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Exh.No.

IN THE CITY CIVIL COURT AT AHMEDABAD

CIVIL SUIT NO.6421 OF 1999

Plaintiffs:

1. Shri Dahyaji Gobaji Vanzara, I.P.S.
Adult, Occupation - Retired,
Permanent resident of `Gurukrupa`, Plot No.20,
Sector-19, Gandhinagar - 382 019.

VERSUS

Defendants:

1. Sandesh Limited,
A Company incorporated under the Company's Act, 1956,
Having their press located at "Sandesh Press",
Gheekanta, Ahmedabad - 380 001.
2. Shri Falgunbhai Chimanbhai Patel,
Adult, Occupation Editor, printer & Publisher,
SANDESH News Paper
"Sandesh Pres", Gheekanta,
Ahmedabad- 380 001.
3. Shri Navinbhai Chauhan,
Adult, Occupation Executive Editor,
Baroda Edition of SANDESH
Resident of Sadhana Nagar Society, Kareli Baug,
Baroda
4. Shri Amrutbhai Vadia,
Adult, Occupation Resident Editor,
Surat Edition of SANDESH
Resident of Satyesh Bhuvan,
Satyanarayan Mill Compound, Ashwinikumar Road,

Surat.

5. Shri Mukeshbhai Vyas,
Adult, Occupation - Resident Editor,
Rajkot Edition of SANDESH,
Resident of Satyesh Bhuvan, Jumma Masjid, Sheri No.2
Opp. Eagle Travels Sheri, Sadar, Rajkot.
6. Shri Jagdishbhai Mehta,
Adult, Occupation Resident Editor,
Bhavnagar Edition of SANDESH,
Resident of Bhavnagar.
7. Shri Batukbhai Patel,
Adult, Sandesh Local Photographer & Reporter,
Himatnagar.

Appearance:

Mr. P.K.Soni, learned advocate for plaintiff.

Mr. R.M. Kapasi, , learned advocate for defendant Nos.1 & 2

JUDGEMENT

- 1) Plaintiff has filed the present suit to claim damages to the tune of Rs.51,00,00,000/- from the defendants herein, for having published defamatory articles against the plaintiff and for having defamed him amongst the public at large.
- 2) It is the case of the plaintiff that, he did his graduation in political science and obtained first class from M.S. University - Baroda and upon clearing the Gujarat Public Service Commission (GPSC for short), the plaintiff was directly recruited as Deputy Superintendent of Police, Class-I. It is averred that after successful completion of the training, the plaintiff was posted as Dy.S.P. at various places in Gujarat and based on his performance, the plaintiff came to be awarded I.P.S., and placed in the cadre

of 1987.

- 3) It is further the case of the plaintiff that his service record is totally unblemished and is known for his efficiency, sincerity, discipline and devotion to the duty. It is his case that because of his incredible performance, he earned reputation among law abiding citizens of Gujarat.
- 4) It is further contended by the plaintiff that, between December, 1996 and May, 1998, the plaintiff worked as DSP - Junagadh and was posted as Superintendent of Police (Operation), Anti Terrorist Squad (ATS) when an article came to be published in the "Sandesh" newspapers in its Rajkot Edition dated 22.09.1997 publishing defamatory news item against the plaintiff. It states that, *"the citizens of the village told the journalist that, it is only after the D.S.P. Vanzara had come yesterday and after he was paid Rs.1 Crore by the factory owners in Rs.500/- bundle that everything has started"*. It is the case of the plaintiff that the aforesaid article in no uncertain terms imputed dishonest motive and lack of integrity and has also made falsely and maliciously the charges of corruption. It is contended that thereupon the plaintiff had filed a Criminal Complaint before the learned Chief Judicial Magistrate - Junagadh to prosecute the editor of Sandesh and one Kishore for having committed the grave offence u/s 500, 501, 502, 114 of I.P.C., and also u/s 15 of the Press and Registration of Books Act and accordingly, Criminal Case No.5163/1997 has been registered and the same is still pending because of the non-cooperation by the said accused.
- 5) It is further contended that the aforesaid accused had

threatened to spoil the service career of the plaintiff but the plaintiff refused to withdraw and/or settle the said criminal case. It is contended that several attempts were made by bringing undue pressure to settle the matter, but, failed and therefore, the accused had threatened the plaintiff to ruin the plaintiff by publishing unreadable articles by him and implicate him in infamous episode and thereby tarnish the image of the plaintiff. It is further contended by plaintiff that, the said accused being desperate to settle the criminal case but having failed, in order to save from going to jail, the defendants herein conspired together and hatched a plan to impute the plaintiff with foul deeds and tarnished and shattered his reputation to an extent that his friends, relatives and superiors may disassociate from the plaintiff by abusing their power, position and money.

- 6) It is further contended by the plaintiff that, there was some family dispute between the sister in law of the plaintiff and her husband because of his second marriage, which was mutually settled. It is contended that though plaintiff had no occasion to go to the spot of incident and had no role to play in the said incident, defendants herein have distorted the facts and implicated the plaintiff by publishing an article in Sandesh newspaper in its edition dated 09.12.1999 by giving undue prominence stating that, "*in order to teach a less to his brother-in-law, I.P.S. Officer Dahyaji Vanzara had kidnapped him and shaved his head and nude and beat him mercilessly and that the Himatnagar Police has bluntly refused to accept any complaint against Dahyabhai Vanzara, the person who openly defies the law*".

- 7) It is contended that soon after publication of this item, defendants asked the plaintiff to withdraw Criminal Case No.5163/1997 and threatened him to defame by publishing such type of news simultaneously not only in the Ahmedabad edition but also in Baroda, Surat, Rajkot and Bhavnagar. It is contended that at the behest of the defendants, Tresa who married with the brother-in-law of the plaintiff made an application to higher authorities to investigate the role of the plaintiff in the said episode, pursuant to which investigation was made by Himatnagar police and the inquiry officer concluded that the plaintiff has not played any role and is not guilty. Despite this, defendants on 10.12.1999 published in all editions of Sandesh, giving undue importance by publishing that, "*in spite of complaint being filed no action has been taken against Vanzara, an I.P.S., Officer of the State who, in order to settle personal scores, takes the side of terrorism and spreads fear. The place of a police officer who openly defies law is to be behind the bars but instead of that, as per the instructions of Vanzara, victims of terrorism, because of the pressure by the police, had to take treatment in private hospitals instead of government hospitals.*" It is contended that the said allegations made in the article also lowered the status and reputation of the plaintiff in the eyes of the general public.
- 8) It is further contended by the plaintiff that, on 11.12.1999 again an article was published in Sandesh that, "Even the Socially and politically leading personalities are not ready to raise such question because, such leaders are in need of various services of Vanzara and that Dahya Vanzara is an expert in rendering such services." It is contended that this is also scurrilous and defamatory allegations against

the plaintiff, which disparaged and degraded the plaintiff to public hatred and caused serious prejudice to the plaintiff. It is contended that these kind of publications known as Yellow Journalism, lowers the reputation of the plaintiff and/or victim among the right thinking members of the society.

- 9) It is contended that thereafter on 13.12.1999 also a defamatory article was published in all the editions of Sandesh affecting the reputation of the plaintiff stating that, "*Dahya, in order to get help has started boot licking of political leaders and it appears that the entire cabinet has taken an oath to defend Dahya*". It is contended that in the said article the name of the plaintiff is printed in such a highly derogatory and defamatory manner that the name of a responsible and respectable I.P.S. officer of the State is printed like a "Dahya" in the Sandesh paper. It is further contended that the allegations imputed are also of grave in nature and was written falsely and maliciously to settle the criminal case. It is contended that the plaintiff is thus repeatedly defamed by printing such words in the said newspaper. It is contended that such imputations are per se defamatory and hence sufficient enough to lower down the plaintiff in the estimation among the members of his circle.
- 10) Plaintiff has further averred that, the defendants have also published an outdated news in the edition of 14.12.1999 while the plaintiff was working as D.S.P., Mehsana which alleged to have been occurred in 1994 in village Charada. It is contended that the same shows the lack of bona fides inasmuch as the alleged incident happened in 1994 cannot be correlated with the subject matter of the present suit. It is further contended that on 14.12.1999 and 16.12.1999

defendants once again indulged into publishing defamatory articles in all editions of Sandesh, contents whereof are self explicit. It goes to say that, "*by showing sportsman spirit Police Head Dahya Vanzara went to Himatnagar Town Police after the complaint to see how the people salute him as a protector of law and that the Dahya Vanzara who had helped the BJP leaders to squander huge assets under their belt by leasing, excavating sand, gravel etc., against which there is no meaning to go into that, was of the view that no one could do anything to him*". It is contended this article also damaged the image of the plaintiff as the allegations are imputing dishonesty, which apart from being defamatory, may also block further career.

- 11) Plaintiff has contended that he refuted those allegations by writing a letter to the Editor of Sandesh but the defendants purposefully did not print the same. It is therefore contended that the defendants are thus, guilty of code of conduct laid down by the Press Authority of India as they have abused their ownership rights over the press and money they have made out of it. It is contended that defendants by publishing such articles on every successive days was wholly malicious and bereft of good faith. It is contended that such allegations and imputations are casting aspersions on the integrity of the plaintiff. It is contended that allegations have the effect of tending to undermine the authority of the plaintiff as also eroding the self confidence. It is averred that the aforesaid articles contain scandalous and defamatory material and constituted gross abuse of the plaintiff. It is further contended that those writings since printed in the newspaper, ordinary citizen may regard it as authentic and thus, it has tendency to excite adverse opinion against the

plaintiff and the same would tend to lower the prestige of the plaintiff in the eyes of a considerable and respectable class of community and they may refuse to socialize with the plaintiff.

