting the meaning of words**": Smith v ADVFN plc [2008] EWHC 1797 (QB), Eady J, [17]. As Eady J noted:

> "From the context of casual conversations, one can often tell that a remark is not to be taken literally or seriously and is rather to be construed merely as abuse. That is less common in the case of more permanent written communication, although it is by no means unknown. **But in the case of a bulletin board thread it is often obvious to casual observers that people are just saying the first thing that comes into their heads and reacting in the heat of the moment. The remarks are often not intended, or to be taken, as serious.**
> …."

(Emphasis supplied)

18.3. In the aforesaid English judgments, the said Court has emphasised on the distinction between a defamatory post and a post which contained vulgar abuse on the medium of X. In the said judgment it was held that a vulgar post would not give rise to any cause of action for damages/defamation. This has also been observed by a co-ordinate Bench

of this Court in **Major General M.S. Ahluwalia v. Tehelka.Com and Ors.**[22].

18.4. The Impugned Tweet No.3 was published by defendant no. 4 in reaction to the response tweet (ii) of the plaintiff no.2, which is not placed on record by the plaintiffs. Response tweet (ii) of plaintiff no. 2 has been reproduced hereinabove at para 17.7 of this judgment. If the Impugned Tweet No.3 of the defendant no.4 is read holistically in the context in which it was made by the defendant no.4, this Court is of the opinion that the same is merely an abuse and a heated response to the dare of the plaintiff no.2 to the defendant no.1 alleging defamation on the part of defendant no.1.

18.5. The defendant no. 4 is an anonymous user as admitted in the plaint. To an ordinary reader who would read the conversation thread between plaintiff, defendant no. 1 and defendant no. 4, it would be apparent that the response of defendant no. 4 (an anonymous user) is but a provocation and is inherently intended as an insult. The plaintiffs have with the plaint not annexed any documents**,** which would show that its reputation as a matter of fact was injured on account of the Impugned Tweet No.3.

18.6. This Court is not persuaded that an ordinary reader using the platform of X and being familiar with the casual nature of this medium could have taken the remarks of an anonymous user i.e., defendant no. 4 with any serious effect so as to form an impression about the character of plaintiff no. 2 herein. The tone and tenor of the entire conversation thread initiated by defendant no. 1 and in which plaintiff no. 2 participated with response tweets would be considered by the third-party ordinary user in its entirety. And on the entire reading of the thread, it would be apparent to the third-party ordinary user that the Impugned Tweet No.3 is intended to be an

[22] 2023 SCC OnLine Del 4275.

insult. In fact, perusal of another tweet by a user 'rajeshk41' published on 23.06.2024 shows that the said user in fact believed that it was the plaintiff no. 2 herein, who had made defamatory statements against NLUs and its students which are actionable in law.

18.7. The plaintiff no. 2 having initiated the conversation with its provocative Lead Tweet and response tweet (i) on a casual medium such as X ought to maintain the proverbial thick skin qua the tweets of an anonymous user which ex-facie are intended as an insult.

18.8. In the facts of this case, where the Impugned Tweet No.3 has been issued by anonymous user, the plaintiffs inaction in availing the remedy as provided in the statutory framework under the IT Rules 2021 by writing to the Grievance Officer of defendant no. 3 for removal of the post and instead pursuing the present suit for damages shows that plaintiffs themselves do not actually believe that the said impugned tweet has had any real effect against its reputation and the said tweet has been merely added to this plaint to combine multiple causes of action.

18.9. In the light of the above discussion, this Court is of the opinion that plaintiff fails to disclose any cause of action of defamation arises in favour of the plaintiffs against the defendant no.4 and therefore the plaint is liable to be rejected against defendant no.4.

Cause of Action against Defendant No.2 w.r.t. Impugned Tweet Nos. 4 and 6

19. Defendant No.2 is a graduate from NLU, Kolkata (also known as WBNUJS, Kolkata) as is evident from the details available on the X profile of the said defendant and since admitted in the plaintiff no. 2's affidavit dated 27.08.2024 filed before this Court.

