



2026:DHC:701



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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

+ **CS (OS) 698/2025, I.A. No. 24508/2025, I.A. No. 24510/2025 & I.A. No. 28922/2025**

Between:-

**SAMEER DNYANDEV WANKHEDE**  
204, A-WING, ROYAL CLASSIC  
NEW LINK ROAD, ANDHERI (W)  
MUMBAI 400053

.....PLAINTIFF

*(Through: Mr. J. Sai Deepak, Sr. Advocate with Ms. Shaktiki Sharma, Ms. Purnima Vashishtha, Mr. Jatin Parashar, Mr. Rohit Bhagat, Mr. Kunal Vats, Ms. Aprajita, Ms. Tanya Arora and Mr. Sanyam, Advocates.)*

versus

1. **RED CHILLIES ENTERTAINMENTS PVT. LTD.**  
THROUGH ITS AUTHORISED REPRESENTATIVE  
PLOT NO 612, RAMKRISHNA MISSION ROAD  
15<sup>TH</sup> CROSS ROAD, SANTACRUZ (WEST)  
MUMBAI 400054
2. **NETFLIX ENTERTAINMENT SERVICES INDIA LLP**  
LEVEL 11, GODREJ BKC, PLOT C 68  
G-BLOCK, BKC-BANDRA (EAST)  
MUMBAI 400051, INDIA
3. **X CORP**  
FORMERLY KNOWN AS TWITTER INC  
THROUGH ITS AUTHORISED REPRESENTATIVE  
1355, MARKET STREET, SUITE 900  
SAN FRANCISCO, CA 94103, USA



HAVING ITS INDIA OFFICE AT:  
12<sup>TH</sup> FLOOR, THE ESTATE, DICKENSON ROAD  
BENGALURU 560042

**4. GOOGLE LLC**

THROUGH RESIDENT GRIEVANCE OFFICER  
901 CHERRY AVE., SAN BRUNO CA 94066 USA  
HAVING ITS INDIA LIAISON OFFICE AT:  
UNIT NO. 26, EXECUTIVE CENTRE,  
LEVEL 8, DLF CENTRE SANSAD MARG,  
NEW DELHI 110001

**5. META PLATFORMS INC.**

1601, WILLOW ROAD  
MENLO PARK, CA 94025 USA

**6. RPG LIFESTYLE MEDIA PVT. LTD.**

THROUGH ITS AUTHORISED REPRESENTATIVE  
THAPAR HOUSE, CENTRAL WING, 3<sup>RD</sup> FLOOR  
JANPATH LANE, NEW DELHI 110001

**7. JON DOE/ASHOK KUMAR**

UNKNOWN

.....DEFENDANTS

*(Through: Mr. Neeraj Kishan Kaul and Ms. Shyel Trehan, Sr. Advocates with Mr. Janay Jain, Ms. Monisha, Mane Bhangale, Ms. Bijal Vora Ms. Rhea Rao, Mr. Ashutosh Agarwal, Mr. Pranav Sarthi, Mr. Rohan Poddar, Ms. Vidhi Jain, Mr. Ayush Raj, Ms. Prachi Dhingra, Mr. Udit Bajpai and Mr. Utkarsh Vatsa, Advocates for D1;*

*Mr. Angad Makkar and Mr. Raghav Goyal, Advocates for D2.*

*Mr. Rajiv Nayyar, Sr. Advocate with Mr. Saikrishna Rajagopal, Mr. Sidharth Chopra, Ms. Sneha Jain and Mr. Devrat Joshi, Advocates for D2;*  
*Mr. Ankit Parhar with Mr. Tejpal Singh Rathore, Mr. Abhishek Kumar and Ms. Sanchi Sethi, Advocates for D3;*

*Ms. Mamta R. Jha with Mr. Rohan Ahuja and Mshruttima, Advocates for D4;*

*Ms. Amee Rana with Mr. Thejesh Rajendran and Mr. Tanuj Sharma, Advocates for D5;*



Mr. Sankalp Udgata with Mr. Jeevan Ballav Panda, Advocates for D6

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Reserved on: 02.12.2025  
Pronounced on: 29.01.2026