- 12) It is contended that there were other sarcastic and libelous remarks made so as to lower down the status of the plaintiff and reputation in the eyes of the public, which caused serious mental agony and suffered nonverbal boycott in some social circle. It is contended that the plaintiff is an I.P.S. officer but those articles have lowered down the image of a I.P.S. authority and brought it in disrepute. It is contended that the defendants herein have conspired in those foul deeds and have not acted bona fide and there is a total want of good faith and this has caused serious embarrassment to the plaintiff and may also affect the service benefits of the plaintiff adversely.
- 13) Plaintiff has further contended that these defamatory and disgraceful words were purposefully used to malign the plaintiff with conscious effort, which had done great damage to the plaintiff, which cannot be compensated in terms of money. It is contended that the words printed in the articles were totally insulting, undignified and disrespectful, which per se defamatory sufficient enough to lower down the plaintiff in the estimation of other persons.
- 14) It is the case of the plaintiff that the freedom of press is not higher than the freedom of an ordinary citizen and is subject to the same litigations as are imposed by Article-19(2) of the Constitution of India. It is the case of the plaintiff that defendants used the columns at prominent places in the newspaper to make scurrilous attack on the

character and conduct of the plaintiff to lower the plaintiff in the eye of people of Gujarat. It is therefore contended that it is necessary on the consideration of cause of justice and to sub-serve the need of justice that such defamatory publication may be stopped forthwith and therefore, prayed for the pecuniary and non-pecuniary damages quantified at Rs.51 Crores from the defendants.

- 15) Plaintiff has also taken out the Notice of Motion seeking temporary injunction against the defendants. It appears from the record that, upon the submission of the learned advocate appearing for the defendants that defendants would not publish any such defamatory statements against the plaintiff, my learned predecessor has been pleased to post the matter for hearing in regular board vide order dated 21.12.1999.

- 16) Upon issuance of the notice, defendant Nos.1 & 2 have submitted their written statement vide Exh.17 and thereby refuted all the averments and allegations made by the plaintiff. It is the case of the defendants that, the news which are published in Sandesh are based upon the information collected by the newsmen in the employment of Sandesh, which are edited in each district by the resident Editor in-charge of the concerned district, that their circulation runs in several lakhs of copies. It is further contended that so far as Ahmedabad edition is concerned, the editorial work is not done by defendant No.2, but, by the staff employed for the said purpose. It is contended that in view of the enormous administrative work, in his capacity as the Chairman and Managing Director of the company as well as its Chief Editor, it is not possible for defendant No.2 to check every news item for the purpose

of ascertaining its truthfulness and on several occasions it so happens that defendant No.2 has no personal knowledge with regard to the news items which are being published.

- 17) So far as the articles published regarding the people residing in Rampara village, it is contended by the defendants that, said news has been published in the space kept reserved for the Sabarkantha district for the news of that district, and that defendant No.2 had no occasion to have a glance thereof before its publication. The defendants have however admitted the fact that plaintiff has lodged Criminal Case No.5163/1997 against them but denied that there is any relation with the subject matter of the present suit. Thus, though the defendants have accepted the publication of such defamatory articles against the plaintiff but, have denied the knowledge regarding the same and shifted the liability thereof upon the editorial staff of the company.
- 18) Defendant Nos.3 to 7 have individually filed their written statements vide Exh.18 to 22 whereby they have contended that they are not the editors or printers or publishers of Sandesh and that none of them has done anything for the collector of the news or their publication and therefore, prayed that the suit against them deserves to be dismissed.
- 19) On the basis of the rival contentions between the parties, this court has framed the following issues vide Exh.29 dated 06.09.2018.
 - 1) Whether the plaintiff proves the contentions made in

the plaintiff?

- 2) Whether plaintiff proves that he is entitled to recover Rs.51 Crores towards damages from the defendants?
- 3) Whether the plaintiff is entitled for the relief as prayed for?
- 4) Whether the suit of the plaintiff is maintainable?
- 5) What order and decree?

20) My findings to the above issues are as under for the reasons to follow:-

- 1) In the affirmative;
- 2) Partly in the affirmative;
- 3) In the affirmative;
- 4) In the affirmative;
- 5) As per final order.

21) In order to prove his case, plaintiff has examined himself at Exh.33 and has also examined and has produced documentary evidences vide Exh-67. Plaintiff, in support of his case, has examined Dr.Prahlad Parmar at Exh.184, Witness Raju Parmar at Exh.285, Witness Ramsinh Rathva at Exh.186, Witness Mansurkhan A. Pathan, at Exh.187, Witness Nitin K. Oza at Exh.188, Witness Vanrajsinh Raijada at Exh.189, Learned advocate for Plaintiff has submitted his written arguments.

Exhibit	Particulars
73	Original telegram sent by Ramkumar Mishra to

	the plaintiff dated 18.12.1999
74	Original telegram sent by Paraji Jivaji Vanzara to the plaintiff dated 19.12.1999
75	Original telegram sent by Raju Parmar to the plaintiff dated 18.12.1999
76	Original telegram sent by Dr. Prahlad Parmar to the plaintiff dated 18.12.1999
77	Original telegram sent by Tarachand Vanzara to the plaintiff dated 18.12.1999
78	Original telegram sent by Dr.D.N. Vaniya, Vejalpur to the plaintiff dated 18.12.1999
79	Original telegram sent by Yogesh Tomar to the plaintiff dated 18.12.1999
80	Original telegram sent by Dr. R.B. Parikh, Ranip to the plaintiff dated 18.12.1999
81	Original telegram sent by Dr. Pavan Bharadwaj, Odhav to the plaintiff dated 19.12.1999
82	Original telegram sent by Abhay Shah to the plaintiff dated 19.12.1999
83	Original telegram sent by Lakhabhai Bharwad to the plaintiff dated 19.12.1999
84	Original telegram sent by Ramdas Rathod, Advocate to the plaintiff dated 19.12.1999
85	Original telegram sent by Dr. Sohan Dumara to the plaintiff dated 19.12.1999
86	Original telegram sent by Dipak Koteya to the plaintiff dated 19.12.1999
87	Original telegram sent by Dr. Kanu Solanki to the plaintiff dated 19.12.1999
88	Original telegram sent by Dr. Anup Amin to the plaintiff dated 19.12.1999
89	Original telegram sent by Shyamlal Agrawal to the plaintiff dated 19.12.1999
90	Original telegram sent by Nitin Kantilal Oza to the

	plaintiff dated 18.12.1999
91	Original telegram sent by V. Nanagopal to the plaintiff dated 18.12.1999
92	Original telegram sent by A.D. Macwana, Aditya Nagar, Joshipara, Junagadh to the plaintiff dated 18.12.1999
93	Original telegram sent by Rajesh Rai to the plaintiff dated 19.12.1999
94	Original telegram sent by Suresh Chavda to the plaintiff dated 19.12.1999
95	Original telegram sent by Ajay Patel to the plaintiff dated 19.12.1999
96	Original telegram sent by Mukesh Gujjar to the plaintiff dated 19.12.1999
97	Original telegram sent by I.K. Shah to the plaintiff dated 19.12.1999
98	Original telegram sent by Ajit Shah, Surat to the plaintiff dated 18.12.1999
99	Original telegram sent by Nareshbhai Agrawal to the plaintiff dated 18.12.1999
100	Original telegram sent by UttamravPatil, Surat, to the plaintiff dated 18.12.1999
101	Original telegram sent by Jaivadan Kapadiya to the plaintiff dated 18.12.1999
102	Original telegram sent by Dr. Mohansing Kathvadiya to the plaintiff dated 18.12.1999
103	Original telegram sent by Ishwarbhai Patel to the plaintiff dated 18.12.1999
104	Original telegram sent by Ramesh Chotaliya to the plaintiff dated 18.12.1999
105	Original telegram sent by Arup Sharma, Architect to the plaintiff dated 18.12.1999
106	Original telegram sent by Vagjibhai Macwana and others to the plaintiff dated 18.12.1999

107	Original telegram sent by Omprakash Shankhla, Advocate to the plaintiff dated 18.12.1999
108	Original telegram sent by Punamsinh Rajput to the plaintiff dated 18.12.1999
109	Original telegram sent by Jagdish Chaudhry, Professor to the plaintiff dated 18.12.1999
110	Original telegram sent by Vijay Sindhe to the plaintiff dated 18.12.1999
111	Original letter sent by Vrajesh G. Dalal to the plaintiff dated 13.12.1999
112	Original letter sent by Narendra M.Vyas, Mehsana to the plaintiff dated 20.12.1999
113	Original letter sent by Ramesh N. Divecha to the plaintiff dated 13.12.1999
114	Original letter sent by Kiran patel, Utara, Bardoli to the plaintiff dated 13.12.1999
115	Original letter sent by Vanrajsinh Raijada, Junagadh to the plaintiff dated 15.12.1999
116	Original letter sent by Jethabhai panera, Gujarat Pradesh Congress Samiti, Ahmedabad to the plaintiff dated 11.12.1999
117	Original letter sent by nandhubhai K. Patel, Amroli, Surat to the plaintiff dated 15.12.1999
118	Original letter sent by Dipak S.Shah, Mehsana to the plaintiff dated 21.12.1999
119	Original letter sent by Dilavsinh U. Rathod, Vadagam to the plaintiff dated 21.12.1999
120	Original letter sent by Sumitaraben S. Patel, Nanpura, Surat to the plaintiff dated 16.12.1999
120A	Original letter sent by Ratilal M.Mehta to the plaintiff dated 19.12.1999
121	Original letter sent by Ashokbhai Chotubhai Patel, Dumas, Surat to the plaintiff dated 16.12.1999
122	Original letter sent by Rasiklal N. Vyas, Nadiad to

	the plaintiff dated 16.12.1999
123	Original letter sent by Dipak Dave, Vadali to the plaintiff dated 14.12.1999
124	Original letter sent by Gulabnabhi Campwala, Vadodara to the plaintiff dated 16.12.1999
125	Original letter sent by Ranjit Naik to the plaintiff dated 20.12.1999
126	Original letter sent by Anilkumar R. Jain, Umargaon to the plaintiff dated 13.12.1999
127	Original letter sent by V.H.M. Indu Limited, Valsad to the plaintiff dated 17.12.1999
128	Original letter sent by Hemant Patel, Vadodara to the plaintiff dated 14.12.1999
129	Original letter sent by Shashikant A. Shetiya, Valsad to the plaintiff dated 11.12.1999
130	Original letter sent by Ramabhai Ishwarbhai Patel, Mehsana to the plaintiff dated 21.12.1999
131	Original letter sent by Ramsinh Rathod, M.P. Lok Sabha to the plaintiff dated 16.12.1999
132	Original letter sent by Swami Anand Rang, Osho, Junagadh to the plaintiff dated 17.12.1999
133	Original letter sent by Kirti S.Desai to the plaintiff dated 11.12.1999
134	Original letter sent by Ashwinbhai F. Patel, Khanpur, Vadodara to the plaintiff dated 11.12.1999
135	Original letter sent by Dilipbhai G. Tandel, Valsad to the plaintiff dated 16.12.1999
136	Original letter sent by Kantibhai N. Khalasi, Surat to the plaintiff dated 16.12.1999
137	Original letter sent by Shri Singhanpir Vanzara, Surat to the plaintiff dated 23.12.1999
138	Original letter sent by Vanzara Harjibhai Dhorubhai and Amreli Vanzara Samaj to the