Impugned Tweet No. 4

20. Defendant No.2 published a tweet on his X handle at 04:04 p.m. on 23.06.2024 expressing his opinion about plaintiff no.2 the founder of the

business carried on under the brand name of *Lawsikho*. The said tweet has been impugned by the plaintiffs as **Impugned Tweet No.4.** Defendant no.2 concedes[23] that the said impugned tweet was published by him as a reaction to the plaintiff no.2's response tweet (i). The Impugned Tweet No. 4 reads as under:

> "When it started out, *Lawsikho* used NUJS as launchpad to gain popularity, access to Indian law students. Of course, founders can today claim that NLUs make no difference to their business, **now they are pretty successful at bribing gullible law students with false hopes and dreams**"
>
> (Emphasis supplied)

20.1 In the plaint, the plaintiffs have set out their grievance qua the Impugned Tweet No. 4 at paragraph '31'. In the said paragraph of the plaint the plaintiffs have emphasized that the said Impugned Tweet No. 4 seeks to give an impression to the general reader that the plaintiffs are involved in unethical and dishonest behaviour and are exploiting the trust and aspirations of the law students. It is further stated that the said Impugned Tweet No. 4 also undermines the credibility of the plaintiffs' independent achievements.

> "31. That the statement implies unethical and dishonest behaviour by the founders of LawSikho. Firstly, it accuses that the initial success and popularity of LawSikho were dependent on leveraging the reputation and access provided by NUJS, which could be seen as undermining the credibility of their independent achievements. Secondly, the statement accuses the founders of "bribing gullible law students with false hopes and dreams," which implies that they engage in deceitful practices by offering misleading promises to vulnerable students to gain financial profit. This portrayal damages the reputation of the Plaintiffs by suggesting they exploit the aspirations and trust of law students without delivering real value."

20.2 Subsequently, in its additional affidavit dated 27.08.2024, plaintiff

[23] Paragraph 8 of the written submission of the Defendant no.2 dated 05.08.2024.

no. 2 has clarified that it had prior interactions with defendant no. 2, wherein defendant no. 2 has repeatedly expressed its disagreement with the effectiveness of the courses offered by plaintiff no. 1. The plaint itself fails to disclose this material fact as in the plaint the plaintiffs have maintained that they have no knowledge about the particulars of defendant no. 2 and have in fact sought directions to **defendant no. 3-X** to provide the addresses and contact particulars.

20.3 Defendant no. 2 has, in its written submission dated 05.08.2024 filed before this Court, stated that the Impugned Tweet No. 4 reflects the said defendant's honest opinion and is a comment with respect to plaintiff no. 2 alone and has no reflection on plaintiff no. 1. It is stated that defendant no. 2 cannot be held liable for defamation qua the said impugned tweet assuming the same is prejudiced or exaggerated or obstinate. In his written submissions the said defendant refers to an email dated 11.03.2020 circulated by plaintiffs to students inviting them to enrol for the courses offered by *Lawsikho* to justify the comment in the Impugned Tweet No. 4.

20.4 In addition, defendant no. 2 has drawn this Court attention to a tweet dated 23.06.2024 published at 8:48 PM by plaintiff no. 2 on its personal 'X' handle, which is plaintiff no. 2's response tweet to Impugned Tweet No. 4 (response tweet of plaintiff no.2). The said response tweet of plaintiff no.2 reads as under:

> "**There is a twitter lawyer with a sagging practice who gets only some attention on twitter by associating with other urban naxals. He has spoken!**
> Apparently we used NUJS' credibility to build *Lawsikho*
> The fact free **imbecile** has blocked me, **but someone please educate him**:
> 1. NUJS had online courses before us with Mylaw, which this **cabal** backed it went belly up after burning a bunch of investor cash
> 2. NUJS started more online courses after us, never managed to sell

more than 50
3. Sudhir gave long interviews about launching online courses by NLS, did launch something - never took off
4. NALSAR has been trying to do online courses for ages, recently with EBC, with extremely mediocre results
5. Only time NUJS had any significant online course revenue was when we were running those courses
Getting NUJS off our back was the best thing that happened to us, we started *Lawsikho* from scratch, and the rest is history"

(Emphasis Supplied)

20.5 Defendant no. 2 has contended that the aforesaid response tweet issued by plaintiff no. 2 shows that the Impugned Tweet No. 4 was not considered defamatory by plaintiff no. 2 at the contemporaneous time and in-fact plaintiff no. 2's own response by same standards would be defamatory as against defendant no. 2.