## **JUDGMENT**

### **INDEX**

<b>I. FACTUAL MATRIX .....</b>	<b>4</b>
<b>II. SUBMISSIONS MADE BY THE PARTIES .....</b>	<b>7</b>
<b>III. ANALYSIS.....</b>	<b>9</b>
A. THE DECISION IN <i>TEJPAL</i> .....	11
B. THE RATIONALE UNDERLYING <i>TEJPAL</i> .....	24
C. WHETHER <i>TEJPAL</i> IS IN CONFLICT WITH OTHER DECISIONS .....	31
D. ANALYSING THE PLAINT .....	34
<b>IV. CONCLUSION.....</b>	<b>38</b>
<b>V. ORDER .....</b>	<b>39</b>

The strained relationship between free speech and offensive speech is as old as the idea of speech itself. That offensive speech is a form of protected expression under the umbrella of freedom of speech and expression is an oft-quoted proposition. In fact, a school of thought believes that the whole idea of protection of free speech is actually meant to preserve the right to offend, as no protection is needed for other softer forms of



expression. However, the right to offend, flowing from the freedom of speech and expression, is often scrutinized on the anvil of the laws regulating speech, such as defamation, hate speech, incitement etc. The present case, factually speaking, also tests the limits of the purported right to offend, couched in artistic freedom, against the plaintiff's right to reputation. However, as the following discussion would show, it has not been found necessary to step into the comparative merits of the allegations/facts arising before this Court. The present suit has been filed by the plaintiff seeking, *inter alia*, a decree of permanent injunction and damages against the defendants for publishing the allegedly false, malicious, and defamatory content produced by defendant no. 1 and broadcasted by defendant no. 2 as part of their television series titled "*The Ba\*\*\*ds of Bollywood*" (hereinafter "**said Series**"), which is stated to enjoy wide viewership across India and abroad including through digital dissemination on platforms such as YouTube, Facebook and Instagram.

## I. FACTUAL MATRIX

2. The plaintiff is an officer of the Indian Revenue Service currently officiating as Additional Director in Directorate General of Taxpayer Services, Chennai under the Central Board of Indirect Taxes and Customs. Prior to its present posting, the plaintiff served as the Zonal Director, Narcotics Control Bureau, Mumbai (hereinafter "**NCB**") on deputation. He claims that between the years 2013 and 2021, he received various awards, many of which were conferred by authorities in Mumbai. He has also, during his service, undertaken important operations, including at Mumbai.



As per the plaintiff, the accolades received and the efforts undertaken by him, evince an unblemished and distinguished record of service.

3. While serving under the NCB, the plaintiff on 02.10.2021, conducted a search and seizure operation in a cruise ship operated by one Cordelia Cruises, during the course of which one Mr. Aryan Khan was arrested along with 19 other individuals for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985. Immediately, claims the plaintiff, after this arrest of Mr. Khan, a series of malicious and unfounded allegations were orchestrated against him by certain third parties, with a view to exert pressure and compromise the investigations being carried out in respect of Mr. Khan. These allegations, per the plaintiff, resulted in various legal proceedings being initiated by and against him, including at Mumbai.

4. Thereafter, the said Series came to be directed by Mr. Aryan Khan, and produced by defendant no. 1, which is a company promoted by the parents of Mr. Aryan Khan, one Mr. Shahrukh Khan and his wife one Ms. Gauri Khan. On 18.09.2025, the said Series was released for viewing to the public, and the same is accessible/viewable by users across the country, as also the world. The defamatory content which is the subject-matter of the instant suit, finds place in Episode 1 of the said Series starting at 32:02 minutes and ending at 33:50 (hereinafter "**said Defamatory Content**").

5. The plaintiff claims to have become aware of the said Defamatory Content on the very same day, by means of calls and messages from friends, family members and professional acquaintances. Alleging, *inter alia*, that the said content has resulted in his reputation and standing being lowered in



the eyes of his relatives, colleagues, and society at large, the present suit came to be filed.

6. The suit was listed for the first time on 26.09.2025, whereupon the Court observing that the plaintiff had not clearly explained, in his plaint, as to how jurisdiction is established in Delhi, time was sought by the plaintiff to move an appropriate application for making necessary amendments to the plaint. Pursuant thereto, I.A. 24987/2025 came to be filed by the plaintiff for amending his plaint, and *vide* order dated 08.10.2025, while reserving the defendants' right to object to the maintainability of the suit, the said application was allowed. On that very date, summons of the suit was issued to the defendants, and notice was issued on the plaintiff's I.A. 24508/2025, seeking an interim injunction.