	plaintiff dated 18.12.1999
139	Original letter sent by Pravinbhai K. Patel to the plaintiff dated 17.12.1999
140	Original letter sent by Vijay S. Patel, Mehsana to the plaintiff dated 17.12.1999
141	Original letter sent by Premjibhai Vanzara, Amroli to the plaintiff dated 16.12.1999
142	Original letter sent by Mukesh Nayak, Bardoli to the plaintiff dated 16.12.1999
143	Original letter sent by Rajesh I. Patel, Bardoli to the plaintiff dated 12.12.1999
144	Original letter sent by DFilip S. Nilakh, Vadodara to the plaintiff dated 11.12.1999
145	Original letter sent by Kaushik Nayak, Valsad to the plaintiff dated 12.12.1999
146	Original letter sent by Hareshbhai Jerambhai Patel, Surat to the plaintiff dated 18.12.1999
147	Original letter sent by Anilbhai P. Patel Surat, to the plaintiff dated 13.12.1999
148	Original letter sent by jaideep D. Desai, Valsad to the plaintiff dated 11.12.1999
149	Original letter sent by Mangal Panchal, Idar to the plaintiff dated 31.01.2000
150	Original post card sent by Rameshbhai Chhaganbhai, Himatnagar to the plaintiff dated 14.12.1999
151	Original international letter sent by Hareshbhai, Junagadh to the plaintiff dated 21.12.1999
152	Original international letter sent by Satyajitsinh Gaekwad, Vadodara to the plaintiff dated 17.12.1999
153	Original international letter sent by Takhatsinh D.Khadiyol, Vadali to the plaintiff dated 15.12.1999

154	Original international letter sent by Mansukhkhan A. Pathan, Vadodara to the plaintiff dated 18.12.1999
155	Original letter sent by Nitin K. Oza, Surat to the plaintiff dated 16.12.1999
156	Telegram received by the plaintiff dated 18.12.1999
157	Copy of Criminal Application No.1245/2003 filed by defendants before Himatnagar Court.
158	- Do -
159	Application of defendants in C.S.No.1245/2003
160	- Do -
161	- Do -
162	Order dated 25.01.2017 passed in C.S. No.12245/2003
163	Letter addressed by the plaintiff dated 11.12.2000
164	Letter addressed by the plaintiff dated 11.12.2000
165	Letter addressed by plaintiff to defendants along with the RPAD slip
166	Appreciation Letter received by the Plaintiff.
167	- Do-
168	- Do -

Defendant No.4 has examined himself at Exh.207, Witness Pravinchandra Mehta is examined at Exh.222, Witness Nimish Yogeshchandra Mankad is examined at Exh.220, Witness Hiren Ramanbhai Bhatt is examined at Exh.219, Witness Rajesh Hariprasad Vyas is examined at Exh.213, Witness Surehdra P. Chauhan is examined at Exh.212 and Rajuji Jivaji Vanzara at Exh.199. Defendants have produced documentary evidence in support of the case vide list Exh.68. Learned advocate for defendants submitted his written arguments at Exh.233 and relied upon certain judgements, which shall be discussed at the relevant stage.

Exhibit	Particulars
169	Certified copy of Index produced before the Hon'ble high Court of Gujarat in SCRA No.1535/2016
170	Certified copy of the Memo of the petition of SCRA No.1535/2016
171	Certified copy of criminal case being Inquiry Case No.1/2000 which culminated into Criminal Case No.1245/2003 and order passed thereby the learned Magistrate, as produced in SCRA No.1535/2016
172	Certified copy of order dated 23.07.2007 passed in Criminal Revision Application No.403/2007
173	Certified copy of order dated 05.10.2012 passed in Criminal Revision Application No.403/2007
174	Certified copy of the report filed by the Police Inspector, Himatnagar, as produced in SCRA No.1535/2016.
175	Certified copy of news articles published in other newspaper dated 09.12.1999 as produced in SCRA No.1535/2016
176	Certified copy of order dated 06.11.2001 passed in Criminal Case No.5163/1997
177	Certified copy of FIR filed by Rajubhai Vanzara.
178	Certified copy of deposition of Rajubhai Vanzara in Criminal Case No.213/2000.
179	Certified copy of the complaint lodged by Tresa, Wife of Rajubhai Vanzara in Mamlatdar Office, Himatnagar.
180	Copy of the plaint filed under C.S.No.421/2017
181	Copy of resignation given by Shri D.G. Vanzara to the Additional Chief Secretary of Gujarat.

REASONS:- Issue Nos.1 to 5

- 20) Since all these issues are interconnected and interrelated, I would like to deal with the same together.
- 21) In order to substantiate his contentions, plaintiff has examined himself at Exh.33. He has more or less reiterated what has been pleaded in his plaint. He has further submitted in his examination in chief that, at the time of hearing the injunction application in this suit, the learned advocate for the defendants had made a written undertaking on 01.12.2000 that henceforth the defendants shall not publish any such defamatory articles against the present plaintiff. However, in spite thereof and in utter disobedience of the orders of this Court, defendants have went on publishing such defamatory articles against the plaintiff and therefore, plaintiff, vide letter dated 30.08.2000 addressed to Falgunbhai Patel asked him to publish corrigendum. It is further submitted that, thereafter when the plaintiff came to be arrested and was in Sabarmati Jail in connection with Sohrabuddin encounter case, then also, the defendants were blackmailing the plaintiff by publishing such defamatory articles in Sandesh newspaper and that therefore, when the plaintiff made representation to the Court during the said trial, the learned advocate for the defendants remained present and once again gave an undertaking that henceforth they shall not publish such defamatory articles against the plaintiff. However, in spite of the same, defendant Nos.1 & 2 herein did not stop doing the same. Plaintiff has further submitted that defendant No.1 is a Limited company and defendant No.2 Falgunbhai Chimanbhai Patel, is the Editor

and publisher of the same. He has submitted that defendant No.2 being holding a high position in the Gujarat State Newspaper world, is responsible for verifying the truthfulness of the news collected before publishing the same. However, with all mala fides and he has published such false, frivolous and vexatious news and thereby has caused great damage to the prestige and reputation of the plaintiff. It is further submitted that, defendant No.3 Navinbhai Chauhan is an Executive in the Baroda edition of Sandesh, defendant No.4 is the resident Editor of Surat Edition of Sandesh, defendant No.5 Mukkeshbhai Vyas is the resident Editor of Rajkot edition of Sandesh and defendant No.6 Jagdishbhai Mehra is the resident editor of Bhavnagar edition of Sandesh, while defendant No.7 Batukbhai Patel is the representative and local reporter of Sandesh for Himatnagar and all have the responsibility to publish news after verification of the truthfulness in the same. However, each one of them, in collusion with each other, caused great damage to the prestige and reputation of the plaintiff in the minds of the public at large by publishing such false and defamatory news against the plaintiff. It is submitted by the plaintiff all this has been done only because plaintiff has refused to withdraw the case filed against defendant No.2 in Junagadh. In his examination-in-chief, plaintiff has produced several telegrams and letters addressed to him by various personalities of the State.

- 22) He has been cross-examined at length by the learned advocate for defendants. In his cross-examination, plaintiff has admitted that he has two other brothers, namely, Kaluji Gobarji Vanzara and Vanrajsinh Gobarji Vanzara and that Vanrajsinh is serving as the Additional Secretary in the

Health Department of State of Gujarat. He has admitted in his cross-examination that, for the first time he was promoted to the post of Superintendent of Police in the year 1989 and posted as D.C.P. (South), Vadodara City. He has admitted that thereafter, he has been regularized as I.P.S., and placed in the cadre of the year 1987. He has also admitted that he has to serve the Ministers of the Government. He has admitted that he had received commendation certificate from officers of the department and also from the government for his performance. He has stated that during the riots caused in the Rath Yatra in the year 1991, he had single handedly fired 45 rounds from 303 rifle and brought the Rath Yatra safely to its destination by passing through the sensitive areas such as Prem Darwaja and Rangila Chowky. He has admitted that thereafter from the year 2002 to 2007 he was the Head of Crime Branch and thereafter ATS during which time he had occasion to perform against the terrorists and played a pivotal role in bringing the Gujarat as Terrorist free State. He has admitted to have played an important role in Sohrabuddin encounter, Izrat Jahan encounter and Tulsi encounter cases. He has denied that the government has considered the Sohrabuddin encounter, Izrat Jahan encounter and Tulsi encounter cases as a criminal act on the part of the plaintiff. He has submitted that by foisting false cases, he was sent to jail for about 8 years. He has admitted that when the investigation of Akshardham Temple attack case was handed over to the crime Branch, at that time he was the Additional Commissioner of Police thereof. He has admitted that one of the accused who has been acquitted in the said case had filed a defamation suit for Rs.5 Crores against the plaintiff. He has stated that he is now retired and is engaged in social work. He has

admitted that he has a very good image as a Police Officer in Sabarkantha district. He has admitted that Rajubhai Vanzara is his brother-in-law. He has denied that his sister-in-law and Rajubhai Vanzara are still staying as husband and wife. He has shown his ignorance as to whether there was any divorce between them. He has also distanced himself saying that is their personal problem to a question as to why they are not residing together. He has however stated that he came to know that his brother-in-law Rajubhai Vanzara got re-married to a Christian girl. He has also stated that he has not mediated between his sister-in-law and brother-in-law. He has admitted that in the criminal complaint filed against defendant No.2 in Junagadh, he has come to be discharged. He has denied to have any talk or meeting with defendant No.2. However, he has denied that just because, they did not meet each other, there is no reason for any dispute having been arisen. He has categorically stated in his cross-examination that defendant No.2 has a personal grudge against him. He has stated that defendant No.1 might have engaged several staff for publishing the newspaper. He has admitted that in order to help an officer, several staff members are required. He has also admitted that if the subordinate staff makes any mistake, then, he would be punished for the same, but, then responsibility has also been fixed for the appropriate supervision by the higher officials. He has however denied to have any knowledge that since several journalists are serving in defendant No.1, there may be many editors to scrutinize the same. He has also admitted that the reason for which the present suit has been filed, for the same reason he has filed criminal case against defendant No.2 and others at Himatnagar wherein apart from defendant No.2 there were seven