20.6 Defendant no. 2 in its written submissions[24] refers to plaintiff no. 2's quote tweet published at 06:43 PM dated 22.06.2024 on the 'X' platform [earlier in the judgment defined as response tweet no. (i)] and states that the comment of plaintiff no. 2 calling NLUs a scam was provocative to the defendant no.2 who himself is a NLU graduate, which extracted a reaction from several users including the defendant no.2 in the form of Impugned Tweet No. 4 to the said response tweet no. (i) of plaintiff no.2. It is stated that it was in this context that defendant no. 2 as well expressed its honest opinion qua courses offered by plaintiff no. 2 under the brand name *Lawsikho*.

20.7 The plaintiff no. 2 admitted publishing the response tweet published at 08:48 p.m. dated 23.06.2024 qua defendant no. 2 and the same is even otherwise authenticated from the personal X handle of the said plaintiff.

20.8 This Court finds merit in the submission of defendant no. 2 that

[24] Paragraph 8 of the written submissions dated 05.08.2024

plaintiff no. 2's response tweet published at 08:48 p.m. dated 23.06.2024 belies the pleading at paragraph '31' of the plaint. A perusal of the response tweet of plaintiff no. 2 gives a distinct impression that plaintiff no. 2 did not consider defendant no.2 of such credence or importance that the Impugned Tweet No. 4 could have impaired the reputation of plaintiff no. 2 or the brand *Lawsikho* in the mind of the reasonable user/s of X, who would read the tweets forming part of Conversation Thread No. 2.

20.9 The plaintiff no. 2's response tweet to defendant no. 2's Impugned Tweet No. 4 as well contains imputations and insults aimed at defendant no. 2 specifically. In fact, plaintiff no. 2's response tweet evidences that plaintiff no. 2 is himself prone to using derogatory language in tweets against the other users of the medium and which could easily fall in the category of insult and verbal abuse.

20.10 The plaintiff no. 2's response tweet to defendant no. 4's Impugned Tweet No. 4 continued its commentary on the ineffective results of the online courses offered by different NLUs, while simultaneously continuing to laud the effectiveness of the online course offered by *Lawsikho*.

20.11 A holistic reading of Conversation Thread No. 1 and Conversation Thread No. 2 shows that the plaintiff no. 2 clearly intended the Lead Tweet and the response tweet issued to defendant no. 2's tweet as a modus operandi to promote the online courses of *Lawsikho* while simultaneously criticising and attacking the quality of the education offered by NLUs. The response tweets issued by plaintiff were intended at engaging the users such as defendant no. 2 and provoking them for an interaction. In these facts, the plaintiffs' contention in the plaint of alleging that the reactionary Impugned Tweet No. 4 of defendant no. 2 is defamatory fails to persuade this Court.

20.12 This Court is unable to persuade itself that a bare reading of Impugned Tweet No. 4 would lead the reasonable reader on platform X to draw the inferences set out in paragraph 31 of the plaint. Keeping in view the conversational and informal format of the medium of X, drawing of inference pleaded at paragraph 31 of the plaint seems improbable. The plaintiff as well has not annexed any documents with the plaint which evidence that any legal injury has been suffered by the plaintiffs on account of the Impugned Tweet No. 4.

Impugned Tweet no. 6

21. The facts pertaining to Impugned Tweet No. 6 ascribed to defendant no. 2 are discussed hereinafter.

21.1 A distinct user named as Shahjahan Raza Khan (who is not made a party in the present proceedings) published a tweet in reply to the Impugned Tweet No.4 of the defendant no. 2 asking a question to the defendant no.2. In reply to the said tweet of Shahjahan Raza Khan, the defendant no.2 published a tweet at 02:23 on 24.06.2024 seeking a clarification to the question posed by Shahjahan Raza Khan. The tweet published by Shahjahan Raza Khan and defendant no. 2's response tweet published at 02:23 p.m. on 24.06.2024 as well as Shahjahan Raza Khan's further reply tweet published at 2:53 p.m. dated 24.06.2024 read as under:

21.2 The plaintiffs have impugned the said reply tweet of the defendant no.2 as **Impugned Tweet No. 6** in the plaint and made averments in regards to the said tweet at the paragraph '35' of the plaint. It is the contention of the plaintiffs that the Impugned Tweet No.6 accuses that the education/skills, which are being imparted by the plaintiffs are not relevant and effective in the actual practice. It is further stated that the Impugned Tweet No. 6 tends to discourage the currently enrolled and prospective students of the plaintiff no.1.