accused. He has also admitted that in the said criminal case, the Court at Himatnagar had passed an order for investigation and thereafter, on the report being produced by the P.I., cognizance has been taken thereof. He has also admitted that on the said complaint being filed, order was passed for inquiry u/s 202 of Cr.P.C. He has further admitted that the investigation thereof was handed over to the Police Officers of Himatnagar Police Station. He has also admitted that at the relevant time he was the Deputy Police Commissioner, Prohibition and Excise, Surat. He has also admitted that the said criminal complaint at Himatnagar is pending. He has shown his ignorance as to in what other newspaper such news has been published for which he has claimed damages hereof. He has denied that the news published by Indian Express and the article published by defendant No.1 are one and the same. He has also admitted that in the year 1994 he had filed criminal complaint for defamation as well as suit against Ashok Bhatt and others and that the same is pending. He has admitted to have demanded Rs.6 lakhs in the said suit towards damages caused by such defamation. He has also admitted that he has not given perfect details in his examination-in-chief regarding his claim of damages. He has also admitted that Raju Vanzara has also filed a criminal complaint against him. He has denied that the letters produced vide list Exh.67 were all written under his instructions. He has also admitted to examine authors of those letters in case of necessity.

- 23) He has admitted that he has been promoted to the post of I.G.P. after his retirement. He has also admitted that the said promotion has been given to him with retrospective effect from September, 2007. He has admitted that from

September, 2007 till his retirement he has not worked as I.G.P. He has stated that he could not say that no prejudice has been caused to his career because of the publication by defendant No.1. He has also denied that even after such publication by defendant No.1 he has been given promotion to the highest post in his department. He has denied that no prejudice has been caused to his prestige in his department because of such publication by defendant No.

- 24) Plaintiff has examined one Dr. Prahlad Parmar at Exh.184, Raju Parmar at Exh.185. Both these witnesses have stated that the plaintiff herein is an honest, sincere officer having pride for his country. They have admitted to the telegrams sent by them and produced by the plaintiff vide Exh.67/4 and 67/3 respectively. But they have not been cross-examined. Plaintiff has thereafter examined one Ramsinh Rathva at Exh.186. He has also admitted to have sent the letter in support of the plaintiff produced at Exh.67/60. He has been cross-examined on behalf of the defendants. He has stated in his cross-examination that he has done Graphics Arts Post Diploma and is acquainted with the plaintiff since his days of study. He has admitted that he has great respect for the plaintiff since their days of study. He has also admitted that the plaintiff commands respect in society. He has also admitted that his respect towards the plaintiff has not reduced. He has also admitted to be true whatever he has stated in his examination-in-chief with regard to the plaintiff being honest and sincere officer. At the same time he has also fairly admitted that the examination-in-chief was got prepared at Ahmedabad while he sworn the same at Baroda. He has further admitted that he had been to Vadodara, read over the affidavit and

thereafter signed the same.

- 25) Similarly, plaintiff has examined one Mansurkhan A. Pathan at Exh.187. He has also been cross-examined on behalf of the defendants. He has also admitted to know the plaintiff since his days of study. He has also totally supported the plaintiff. He has also admitted that the examination-in-chief was prepared at Ahmedabad and that he sworn the same at Vadodara
- 26) Plaintiff has thereafter examined one Nitin K. Oza at Exh.188 and one Vanrajsinh Raijada at Exh.187. They have totally supported the case of the plaintiff. Though they have been cross-examined on behalf of the defendants, but nothing contrary could be extracted from the same.
- 27) Similarly, defendant No.4 has examined himself at Exh.207. In his examination-in-chief the witness has stated that he has been with Sandesh, Surat since 1993 and even at present he is working as a journalist with Sandesh, Surat. He has stated that the news printed on 09.12.1999 regarding Raju Vanzara was sent from the main office at Ahmedabad. He has further submitted that he had discussed with Batukbhai Patel defendant No.7 herein and verified about the truthfulness thereof. He has been cross-examined on behalf of the plaintiff wherein he has admitted that defendant No.1 is the Chairman while defendant no.2 is the Secretary. He has also admitted that he works under defendant No.2 as Head at Surat. He has also admitted that if defendant No.1 intends to get news printed in Surat, he will come to know about the same. He has also admitted that the news printed from Ahmedabad are within the knowledge of defendant No.2. He has also

admitted that defendant Nos.1 & 2 are the whole and sole. He has also admitted that if any news is to be printed against any person, then, the same shall be printed in a descent language. He has admitted to have the knowledge regarding the complaint filed by Raju Vanzara. However, he has also admitted that he does not know as whether the name of the plaintiff is shown as accused in the complaint filed by Raju Vanzara. He has also admitted that the name of the plaintiff has not been shown as an accused in the charge-sheet papers filed in that regard. He has also admitted that news against the plaintiff were published in Surat from 09.12.1999 to 13.12.1999. He has also admitted that he has not shown details of the news printed on 12.12.1999, 13.12.1999 and 14.12.1999. He has also admitted that the plaintiff herein was an I.P.S. officer and a responsible citizen. He has also admitted that in his reply he has stated that defendant No.1 is not the editor, printer and publisher in the newspaper and that he has also not played any role in collecting such news items. He has also admitted that criminal case No.1245/2003 has been lodged against him and that he was served with summons in the year 2003 but he has never remained present therein. He has also admitted that he does not have any personal knowledge regarding the said incident. He has also admitted that personally he did not go to Himatnagar to verify about the same.

- 28) Defendants have thereafter examined one Vishal Pravinchandra Mehta at Exh.222. He has stated in his examination-in-chief that, he has been serving as Sub-Editor in the Sandesh newspaper published from Bhavnagar since 1998. He has admitted that his work involves selection of news items from journalist and to

contact them to verify the news sent by him and to send them same for printing. He has further stated that the news items are selected according to their importance. He has admitted that the news items published on 09.12.1999 to 14.12.1999 were sent by Bagukbhai Patel of Sabarkantha district from Himatnagar. He has stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has also admitted that since the news items sent by Batukbhai Patel after he personally verified the same, the same were published from 09.12.1999 to 14.12.1999, in all the editions of Sandesh. He has further stated that since the news items come from various places, as a Editor he cannot go to all such places for verifying the truthfulness thereof. He has been cross-examined on behalf of the plaintiff. In his cross-examination the said witness had admitted that he has completed his Bachelor of Arts in the year 1997 and studied Journalism thereafter for a period of one year and thereafter joined the defendant No.1 newspaper in the year 1998. He has admitted that name of defendant No.2 is shown as the head of Sandesh, however he has shown his ignorance as to who is the Chairman of defendant No.1. He has admitted that the newspaper runs because of its Editor, Sub-Editor, journalist and news providers. He has also admitted that apart from these, no other person can publish any article. He has stated that if any person states that, without the knowledge of Editor, Sub-Editor, news provider and journalist, he could get publish or publish any news item, then he lies. He has also admitted that if any such news item gets printed continuously for 7 to 8 days against a popular figure, then, it can be said that

everybody who serves in the Sandesh newspaper has knowledge regarding the same. He has also admitted that whenever a news article is to be published against a person, then, the name of such person should be published in a descent manner. He has admitted that the plaintiff was an officer in the year 1999. However, he has admitted to have any knowledge regarding the fact that the plaintiff was serving as Surat Police Commissioner in the year 1999 and that his name was Dahyabhai Vanzara @ D.G. Vanzara. After reading the news item published on 09.12.1999 the said witness has admitted that the same read as "*person who openly defies law is Marauder Dahyabhai Vanzara*". He has also admitted that in the next sentence it has come to be written as "*mischievousness of Vanzara*". He has fairly admitted that such language cannot be termed as descent language. He has also admitted to have not verified as to the truthfulness regarding the news of Veraval concerning the plaintiff herein. Upon reading the news published on 12.12.1999 he has admitted that it has been written that, "*the ghost activities of D.S.P. Dahya Vanzara as an lineal descendant of Hitler*". To a question put to him as to whether he had any personal knowledge regarding the news or whether he had personally verified the same, the witness has replied that, as per the prevailing set-up, the local representatives used to send the items will be discussed through telephone and thereafter the same will be published. He has also admitted that the words PTI, NIA etc., written in newspaper disclose the source of such news items. However, he has also admitted that in the news items published from 09.12.1999 to 14.12.1999 no such source has been mentioned. He has also admitted that the area of the news items published used to be mentioned at the top of such

news items. He has admitted that in the news concerning the plaintiff published from 09.12.1999 to 14.12.1999, the name has been shown as "Ahmedabad". He has also admitted that he has no knowledge regarding the complaint filed by Rajubhai Vanzara, charge-sheet therein or that of his the oral testimony.