21.3 Defendant no. 2 in its written submission has stated that the comment 'courses don't work' are not his words and are the words of the user Shahjahan Raza Khan. It is stated that defendant no. 2 had merely corrected

the grammar (with respect to the use of word 'doesn't' and 'don't') and had in fact sought a clarification as to the context of the reply of the said user. It is stated that the grievance raised by the plaintiffs at paragraph '35' of the plaint are with respect to the comment published by the user Shahjahan Raza Khan and has no concern with defendant no. 2 herein.

21.4 The said submission made by defendant no. 2 is ex-facie apparent on a plain reading of the reply tweets posted by defendant no. 2 and the user Shahjahan Raza Khan. The words 'courses don't work' emanates from the user Shahjahan Raza Khan. Even during the course of oral submissions, the plaintiff was unable to rebut the said submission of defendant no. 2.

21.5 This Court is, therefore, of the considered opinion that the assumption/inference drawn by plaintiffs against itself at paragraph '35' of the plaint with respect to the Impugned Tweet No. 6 qua defendant no. 2 is without any basis.

21.6 Notwithstanding the above, it would be relevant to refer to the averments made at paragraph '35' of the plaint with respect to the cause of action qua Impugned Tweet No. 6. The relevant paragraph '35' reads as under:

> "35. That **the phrase "courses don't work"** imply that the courses fail to deliver the promised education, leaving 40 students inadequately prepared in the subject matter. **This statement** accuses that students do not see improvements in their employability or career progress after completing the courses. Additionally, **the phrase "courses don't work"** accuses that the skills taught are not relevant or effective in actual practice, leading to a gap between education and practical implementation. **The phrase "courses don't work"** can have a detrimental impact on students' motivation and confidence in their educational pursuits. It may discourage them from seeking further learning opportunities from Plaintiff No.1. **Moreover, the deliberate use of emoji seems to be making fun of Plaintiffs' claim to place people with international law firms**."

(Emphasis supplied)

21.7 A perusal of the pleadings at paragraph '35' shows that the cause of action pleaded in the paragraph '35' is in essence with respect to the reply tweet published by Shahjahan Raza Khan at 4:30 p.m. and 2:53 p.m. on 23.06.2024 and 24.06.2024 respectively. For instance, there are no emojis in Impugned Tweet No. 6 and therefore clearly the grievance set out in paragraph 35 is with respect to tweets of another user Shahjahan Raza Khan. However, admittedly, the said tweets are not impugned in the present plaint and neither is Shahjahan Raza Khan a party to the suit. The said pleadings in paragraph '35' are not relevant for discerning the cause of action qua Impugned Tweet No. 6.

21.8 Though, this Court finds no merit in the submission of the plaintiffs that the words 'courses don't work' is to be attributed to defendant no. 2, however, assuming that the said words are to be ascribed to defendant no. 2, the pleading at paragraph '35' acknowledges that the said Impugned Tweet No. 6 has not actually resulted in any injury or harm or loss to the plaintiffs and the entire edifice is based on a possible loss of business to plaintiffs due to loss of confidence in the students. This is for the reason that the X is a casual conversational medium and the holistic reading of this Conversation Thread No. 2 is unlikely to influence any reasonable user into forming any informed opinion about the credibility of the courses offered by *Lawsikho*.

21.9 In the aforesaid conspectus of facts and pleadings, this Court is of the opinion that the plaint fails to disclose any cause of action qua defendant no. 2 with respect to the Impugned Tweet No. 6.

22. The Supreme Court in **Kaushal Kishore v. State of U.P.**[25] has held that no person can be penalized for holding an opinion and a cause of action

[25] (2023) 4 SCC 1.

in favour of aggrieved to take action against a person expressing opinion would only arise, if such an opinion gets translated into action, which results in injury or harm or loss to the aggrieved. The relevant part of para 154 reads as under:

> "154. …..Needless to say that no one can either be taxed or penalised for holding an opinion which is not in conformity with the constitutional values. **It is only when his opinion gets translated into action and such action results in injury or harm or loss that an action in tort will lie.** With this caveat, let us now get into the core of the issue."
>
> (Emphasis supplied)

22.1 A Co-ordinate Bench of this Court in **Major General M.S. Ahluwalia** (supra) decreed the suit for damages and defamation in favour of the plaintiff therein. While considering the quantum of damage which is to be awarded the learned Single Judge delved into the nature and extent of injury suffered by the plaintiff therein and observed that in a suit for damages and defamation evidence of loss of reputation (i.e., injury suffered by the aggrieved) is necessary where it is not per-se clear that reputation is actually injured. The learned Single Judge emphasised that in law no action lies for words which have not inflicted substantial injury. The relevant paragraphs read as under:

> "***Nature and Extent of Injury.***
> 128. What needs to be considered now is the nature and extent of injury to invite an action for defamation. **Fundamentally, injury to the reputation being the gist of the action; evidence of loss of reputation is necessary only where without some evidence, it would not be clear that reputation had in fact been injured.** But the injury must be appreciable, that is, capable of being assessed by the Court. **Hence no action lies for mere vulgar abuse, or for words which have inflicted no substantial injury** as espoused in the maxim : de minimnis non curat lex (the law does not concern itself trifles or with insignificant or minor matters.).

> 129. The application of this maxim was explained in Chaddock v. Briggs, (1816) 13 Mass. 248:
>
> "**Some words, however, although spoken falsely and maliciously, are not of a nature to produce actual injury, because, being common terms of reproach, more indicative of the temper of the speaker than of any specific defect of character in him of whom they are spoken, it cannot be presumed that they have produced any injurious effect; and therefore to make such words the basis of an action it is necessary to allege and prove that some damage did actually follow the speaking of the words.**"
>
> (Emphasis supplied)

22.2 Thus, in view of the law laid down by the Supreme Court and learned Single Judge of this Court, it is imperative that while pleading cause of action for claiming damages in a suit for defamation, it is necessary for the party aggrieved to establish that substantial injury is caused to the reputation of the said aggrieved party. In the facts of the present case neither from the plaint nor from the documents annexed therewith the plaintiff has established any real harm or loss suffered by the plaintiffs so as to make the Impugned Tweet No. 6 actionable against defendant no. 2.

22.3 In the aforesaid facts, this Court is satisfied that the plaint fails to show any injury or harm or loss caused to the plaintiffs' reputation due to the Impugned Tweet Nos. 4 and 6 published by defendant no. 2 and therefore, this Court finds that the plaint fails to disclose any cause of action against defendant no. 2 with respect to Impugned Tweet Nos. 4 and 6; and thus, the plaint is liable to rejected qua defendant no. 2.

22.4 The plaintiffs as in the case of the other impugned tweets, did not approach the Grievance Officer of defendant no. 3-X for take down of this Impugned Tweet Nos. 4 and 6 in accordance with the statutory mechanism provided under IT Rules, 2021.The inaction of the plaintiffs is indicative of the fact that the plaintiff itself did not perceive that the said impugned

tweets have any effect on its reputation.

22.5 Therefore in the light of above analysis, the non-disclosure of the response tweet published at 08:48 p.m. dated 23.06.2024 with the plaint as well as the suppression of the previous disagreements/conflicts between plaintiff no. 2 and defendant no. 2, which are now admitted by the plaintiff no. 2 in the subsequent affidavit dated 27.08.2024 lends substance to the contention of defendant no. 2 that the instant plaint is intended to create a chilling effect on defendant no. 2 and is not based on any real injury or harm or loss to the reputation of plaintiff no. 1 or plaintiff no. 2.