- 29) Defendants have thereafter, examined one Nimish Yogeshchandra Mankad at Exh.220. He has stated in his examination-in-chief that, he is serving as a Coordinator in Sandesh Newspaper since 1990. He has stated that his work involves selecting of news items from the news sent by news collector, to contact them and verify the truthfulness thereof and to send the same for printing as per the importance thereof. He has further stated that as a Coordinator he has to select the news items sent by the local news collector as well as others and to verify the truthfulness thereof and to get the same published. He has stated that the news as stated in the present suit, which were published in Sandesh newspapers from 09.12.1999 to 14.12.1999 were from the news collector Batukbhai Patel from Himatnagar of Sabarkantha District. He has further stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has also admitted that since the news items sent by Batukbhai Patel after he personally verified the same, the same were published from 09.12.1999 to

14.12.1999, in all the editions of Sandesh. He has been cross-examined on behalf of the plaintiff. He has admitted in his cross-examination that defendant No.2 herein is the Chairman/ Managing Director of defendant No.1. He has further admitted that in the year 1999, defendant No.6 herein was the Editor of Rajkot Edition. He has admitted that the news used to come to the Coordinator and the Coordinator used to send the same to Editor. He has admitted that in the year 1999, Surendrabhai Chauhan was the Editor of defendant No.1 for its Ahmedabad Edition. He has admitted that the news published, if received through any organization then the name of such organization or if received through news collector then the name of such news collector used to be printed. He has also admitted that news sent through news collector and journalists are published in the Sandesh newspaper. He has also admitted that no person can directly get any news published in the newspaper. He does not remember as to whether or not he had read the news items published from 09.12.1999 to 14.12.1999. He has stated that he faintly remembers about the said incident. He has stated that the said incident was regarding one Rajubhai Vanzara was thrown on the road after being thrashed. However, upon reading the news item published on 14.12.1999 he has stated that no such name of Rajubhai Vanzara has been mentioned therein. He has also admitted that if at all any news is published regarding any complaint, then, such news items should be published in accordance with the complaint given by the complainant. He has admitted that he has not personally verified the articles sent through Batukbhai Patel from 09.12.1999 to 14.12.1999 and that he has no documentary evidence regarding the same. He has admitted that the plaintiff herein was a responsible I.P.S.

Officer and was also commanding great respect amongst the public. He has also admitted that if any news is to be published, then, the same should be published in a descent language. He has denied that the said articles were published by them without taking into consideration any documentary evidence thereof.

- 30) Defendants thereafter examined one Amohiran Ramanbhai Bhatt at Exh.217. He has stated in his examination-in-chief that he is the Editor of the Sandesh newspaper for its Baroda edition since 1997. He has further stated that his work involves selection of news items sent by the local news collector as well as others and to verify the truthfulness thereof and to get the same published. He has stated that the news as stated in the present suit, which were published in Sandesh newspapers from 09.12.1999 to 14.12.1999 were from the news collector Batukbhai Patel from Himatnagar of Sabarkantha District. He has further stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has also admitted that since the news items sent by Batukbhai Patel after he personally verified the same, the same were published from 09.12.1999 to 14.12.1999, in all the editions of Sandesh. He has been cross-examined on behalf of the plaintiff. He has stated in his cross-examination that defendant No.3 was the Editor of Baroda Edition since 1999. He has also admitted that in

the year 1999 defendant No.1 was the Chairman/M.D. of the defendant No.1. He has stated that he does not know about the position held by defendant No.2 in defendant No.1 but knows that he holds a very high position. He has admitted that the news published in the newspapers used to be sent either through Fax or in person by the news collector. He has admitted that if the news is of very important then, when the said news is received from news collector, the same used to be published only after the verification being made by Coordinator, then, Sub-Editor and then Editor. He has also admitted that if any such news articles are published daily, then the same would be within the knowledge of the Editor. He has stated that he does not have any personal knowledge regarding the incident but the news articles published from 09.12.1999 to 14.12.1999 in the Baroda Edition were directly received at Baroda. He has admitted in his cross-examination that he does not have any personal knowledge except the fact that the said news was regarding the plaintiff having done something to the earlier husband of his sister-in-law. He has admitted that if any news is published then, it is published on the basis of complaint, charge-sheet or the oral testimony given in the said case. He has admitted that though he does not know about the position held by plaintiff in the year 1999 but has admitted that the plaintiff was a Police Officer at the relevant time. He has also admitted that plaintiff was a I.P.S. officer and that he was commanding respect in his community. However, he has denied that if at all any news is published against I.P.S. officer then the same should only in the descent language. He has stated that language is decided depending upon the activities. He has admitted that he had no knowledge regarding any complaint being filed against the plaintiff,

but, stated that he had the knowledge that an application has been made. Upon reading the news published in Sandesh newspaper on 08.12.1999, the witness has stated that it involves one Ramu Vanzara and Hansa Vanzara. He has fairly admitted that he had come to give deposition only because, his advocate had told him to do so.

- 31) Defendants have then examined one Rajesh Hariprasad Vyas at Exh.212. He has stated in his examination-in-chief that he has been involved in the work of selecting the news items sent by news collectors, to contact them and verify regarding their truthfulness and send the same to the printing department as their importance, with the Sandesh newspapers published from Ahmedabad. He has further stated that his work involves selection of news items sent by the local news collector as well as others and to verify the truthfulness thereof and to get the same published. He has stated that the news as stated in the present suit, which were published in Sandesh newspapers from 09.12.1999 to 14.12.1999 were from the news collector Batukbhai Patel from Himatnagar of Sabarkantha District. He has further stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has also admitted that since the news items sent by Batukbhai Patel after he personally verified the same, the same were published from 09.12.1999 to 14.12.1999, in all the editions of Sandesh. He has been

cross-examined on behalf of the plaintiff. He has been cross-examined on behalf of the plaintiff. In his cross-examination the witness has admitted that since beginning he has been working with defendant No.1 and that at present he is working as Production Coordinator. He has stated that earlier there was one Surendrabhai Chauhan in his place. He has admitted that he has not been shown as accused in the criminal complaint or in the present suit. He has admitted that a criminal complaint has been filed at Himatnagar with regard to the present dispute. He has also admitted that he has no personal knowledge regarding the news stated by him in his examination-in-chief. He has also admitted to have not read the complaint, charge-sheet as well as the oral testimony of the witnesses regarding the news stated in his examination-in-chief. He has admitted that normally if a complaint is lodged about an incident, then, real facts can be gathered from such complaint. He has also admitted that by reading such complaint even the truthfulness regarding the incident can be verified. He has admitted that in the year 1999, plaintiff herein was a I.P.S. Officer and was a respected person. He has also admitted that if any false news is published against a respected person, then, it may damage his prestige and reputation. He has also admitted that his work is only to receive the news from news collectors and to verify regarding the truthfulness thereof and send the same to Editor. He has also admitted that he has no personal knowledge regarding the language used in the news published from 09.12.1999 to 14.12.1999. He has also admitted that in the year 1999, defendant was the M.D., Editor, Publisher and Chairman of defendant No.1. He has also admitted that defendant No.2 is the management head of Sandesh Newspapers.

32) Defendants have examined one Surendra P. Chauhan at Exh.212. He has stated in his examination-in-chief that, from 1975 to 2015 his work involved selection of news items sent by the local news collector as well as others and to verify the truthfulness thereof and to get the same published. He has stated that presently he has retired. He has stated that the news as stated in the present suit, which were published in Sandesh newspapers from 09.12.1999 to 14.12.1999 were from the news collector Batukbhai Patel from Himatnagar of Sabarkantha District. He has further stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has stated that when he inquired about the truthfulness of the said item, he was informed that the same are correct and that said Batukbhai had personally met Rajubhai Vanzara, Tresaben Vanzara and Dahyaji Vanzara. He has also admitted that since the news items sent by Batukbhai Patel after he personally verified the same, the same were published from 09.12.1999 to 14.12.1999, in all the editions of Sandesh. He has been cross-examined on behalf of the plaintiff. He has been cross-examined on behalf of the plaintiff. He has admitted in his cross-examination that defendant No.2 was the Chairman and Managing Director of defendant No.1 in the year 1999. He has also admitted that if any news sent by the news collector is published then, the name of such news collector and Sandesh News Samachar used to be written in cross. He has also admitted that even the name of the village concerned is also mentioned. He has stated in his cross-examination that from 19.12.1999 to 26.12.1999 no article has been published against the

plaintiff. He has admitted that he does not have personal knowledge of any other articles except the articles published from 19.12.1999 to 26.12.1999. He has also admitted that whatever news is published in Sandesh newspapers the same were published only within the knowledge of Head, news collector and journalist.

- 33) One Rajuji Jivaji Vanzara has been examined on behalf of defendants at Exh.199. He has stated in his examination-in-chief that, he is engaged in business at Himatnagar. He has stated that Tresaben is the name of his present wife. He has stated that earlier he had a child marriage with one Shantaben, sister-in-law of D.G. Vanzara wherein D.G.Vanzara was also present; thereafter he married Tresaben in the year 1990 and that since then D.G. Vanzara has been insisting to keep his sister-in-law Shantaben with me. He has stated that his earlier wife Shantaben used to meet D.G. Vanzara every now and then and used to instigate him to throw her out by stating falsehood regarding her. He has stated that all these threats were given by D.G. Vanzara and his brother, nephew. He has stated that D.G. Vanzara is his brother-in-law. He has stated that since it was a child marriage and that therefore, he has not stayed with Shantaben, D.G. Vanzara and his relatives used to have grudge against him. It is stated by this witness that on 01.12.1999 at about 9.00 a.m., he went to Mehtapura on his jeep for some work. When he reached near R.T.O., then, at that time he was stopped by Amit Vanzara and 8 -10 others near Horse farm and brought him down from the jeep stating that D.G. Vanzara was calling. He has stated that he was thrashed in the jeep and was taken to old house of D.G. Vanzara at Ilol, He has stated that D.G. Vanzara was present at that time and

the witness was made to sit on ground in front of him. He has stated that all the ornaments worn by the witness were ordered to be removed by D.G. Vanzara who thereafter told to thrash the witness so that even his dead body cannot be identified; he was thrashed and thereafter a Barbar was called and his head was shaved; his face was also blackened and was compelled to swallow some pill. He has stated that he thereafter became unconscious but when he came to his sense he realized that he was in a garden in Gandhinagar. He has stated that he had requested the persons of D.G. Vanzara to release him but they did not acceded to his request but once again they started beating him. He has stated that thereafter, he was made to strip and taken towards Unjha and thereafter thrown him near Horse farm near Mehtapura Ladies College in unconscious stage. He has further stated in his examination-in-chief that on 02.12.1999 his wife and other relatives who were in search of him, found him near Mehtapura Ladies College and was admitted in Civil Hospital, Himatnagar. He has further stated that even there, one Mr. Sunsara, Officer of the Local Police Station had pressurized him not to lodge any complaint against D.G. Vanzara and accordingly, his complaint was not taken by the police station and therefore, his wife had lodged a complaint giving all details to the Mamlatdar, Himatnagar on 02.12.1999. He has further stated in his examination-in-chief that at the instigation of Sunsara, Police Officer, even the Medical Officer has discharged him on the second day without giving any medical treatment and therefore, he had to take treatment with his family Doctor Chimanbhai Patel. He has stated that even there the police personnel had come and threatened him and was harassing him. He has stated that he has taken treatment as an in-door patient. However,

because of the pressure from D.G. Vanzara, no action has been taken in the complaint lodged by his wife with the Mamlatdar and therefore, he had made a complaint to the Human Rights Commission on 15.03.2000. He has further stated in his examination-in-chief that upon coming to know about the said incident, Batukbhai approached him and took his photograph to whom he had disclosed all the facts and also the disrespectful attitude of D.G. Vanzara, which report was published from 09.12.1999 to 16.12.1999 in Sandesh Newspaper. This witness has been cross-examined on behalf of the plaintiff.