Cause of Action against Defendant No.5

23. With respect to **Impugned Tweet No.5** published by the defendant no.5, who is anonymous to the plaintiffs, it is to be noted that the said tweet was published at 04:33 p.m. on 23.06.2024 in form of reply tweet to the Impugned Tweet No. 6 of the defendant no.2. The Impugned Tweet No.5 reads as under:

> "Tainted right from the top by a certain shade that shall not be named."

23.1 In the plaint the said reply tweet of the defendant no.5 is pleaded at paragraph '33'. In the said para it is stated that the remark made by the defendant no.5 in the Impugned Tweet No. 5 is slanderous in nature and is aimed at spreading false and damaging information about the plaintiffs. It is further stated that the Impugned Tweet No. 5 insinuates that the plaintiff no.2 and his associates are politically inclined and biased. It is stated that such remark can put the plaintiff no.2 and his associates to centre of being targeted professionally and personally. The relevant paragraph '33' reads as under:

> "33. That in the aforesaid post the Defendant No.5 is publicly calling Plaintiff No.2 and his associates as "Tainted right from the top by a certain shade that shall not be named." this is defamatory

> inasmuch as it is implying that these people that is Plaintiff No.2 and his associates are politically inclined. By labelling them as "tainted" and insinuating that they have been influenced by a nefarious presence, the Defendant No.5 is spreading false and damaging information about them. This kind of defamatory language can have serious consequences for the individuals being targeted, both professionally and personally. It is important that such **slanderous remarks** are not allowed to go unchecked, as they can cause irreparable harm to their victims' reputations."
>
> (Emphasis supplied)

23.2 This Court has juxtaposed the Impugned Tweet No. 5 with the pleading at paragraph '33' of the plaint. In the considered opinion of this Court, the inferences drawn by the plaintiffs on the basis of the said impugned tweet are not made out on a bare reading of the said Impugned Tweet No. 5. In fact, the inferences pleaded hint at an underlying understanding of the basis of the tweet, which is not apparent to this Court.

23.3 The Supreme Court in **M.J. Zakharia Sait v. T.M. Mohammed**[26] held that where the plaintiff alleges that the defendant is guilty of publishing of false statement in relation to the personal character or conduct of the plaintiff and such a statement is in innuendo; the meaning of the innuendo must be specifically pleaded in the plaint by stating the special or extrinsic facts which are in the knowledge of the plaintiff. The relevant paragraphs 34 to 37 of the judgment reads as under:-

> "34. Duncan and Neil in their book on *Defamation* (1978 edn.) while referring to "innuendo" on page 17 onwards have stated that the law of defamation recognises that (*a*) some words have technical or slang meaning or meanings which depend on some special knowledge possessed not by the general public but by a limited number of persons and (*b*) that ordinary words may on occasions bear some special meaning other than their natural and ordinary meaning because of certain extrinsic facts and circumstances. **The plaintiff who seeks to refer to an innuendo**

[26] (1990) 3 SCC 396.

meaning has to plead and prove the facts and circumstances which give words a special meaning. He has also to prove that the words were published to one or more persons who knew these facts or circumstances or where appropriate, the meaning of the technical terms etc.

35. While referring to the test where identification depends on extrinsic facts, the learned authors have stated that where identification is in issue, the matter can sometimes be decided by construing the words themselves in their context. More often, however, the plaintiff will be seeking to show that the words would be understood to refer to him because of some facts or circumstances which are extrinsic to the words themselves. **In these cases the plaintiff is required to plead and prove the extrinsic facts on which he relies to establish identification and, if these facts are proved, the question becomes: would reasonable persons knowing these facts or some of them, reasonably believe that the words referred to the plaintiff.**

36. **Where identification depends on extrinsic facts these extrinsic facts must be pleaded because they form part of the cause of action.**

37. The conspectus of the authorities thus shows that **where the defamatory words complained of are not defamatory in the natural or ordinary meaning, or in other words, they are not defamatory per se but are defamatory because of certain special or extrinsic facts which are in the knowledge of particular persons to whom they are addressed, such innuendo meaning has to be pleaded and proved specifically by giving the particulars of the said extrinsic facts.** It is immaterial in such cases as to whether the action is for defamation or for corrupt practice in an election matter, for in both cases it is the words complained of together with the extrinsic facts which constitute the cause of action. It is true that Section 123(4) of the Act states that the statement of fact in question must be "reasonably calculated to prejudice the prospects" of the complaining candidate's election. **However, unless it is established that the words complained of were capable of being construed as referring to the personal character or conduct of the candidate because of some specific extrinsic facts or circumstances which are pleaded and proved, it is not possible to hold that they were reasonably calculated to prejudice his prospects in the elections.** For, in the absence of the knowledge of the special facts on the part of the electorate, the words complained of cannot be held to be reasonably calculated to prejudice such prospects. Once, however, it is proved by laying the foundation of facts that the words in question were, by virtue of the

> knowledge of the special facts, likely to be construed by the electorate as referring to the personal character or conduct of the complaining candidate, it may not further be necessary to prove that in fact the electorate had understood them to be so. That is because all that Section 123(4) requires is that the person publishing the complaining words must have intended and reasonably calculated to affect the prospects of the complaining candidate in the election."
>
> (Emphasis supplied)

23.4 The Supreme Court in **Samaresh Bose v. Amal Mitra**[27] has held that the impugned statement in the case of complaint of obscenity has to be read first by the Judge from the viewpoint of the author and thereafter position of a reader of each age group. This test was also approved and applied by Supreme Court in the case of **S Khushboo v. Kanniammal**[28].

23.5 Thus, the Court's task is to determine the natural and ordinary meaning of the words complained of, which is the single meaning the impugned words would convey to the ordinary reasonable reader. [Re **Vine v. Josepeh** (supra)].

23.6 The Impugned Tweet No. 5 upon being perused from the viewpoint of an ordinary reader fails to give the impression of the plaintiffs as is pleaded in paragraph no. 33. The Impugned Tweet No. 5 has been written by a user anonymous to the plaintiffs, which has not found any traction on the conversation thread on which it was published. The plaint at paragraph '33' pleads that the impugned tweet has a *potential* to cause harm. In addition, to finding the pleadings at paragraph '33' wanting to show any actionable cause, this Court is also of the opinion that the said paragraph '33' fails to aver that the Impugned Tweet No.5 has resulted in any injury or harm or loss to the plaintiffs. Therefore, considering the law laid down in

[27] (1985) 4 SCC 289, at paragraph 29.
[28] (2010) 5 SCC 600.

Kushal Kishor (supra) and **Major General M.S. Ahluwalia** (supra), the plaintiffs have failed to disclose any actual and substantial injury much less a cause of action qua the Impugned Tweet No. 5 against the defendant no.5 and the plaint is liable to be rejected against the said defendant no.5.

23.7 Notwithstanding the finding above, this Court has perused plaintiff no. 2's response tweet to defendant no. 2 published at 08:48 p.m. on 23.06.2024 and plaintiff no. 2's response tweet (i) published at in response to defendant no. 1. The contents of the said tweets published by the plaintiffs contains liberal and direct references to the perceived political inclinations of the defendants. The tone and tenor of the plaintiff's tweets are hardly polite and given this background the plaintiff's alleged injured feelings as pleaded in paragraph 35 and the assertion that plaintiffs are a victim appear to be but a ruse and fails to persuade the Court.

Finding and Conclusion

24. The plaintiffs have approached this Court and sought to plead a separate cause of action qua each Impugned Tweet in the plaint to make it appear that these are stand-alone comments and each one has the potential to damage the plaintiff's reputation. However, the Impugned Tweets cannot be read in isolation and have to be read in the entire conversation thread of which they form part of and the plaintiff cannot ignore its own provocative tweets, which led to and/or form part of the relevant Conversation Thread. Similarly, the plaintiff no.2 who has the entire perspective of its own Lead Tweet and the Conversation Thread Nos. 1 and 2 which are reactionary cannot withhold the said perspective while alleging defamation. Moreover, before alleging defamation on the basis of a tweet, the plaintiff should bear in mind the conversational nature of medium and also bear responsibilities for the content of its own tweets which lead to the Impugned Tweets.

25. In these facts, this Court is satisfied that the plaintiffs have no cause

of action against any of the defendants i.e., defendant nos. 1, 2, 4, and 5 and therefore, the plaint stands rejected under Order VII Rule 11 (a) CPC. Pending applications stand disposed of.