- 34) In his cross-examination the said witness has admitted that he has studied upto 10th standard and that he knows to speak, read and write English language. He has admitted that he is not a party to the present suit. He has admitted as to what for the plaintiff has filed the suit. He has admitted that he does not have any good relation with the plaintiff. He has admitted that he only knows Batukbhai Patel, resident of Himatnagar and not others. He has also admitted that he was called by the learned advocate for defendants Mr. Kapasi and was asked to give his oral testimony in support of the defendants. He has admitted that the Exh.177 shown to him was the certified copy of the complaint produced before the Hon'ble Gujarat High Court. He has admitted that in the said complaint he has shown his brother Maganji Jivaji Vanzara as witness. He has admitted that Exh.178 is the copy of the order passed by the Hon'ble Court in Criminal Case No.213/2000 which had arisen from the complaint made by him and which has been produced before the Hon'ble High Court. He has admitted in his cross-examination that in the complaint Exh.177, he has shown the name of (1) Amit Surtaji

Vanzara, (2) Gopal Surtaji Vanzara, (3) Rajuji Mulaji Vanzara and (4) Babuji Piraji Vanzara as accused. He has also admitted that the said Exh.177 was given on 21.01.2000 regarding the incidents alleged to have occurred on 01.12.1999. He has also admitted that whatever details stated in Exh.177 are correct. He has also admitted that the copy of his oral deposition attached with Exh.178 and the details stated in para-1 thereof, were stated in his criminal complaint. He has also clearly admitted that after he filed the complaint Exh.177 and the police has filed charge-sheet therein after investigation and wherein evidence were taken and during all these proceedings he has not made any written complaint that the persons whom he had shown as accused, were not shown as accused by the police. He has also admitted that he has never made any application u/s 173(8) for further investigation during the said period. He has also admitted that he has not preferred any appeal against the order dated 08.11.2001 passed in Criminal Case No.213/2000. He has admitted that he was 33 years old when he gave deposition in Criminal case No.213/2000. He has also admitted that when he was 18 years old in the year 1986 he got married with Shantaben. He has also admitted that he also had children from Shantaben in the year 1990. He has admitted that he married his present wife Tresaben in the year 1990. He has also admitted that he has not taken any divorce from Shantaben. He has also admitted that he has not made Tresaben as witness in the complaint lodged by him. He has admitted that he reads newspaper and is of the opinion that whatever is published therein is true. He has also admitted that if a person lies those details cannot be published. He has also admitted that the plaintiff is a leader and has a good image in their

community. He has also admitted that whatever has been published from 09.12.1999 to 16.12.1999 were because of the incident that happened on 01.12.1999.

- 35) Heard the arguments of learned advocates for both the sides. Learned advocate for the plaintiff has also submitted his written arguments on 04.04.2022. Also perused the documents produced before on the record of this case. I have also gone through the oral testimony of the witnesses examined by both the sides. The following undisputed facts culls out from the deposition of witnesses as well as from the documentary evidences produced on the record of the case.
- (i) The incident is alleged to have occurred on 01.12.1999 at Himatnagar district involves one Rajuji Jivaji Vanzara.
 - (ii) Rajuji Jivaji Vanzara has lodged his complaint regarding the alleged incident to the police on 02.12.1999 and thereafter to the Human Rights Commission on 15.03.2000.
 - (iii) The said complaint culminated into Criminal Case No.213/2000.
 - (iv) Admittedly, plaintiff is not shown as an accused in the said Criminal Case No.213/2000.
 - (v) As per the deposition of Rajuji Jivaji Vanzara, Batukbhai Patel, who is news collector of the Sandesh newspaper for the Himatnagar District approached him regarding the incident and that he described him about the same.
 - (vi) When admittedly, the plaintiff is not an accused regarding the said incident, the news published regarding the said incident carried the name of the

plaintiff.

- (vii) Admittedly, defendant No.2 is the Chairman/Managing Director of defendant No.1.
- (viii) The witnesses examined by the defendants have clearly stated that they publish the news given by the news collector after verifying its truthfulness.
- (ix) The witnesses have also stated that if the news regarding any important or respectable person of the society, then, the same shall be published only with the consent and knowledge of the Editor.
- (x) The witnesses were also unanimous in their statements that if at all any news has been published consecutively for some days, then the same would be within the knowledge of the Editor and all other responsible persons of the newspaper.
- (xi) The witnesses have also admitted that the plaintiff herein was a I.P.S. officer at the relevant time and as such, is a respectable person of the society and that he commands respect in his community as well as among general public.
- (xii) It is also admitted by all the witnesses examined by the defendants that no person can directly get the news published without the knowledge of Editor, Coordinator, journalist etc.
- (xiii) The witnesses examined by the defendants also admitted that whenever a news is published, the same shall be in a descent language.
- (xiv) Witness Vishal Pravinchandra Mehta Exh.222 also admitted that when a news is published regarding any person, then, even the name of such person shall be published in a descent language.
- (xv) Witness Vishal Pravinchandra Mehta Exh.222 also admitted in his cross-examination that the wordings

such as "*person who openly defies law is Marauder Dahyabhai Vanzara*", "*mischievousness of Vanzara*" etc., published 09.12.1999 are not proper and has fairly admitted that such language cannot be termed as descent language.

- (xvi) It is also revealed that nobody has cared to verify the truthfulness of the material before it is published.
- (xvii) Rajubhai Vanzara Exh.199 has also admitted in his cross-examination that after he filed the complaint Exh.177 and the police has filed charge-sheet therein after investigation and wherein evidence were taken and during all these proceedings he has not made any written complaint that the persons whom he had shown as accused, were not shown as accused by the police.
- (xviii) He has also admitted that he has never made any application u/s 173(8) for further investigation during the said period.
- (xix) He has also admitted that he has not preferred any appeal against the order dated 08.11.2001 passed in Criminal Case No.213/2000.
- (xx) He has admitted that he was 33 years old when he gave deposition in Criminal case No.213/2000. He has also admitted that when he was 18 years old in the year 1986 he got married with Shantaben. He has also admitted that he also had children from Shantaben in the year 1990. He has admitted that he married his present wife Tresaben in the year 1990.
- (xxi) He has also admitted that he has not taken any divorce from Shantaben.
- (xxii) He has also admitted that he has not made Tresaben as witness in the complaint lodged by him.
- (xxiii) He has also admitted that the plaintiff is a leader and

has a good image in their community.

(xxiv) Defendant No.2 who is the Chairman and Managing Director of defendant No.1 has not examined himself.

(xxv) The defendants herein who were accused in the Criminal Case No. 1245/2003 at Himatnagar, which arose from the criminal complaint filed by the plaintiff herein, never remained personally present to conduct the said case.

(xxvi) Cr.R.A. No.403/2007 preferred by the defendants herein against an order dated 20.06.2007 passed by the learned Magistrate in Criminal Case No.1245/2003 was disposed off as “**not pressed on merits**” on 05.10.2012.

(xxvii) Defendant No.2 has filed Special Criminal Application No.1535/2017 before the Hon’ble High Court of Gujarat for quashing of the impugned Complaint, and the same is pending for its adjudication.

36) It is pertinent to mention the conduct of the defendants at this stage. The present defendants who are accused in the Criminal Case No.1245/2003 at Himatnagar had presented an application for exemption vide Exh.117 therein wherein the learned Chief Judicial Magistrate, Himatnagar has passed an order dated 25.01.2017 rejecting the said application. He has made certain observations therein. The same being relevant, are reproduced hereunder:

“3.1 Before dealing with the contentions of the present application as well as the submissions made, certain facts need to be taken into consideration. It is required to be noted that the alleged defamation were committed way back in December, 1999 complaint whereof was filed on

07.01.2000, cognizance whereof was taken on 29.04.2003. Upon issuance of process but for accused No.6 none of the accused has ever remained present in person (barring solitary appearance of accused No.3). Thus, the present case though being more than 15 years old the accused have been given enough latitude in matters of personal appearance.

*3.2 It is also required to be noted that all these years the accused have been pursuing one remedy or the other and hence even the stage of recording of their plea has not been crossed. It is also worth noting that the accused herein had initially filed application seeking dismissal of complaint u/s 258 of Cr.P.C., vide application Exh.17 dated 20.12.2003 which was ultimately disposed as “**not pressed**” on 13.04.2005. Similar application was also filed on 14.10.2014 by accused No.1 which again interestingly was disposed off as “**not pressed**” on 05.10.2016. Another application Exh.37 was filed on 30.04.2005 seeking recording of plea through their Ld. Advocate which was dismissed on 20.06.2007 against which revision application being Cr.R.A. No.403/2007 was filed which again was disposed off as “**not pressed on merits**” on 05.10.2012 with liberty to raise all contentions before this Court.....”*

3.3 It is further worth mentioning that the complainant who had opposed application Exh.37 tooth and nail consented to the application Exh.160 being allowed so as to avoid fresh litigation before higher forum and this court too reluctantly allowed the same on 16.11.2016 taking the age of this application into consideration. On that date it was communicated to the Ld. Advocates representing

respective accused that on the next date all accused be kept present for recording of plea however none but accused No.6 remained present personally. Therefore, the matter was fixed on 22.11.2016. On that day once again the accused/present applicants sought exemption therefore speaking order to the above effect was passed wherein they were given option of remaining personally present or make arrangements similar to accused No.1 to have their plea recorded. Still the present applicants amongst others remained absent and application Exh.173 seeking exemption was presented. The then Ld. Advocate also submitted that the present applicants are not in touch with him therefore he could not furnish reasons for absence. Therefore, the said application was dismissed qua present applicants and granted qua accused No.2 reasons for whose absence were supported by medical certificate.”