26. Notwithstanding the rejection of the plaint, the plaintiffs have remedy under the IT Rules 2021 as deliberated hereinbefore in this judgment to seek removal of any Impugned Tweet which they perceive as an abuse or an insult and the said remedy is available to them even now. However, in the facts of this case, the Impugned Tweet Nos. 1 to 6 do not tantamount to defamation as they are a direct result of deliberate taunting and provocation by the plaintiff no.2.

27. This Court considers it apposite to set-out out the principles which this Court has relied upon in order to arrive at its conclusion:

(i) The Court relied upon an article *'**Online Trolling: A New Typology**'* (Sage Publications, 2023), which recognizes the modus where a user intentionally publishes post/tweet on its social media handle to provoke emotional responses intended to increase user's followers in social media presence. (Discussion at para 10.2, 10.3, 10.4, 10.6, 10.8 and 10.10)

(ii) The Court noticed the decision in **Nidhi Bhatnagar (Dr.)** (supra) wherein the said Court observed that it was not sufficient for a plaintiff to sue for words which merely injure his feeling or annoys him. As per the ratio of the said judgment, to maintain an action for defamation and to claim damages, the defendant's utterance would have to be proven to be so offensive so as to lower the plaintiff's dignity in the eyes of other right-thinking people of society. (Discussion at para 13, 17.12 and 17.15)

(iii) The Court considered that the availability of an alternative remedy to an aggrieved plaintiff/claimant in IT Rules, 2021. Pursuant to

the IT Rules, 2021 being promulgated, every social media intermediary (like platform X in the present case) is expected to have a Grievance Redressal Mechanism. For aggrieved plaintiff/claimant to approach the Court without having triggered or exhausted the said time bound remedy is a material factor to be considered. (Discussion at para 14, 14.1, 14.2, 17.16, 18.8, 22.4 and 26)

(iv) The Court notes that utterances in the nature of tweets in a conversational thread on platform X are not to be assessed in isolation for the purposes of determining the defamation claim. The Court has to consider that nature of the medium is casual and fast paced, conversational in character and an elaborate analysis of a 140-character tweet (or even more than that) may be disproportional. Importantly, the absorption by the reader and the reaction to the post is impressionistic and fleeting. (Discussion at para 15, 15.1, 15.2, 17.9, 17.13, 17.14, 18.6, 20.12 and 24)

(v) The Court notes that it is not sufficient to only consider the impugned tweets/utterances but also to see the responses/reactions of the plaintiff to extract the context in which the conversation has happened on social media platform. A one-sided view by plucking out on isolated tweet/utterance cannot provide a sufficient cause of action to a plaintiff. (Discussion at para 17.9)

(vi) The Court has noticed decisions of other common law jurisdiction drawing a distinction between a defamatory post and a post which merely had vulgar abuse. (Discussion at para 18.2 and 18.3)

(vii) The Court has considered that the casual nature of the medium invites anonymous posts which may *ex-facie* be disparaging but cannot amount to defamation as it may not have a serious effect to

form an impression about the character of the plaintiff. (Discussion at para 18.4, 18.5, 18.6, 18.7, 18.8, 23 and 23.6)

(viii) The Court observed that a person cannot be penalized for holding an opinion and a cause of action for the aggrieved would only arise if such opinion is translated into action i.e. results in injury or harm or loss to the aggrieved. Ergo, substantial injury has to be established by the aggrieved party. (Discussion at para 22.1, 22.2 and 23.6)

(ix) The Court notes that mere allegation by the plaintiff that the statement of the defendant amounts to an innuendo is not sufficient and the plaintiff has to specifically plead in the plaint and prove the facts and circumstances which imbue the words with a special meaning. (Discussion at para 23.3)

(x) The Court notes that a plaintiff alleging defamation on social media platform arising out of a conversation thread must mandatorily disclose the full conversation thread, particularly his own tweets/comments as well and should approach the Court with clean hands.

28. The plaint is thus rejected with costs of Rs. 1,00,000/- payable to the Delhi High Court Legal Services Committee within a period of four (4) weeks. Pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 20, 2025/mt/*sk/AKT*