- 37) Even before this Court, the defendants have come with an application under Order VII Rule-11 of the Code of Civil Procedure, 1908 with a request to reject the plaint at a very belated stage on 16.07.2019 by application Exh.51, however, the same came to be rejected by this Court vide order dated 14.11.2019.
- 38) The learned advocate for the defendant has referred to and relied upon the judgement of the Hon’ble High Court of Telangana and Andhra Pradesh (at Hyderabad) in the case of Bennett Coleman & Co. Ltd., and Ors Vs. K.Sarat Chandra and ors. Reported in 2015 LawSuit(Hyd) 1066 as well as the judgement of the Hon’ble Supreme Court of India in the case of West Bengal State Electricity Board Vs. Dilip Kumar Ray. I have carefully gone through both the aforesaid judgements. However, in my considered opinion,

the facts of the said cases and that of the present case not being the same, the same are not applicable to the present case.

- 39) The learned advocate for the plaintiff has placed his reliance on the decision of the Hon'ble Delhi High Court in the case of Rajeev Aggarwal Vs. Vijay Kumar Diwakar, 2011 (184) DLT, 518. Wherein para-15, 16 & 17 being relevant, the same are reproduced hereunder.

"15. The Court was of the view that while dealing with the damages in a libel case one is endeavoring to express in terms of money several different things which are not really susceptible of money valuation. It is further stated that in case of libel, damages can be awarded under four heads:- (1) injury to reputation (2) injury to feelings, the natural grief and distress which may have felt at having being spoken of in defamatory terms, and if there has been any kind of high handed, oppressive, insulting or contumelious behavior by the defendant which increases the mental pain and suffering caused by the defamation and may constitute injury to the plaintiff's pride and self confidence, (3) Injury to health and (4) Pecuniary loss.

16. According to plaintiff, he is entitled to compensation under all the four heads as the news reports did not only defamed the plaintiff hurting his pride and self confidence and affected his business potentials, but the plaintiff was also put in a stressful situation injurious for his health. Therefore, it is submitted that the plaintiff may be damages as claimed by him."

17. I have heard the learned counsel for the plaintiff at great

length and also perused the various judgements referred by him as well as documents placed on record. The evidence produced by the plaintiff has gone unrebutted as the defendants did not chose to appear in the court nor any written statement was filed by the defendants. Therefore, the plaintiff is entitled for the relief claimed against defendant Nos.1 & 2 to the extent that the plaintiff would be entitled to a sum of Rs.5 lac as compensation/damages for the defamation caused to the plaintiff on account of the publication of a news items in its edition "Vijay News" published on 11.09.2008 as well as on 16.11.2008. the plaintiff is also entitled for cost."

- 40) Plaintiff has also referred to and relied upon the judgement of the Hon'ble Gauhati High Court in the case of S.N.M. Abdi Vs. Prafulla Kr. Mahanta, reported in 2002(4) CivLJ 377 wherein the Hon'ble High Court has referred to para-24 of the judgement of the Hon'ble Supreme Court in the case of Kiran Bedi and Jinder Singh Vs. Committee of Inquiry, AIR 1989 SC, 714, which reads as under:

"24.The right to the enjoyment of a good reputation is a valuable privilege, of ancient origin, and necessary to human society, as stated in Libel and Slander S. 4 and this right is within the constitutional guarantee of personal security as stated in Constitutional Law. S. 205, and a person may not be deprived of this right through falsehood and violence without liability for the injury as stated in Libel and Slander S.4."

- 41) In para-11 of the aforesaid judgement of the Hon'ble Gauhati High court, it is observed thus:

“11. The next question is that what would be the amount of compensation. In deciding the question of compensation in such a situation the Court must take into consideration the following things:

(1) The conduct of the plaintiff; (2) his position and standing; (3) the nature of libel, (4) the absence or refusal of any retraction or apology; and (5) the whole conduct of the defendant from the date of publication of libel to the date of decree;”

42) In the present case, the plaintiff is a former I.P.S. Officer and has an impeccable reputation in the police department as well as in the community at large. The defendant no. 1 is a duly incorporated company in the business of news reporting and broadcasting. It belongs to well known “Sandesh Group”. It runs a newspapers by the name “Sandesh”. It is a leading newspapers having an extreme viewership. The defendant no. 2 is the Chairman and Managing Director defendant no. 1 and is the Editor in chief of the said Newspaper and as such responsible for all its publication.

43) The plaintiff has further submitted that from - 09.12.1999 to 14.12.1999, defendant no. 1 i.e. Sandesh Newspaper had published an incident involving one Rajuji Jivaji Vanzara wherein the name of the plaintiff has come to be published by defendant No.1 depicting him as the Marauder of law and order, corrupt, ghost, etc., without verifying the fact that even the said Rajuji Jivaji Vanzara had not lodged any complaint against the plaintiff and that in the complaint lodged by said Raju Vanzara, the plaintiff has not been shown as an accused. In

spite of that, since the same has been sent by defendant no.7 herein being a news collector for the Himatnagar District, defendant Nos.1 & 2 without verifying as to truthfulness thereof got the same published and caused the plaintiff immense loss of pride and prestige. That at the time of passing an order below the Notice of Motion, this court has also recorded the written undertaking given by the learned advocate for the defendants that henceforth the defendants shall not publish any such defamatory articles against the plaintiff. However, even thereafter, at the time when the plaintiff was allegedly involved in the Sohrabuddin encounter case, defendant Nos.1 & 2 once again published defamatory articles against the plaintiff and even when the plaintiff had issued legal notice to them and asked them to publish corrigendum, the same was not done and no apology was even sought from the plaintiff.

- 44) Even when the plaintiff has issued notice seeking damages to the plaintiff, the defendants have given an evasive reply and remained silent about the damages demanded by the plaintiff. Thus the defendant has not taken any action to undo the wrong admittedly committed. Defendant Nos.1 & 2 have not entered the witness box to rebut the claims of the plaintiff. The witnesses examined on behalf of the defendants have, on the contrary, pointed their fingers towards defendant No.2 and have admitted that the words used in the disputed articles published by defendant Nos.1 & 2 are absolutely derogatory and defamatory. They have also admitted to the status of the plaintiff as an I.P.S. Officer and one who commands huge respect in the police department as well as in the community at large.
- 45) The plaintiff has stated that having a tremendous potential

to the said newspaper can ruin the reputation of a person. The defendants have failed to exercise such care and caution. The tortious acts commissions of the defendants have caused mental anguish to the plaintiff. The acts have also damaged the reputation. Therefore, the defendant no. 2 being the Editor in chief is liable to compensate the plaintiff. Hence, the plaintiff has claimed Rs. 51 crores towards damages for causing loss and injury to the reputation.

- 46) Now to constitute a tort there must be a wrongful act. The word "act" in this context is used in wide sense to include both positive and negative acts i.e. acts and omissions. Every man has a right to have his reputation preserved inviolate. This right of reputation is acknowledged as an inherent personal right of every person. It is a *jus in rem*. So if by the wrongful act is found to be committed, the person who feels it is affecting his reputation, it amounts to defamation for which he becomes entitled for damages. *A defamatory statement is a statement calculated to expose a person to hatred contempt or ridicule or to injure him in his trade, business, profession, calling or office or to cause him to be shunned or avoided in the society.* In an action for defamation the plaintiff must show that the defamatory statement refers to him. As stated hereinabove, plaintiff has examined himself at Exh.33 and has examined Dr.Prahlad Parmar at Exh.184, Witness Raju Parmar at Exh.285, Witness Ramsinh Rathva at Exh.186, Witness Mansurkhan A. Pathan, at Exh.187, Witness Nitin K. Oza at Exh.188, Witness Vanrajsinh Rajjada at Exh.189.

- 47) In view of above said admission and to constitute a tort for

causing defamation, the plaintiff has pleaded that wrongfully involving his name in an alleged incident of which there is no complaint against the plaintiff is *per se* defamatory. With this, an argument is advanced that as defined in Black Law's dictionary the term *per se* means "by itself" or "standing alone" or without any reference to additional facts. Libel *per se* means, Libel that is defamatory on its fact. In order to find an action for Libel it must be proved that the statement complained of is false, in writing, defamatory published. Here it is pertinent to note that plaintiff himself has stepped into witness box and he has also been cross-examined on behalf of the defendants. It is an admitted fact that the news articles are published by defendant Nos.1 & 2. So it is only to prove that the wrongful act of defendant is a libel, for which he is liable. In the present case, defendants have examined Rajuji Jivaji Vanzara at Exh.199, based upon whose complaint the disputed articles are published. However, he has clearly and unequivocally admitted in his cross-examination that he has not made the plaintiff herein as an accused in the alleged incident reported from 09.12.1999 to 14.12.1999. He has also admitted that even the police has not made the plaintiff as accused and that even he did not raise any objection for the same nor has preferred any further investigation under Section 173(8) of Cr.P.c.,.

- 48) The witnesses of the plaintiff, have clearly stated in their examination-in-chief as well as cross-examination that plaintiff is held to be in high esteem among them and that he was an honest and sincere police officer. The cross examination is not useful as nothing adverse has been stated by him and he found to be stick up to his evidence

through out. Therefore, as per the plaintiff publishing false news items from 09.12.1999 to 14.12.1999 created a false impression that plaintiff was involved in the said incident. However, according to the counsel for defendant has submitted that, it has no force at all inasmuch as the said news was collected by defendant No.7 who was the news collector for Sandesh for Himatnagar District.

- 49) In the light of this the defendants contention is that, the case of the plaintiff at the most can be said to be based on negligence in publishing a News item. However, same was not satisfactorily proved by adducing any oral evidence. All the oral evidences adduced on behalf of the defendants have, on the contrary seems to support the case of the plaintiff. It is also a fact that, the plaintiff demanded a damages of Rs. 51 crores vide his legal notice. However, nothing is replied either in affirmative or in denial. It is a principle assailed in law of defamation, as to remedies a suit for damages be brought. Thus, the plaintiff has submitted that, neither a corrective or remedial approaches are observed by the defendant. It is to note that, as the defendant failed to comply the said notice in respect of damages. So it is the defendants who themselves had failed to cope up with the matter to resolve it by taking corrective as well as remedial measures.
- 50) The defendants have raised an issue circumscribing that to decide the cause for defamation **Mens rea** is an essential ingredient. It is for the reason that the defendants have not published the news articles of the plaintiff intentionally, but it was unintentional keeping this in mind the plaintiff's counsel has submitted that mens rea is basically essential

in Law of Crimes and not law of Torts. Whilst coining the maxim *actus non facit return nisi men sit nea* did not intending application to any civil law. Even if it is assumed that mental element is essential it is settled principle of law that malice is presumed in Libel. It is observed in ruling reported in **AIR 1970 Bom 424 R.K. Karanjia Vs. K.M.D.Thackersey** that if false hood is proved, malice is presumed in defamation. Malice in the popular sense means *spite or ill will*. Even if it is considered no intention was there, then why there was no public apology or even scrolling of corrigendum, which of course does not amount to apology and other aspects are not considered. Therefore, even if it is considered that mens rea is an essential part of tort for defamation, there was no action followed by the defendants.

- 51) Further point is of maintainability of a suit wherein the defendants have agitated that the incident is occurred in Himatnagar district while the defendants are shown to having their office at Ahmedabad. Therefore, cause of action did not arise within the territorial jurisdiction of this Court. Under section 19 of CPC, suits for compensation for wrongs to person or movables are to be instituted at the option of the plaintiff either in a court where a wrong was done or in a court defendant carried on business. The plaintiff resides in Gandhinagar while the defendant has its main office at Ahmedabad. It is rightly brought to the notice of this court by the plaintiff that matter i.e. publication of news articles of plaintiff was published all over Gujarat including Ahmedabad. Further, the plaintiff has for the first issued a notice to the defendants at Ahmedabad, which was also duly received. Therefore, they confer jurisdiction on this court to entertain

the suit.

- 52) As regards the damage to the reputation of the plaintiff. From the discussion in foregoing issues it has been proved that disputed publication of articles is per se defamatory. It is an admitted fact that the plaintiff is having impeccable reputation in the society and in the police department in particular being a retired I.P.S. Officer . His integrity was never questioned. Therefore, by a ratio laid down in **AIR 1962 Orissa 115, Sadosiba Panda Vs. Bansidhar Sadhu**, proof of actual loss of reputation is not necessary. It is sufficient to establish that the defamatory statement made would damage one's reputation.
- 53) In order to comprehend whether damage is caused to the reputation of the plaintiff, it is important to consider the interpretation of the word reputation. In **Kiran Bedi and Jinder Singh Vs. Committee of Inquiry AIR 1989 SC 714** it was held as under.

“The following words of caution uttered by the Lord of Arjun in Bhagwad Gita with regard to dishonour or loss of reputation may usefully be quoted:

Akirtnchapi Bhutani Kathaishyanti teavyayam, Sambhavitasya Maranadatirichyate (Men will recount thy perpetual dishonour and to one highly esteemed dishonour exceed death) In Black one's Commentary of the Laws of England Vol.1 IV th Edition it has been stated at page 101 that the right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health and his

reputation.

It is stated in the definition of Person 70 CJS p., 688 note 66 that legally the term 'person includes not only the physical body and members, but also every bodily sense and personal attribute among which is the reputation a man has acquired. Blackstone in his Commentaries classified and distinguishes those rights which are annexed to the person jura personaum and acquired rights in external objects jura rerum.

- 54) The idea expressed is that a man's reputation is a part of himself, as his body and limbs are and reputation is a sort of right to enjoy the good opinion of others, and it is capable of growth and real existence as an arm or leg. Detraction from man's reputation is an inquiry to his personality, and thus an injury to reputation is a personal injury, that is an injury to an absolute personal right." Thus, it is clear that right to reputation is an absolute personal right. The latin maxim which is a well established principle of laws says "**Ubi Jus Ibi Remedium**" which means 'where there is a right, there exists a remedy.' Since right to reputation is an absolute personal right, the remedy to protect and preserve the same has to exist.
- 55) Further in R.K.Karanjia Vs. K.M.D. Thackersay (AIR 1970 Bombay 24(V.57 C73) It has been observed that diminution in esteem and extent of mental distress to be considered. In **BalaRam Vs. Sukh Sampat Lal AIR 1975 Raj. 40**, it has been observed that, when on the face of them the words used by the defendant clearly must have injured the plaintiff's reputation, they are said to be actionable per se.

In the case of Sadasiba Vs. Bansidhar, reported in **AIR 1962 Orissa 115**, it is observed that in a case of libel, it was not necessary to prove the actual loss of reputation and it was sufficient to establish that the defamatory statement made would damage one's reputation.

- 56) In view of the finding, it has been held that, wrongful publishing of news articles caused damaged to the reputation of the plaintiff. Now from the exchange of notices it is a proved fact that, the defendants failed to utter a word about damage. It is argued on behalf of the defendants that the case of the Plaintiff, at the most can be said to be based on negligence at the hands of the Defendants in publishing the news item. The point therefore needs to be considered is whether there was any enmity or any reason for the Defendants intentionally or deliberately for showing the photographs of the plaintiff with a view to cause damage to him or with a view to defame him. Answer is to be given in negative.
- 57) It is the case tried to be made out by the Plaintiff that claim of damages is not denied. In fact plaintiff has not given any particulars of claim which is mandatory and in the absence of basic pleadings cannot blame the defendant that defendant did not deny the claim of damages.
- 58) While deciding quantum of damages, according to the plaintiff status and financial ability of the defendant needs to be seen. The said proposition is contrary to the decided case, particularly it is consistently held by the series of judgment by the Hon'ble High Court and Supreme Court that damages should not be punitive and therefore

because defendant is financially sound cannot be a ground to justify the claim of the Plaintiff of Rs. 51 Crores, that has been made by the plaintiff. It is tried to be suggested by the plaintiff that claim of Rs. 51 crores made by the plaintiff is not refuted or controverted in the written statement. Attention is drawn to Written Statement where claim and quantum tried to be made by the present plaintiff is categorically denied. Therefore, once the defamation is proved the defendants are made liable to pay damages. It is argued that the measure of compensatory damages can be drawn by comparing the facts of the present case to the facts of the case in RK Karnjia & Anr. V.K.M.D. Thackersey and ors. The plaintiff in the present case is a former I.P.S. officer.

- 59) The newspaper concerned in that case was a paper called The Sandesh which has daily publication. The Sandesh owned by the defendant no. 1 has admittedly immense viewers and the highest TRP in India. The defamatory article in Karanjia's case was published in 1960 whereas in the present case, the defamatory news item was published in 1999. The awareness of the public at large of the current affairs in the year 1960 can not be compared with the awareness in 1999.
- 60) The plaintiff in defamation action is entitled to recover as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name and take account of the distress hurt and humiliation which the defamatory publication has caused.

61) A successful plaintiff may properly look to an award of damages to vindicate his reputation particularly when it is not based on truth. This principle has been laid down in **John V. MGN Ltd.(1996) 2 All ER 35 (CA)**. The amount of damages awarded in respect of vindication and inquiry to reputation and feelings depends on a number of factors. These factors are not exhaustive and are based on facts of different cases still sufficiently indicate the principles that will cover. The facts for awarding damages are elaborated in ruling in First Appeal No. 192 of 2004 decided on 3.11.2009 by the Hon'ble Bombay High Court at Panaji(Equivalent Citation 2010(1)ALL MR 74. That the amount of damages awarded in respect of vindication and injury to reputation and feelings depends on a number of factors. These factors are not exhaustive and are based on facts of different cases still sufficiently indicate the principles that will cover:

- (a) The gravity of the allegation.
- (b) The size and influence of the circulation
- (c) The effect of the publication.
- (d) The extent and nature of the claimant's reputation.
- (e) The behaviour of the defendant
- (f) The behaviour of the Plaintiff.

62) The gravity of the allegation cannot be overstated as the plaintiff is the former I.P.S. Officer. The defendants have in their written statement clearly admitted that the newspapers cater to viewers by bringing from where the news can be viewed. Considering the facts stated hereinabove regarding the size and influence of the circulation, the effect of the publication is extremely damaging to the reputation of the plaintiff without the

need to prove anything further.

- 63) The behaviour of the defendants as admitted by the defendants that they have published the news articles against the plaintiff, they did not apologize, they have fought tooth and nail in the criminal court but without any success; they have not remained present in the criminal trial and as a result thereof the learned Magistrate has made certain observations in his order. All this clearly shows that the attitude of the defendants was extremely casual, callous and cavalier.
- 64) Plaintiff has addressed a legal notice to defendant No.2 herein dated 30.08.2000 to publish corrigendum but the same was also refused. Thereafter, the plaintiff patiently granted sufficient time, however, no remedial corrective steps were taken. So plaintiff wrote a strong letter in which he demanded a written public apology and compensatory damages of Rs. 51 crores from the defendants. Observing the casual and callous attitude of the defendant no. 2 the plaintiff by his letter demanded Rs. 51 crores.
- 65) Under the circumstances, from the evidence, documents and citations relied upon by both the parties, in the considered opinion of this Court, the plaintiff is entitled to damage for Rs.15 Crores. Plaintiff has also claimed interest @ 12% p.a. on the damages awarded. However, plaintiff has not shown as to how he is entitled for interest, more so for the interest @12% p.a. Hence, prayer of the plaintiff about the interest cannot be granted.
- 66) In view of above discussions and my findings on the aforementioned issues, I hold that the plaintiff is entitled to

the damages alongwith the costs of the suit, as prayed for. Hence, I answer the issues accordingly and proceed to pass following order.

ORDER

The suit is decreed with costs, as under.

The defendant Nos.1 & 2 are jointly and severally liable to the plaintiff Rs.15,00,00,000/(Rupees Fifteen Crores only) as and by way of damages for the tortious acts, omissions and commissions.

Defendant Nos.1 & 2 are hereby directed to make the payment of Rs.15,00,00,000/(Rupees Fifteen Crores only) within a period of one month hereof.

Defendant Nos.1 & 2 are hereby permanently restrained from publishing any derogatory and/or defamatory articles against the plaintiff.

Decree be drawn accordingly.

Pronounced in the open court on this 28th day of April, 2022

Date : 28-04-2022
Place : AHMEDABAD

(C.S. Adhyaru),
Judge,
City Civil Court No.27,
Ahmedabad.
Unique Code No.GJ00707