7. The parties were, thereafter, heard on 10.11.2025, 17.11.2025, 26.11.2025, 27.11.2025, 02.12.2025 concerning I.A. 24508/2025 and the maintainability of the instant suit. The compilation of judgements submitted by the plaintiff (containing 29 cases and running into 542 pages), defendant no. 1 (containing 25 cases and running into 642 pages) and defendant no. 2 (containing 15 cases and running into 305 pages) have been examined. The notes and written submissions tendered by the parties have also been perused.

8. Upon careful consideration, this Court has reached the conclusion that the present suit is not maintainable as this Court does not have jurisdiction to entertain the *lis*. Before detailing the reasons, the submissions of the parties may be taken note of. Notably, while parties have advanced submissions on



the merits of the application as well, however, since the plaintiff has been unable to cross the threshold of jurisdiction, which relates to the very maintainability of the instant suit, other submissions and issues, naturally, do not arise for consideration, and are not dealt with.

## II. SUBMISSIONS MADE BY THE PARTIES

9. Mr. Neeraj Kishan Kaul, learned senior counsel appearing for defendant no. 1, submitted that jurisdiction must exist on the date of institution of the suit, and it cannot, *ex post facto*, be conferred by way of subsequent amendments. He pointed out that the main contesting defendants *viz.* defendant nos. 1 and 2 are both in Mumbai and the plaintiff who is presently posted in Chennai, is also, as per the memo of parties, a resident of Mumbai. Mr. Kaul further argued that even if the amended plaint was to be considered for the purposes of determining jurisdiction, the same also, considering the decision of this Court in *Escorts Ltd. v. Tejpal Singh Sisodia*<sup>1</sup> (hereinafter “*Tejpal*”), ought to have been filed in Mumbai. What is material, according to him, is whether the wrong was done in Mumbai, and since the plaintiff, admits to the same, even if the wrong had also happened in Delhi, it was before the Courts of Mumbai alone, that the present suit could have been filed.

10. Mr. Rajiv Nayyar, learned senior counsel appearing for defendant no. 2 took this Court through the relevant paragraphs of the plaint, to stress upon the admission made by the plaintiff himself, of the wrong having happened at Mumbai, in addition to Delhi. Further, learned senior counsel submits that

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<sup>1</sup> 2019 SCC OnLine Del 7607.



defendant no. 6 has been impleaded by the plaintiff solely to forum shop and circumvent the established principles on jurisdiction. Defendant no. 6 being made a party to the instant suit, according to him, is a self-serving exercise, intended to abuse the process of law, which cannot be countenanced by this Court. Mr. Nayyar argued, while relying on *Tejpal*, that since the contesting defendants were residents of Mumbai, the present suit ought to have been instituted before courts of Mumbai. The mere fact that defendant no. 6 was made a party would not lead to a different conclusion.

11. Mr. Sankalt Ugdata learned counsel appearing for defendant no. 6, eloquently submitted that the entity impleaded in the suit as "RPSG Lifestyle Media Pvt. Ltd." does not exist. The correct legal entity is "Business Media Pvt. Ltd.", which merely operates a media division under the trade name "RPSG Lifestyle Media". Therefore, according to him, the plaintiff is proceeding against a non-existent party. He further submits that the impleadment of defendant no. 6 suffers from a fundamental defect of misdescription and misjoinder, insofar as no wrong has been attributed to defendant no. 6. The acts done by one Mr. Suvigya Buch, an employee of defendant no. 6, cannot be attributed to the company itself, which is a separate and distinct legal entity.

12. Mr. J. Sai Deepak, learned senior counsel appearing for the plaintiff, to establish jurisdiction of this Court, has submitted that the said Series was promoted and advertised in Delhi and the said Defamatory Content is communicated to the public in Delhi, including the plaintiff's relatives, and senior colleagues, in whose eyes the plaintiff's reputation and standing has fallen. The plaintiff's present job, Mr. Deepak points out, ultimately falls



under the Ministry of Finance, which is headquartered in Delhi, and it is also the place which decides the plaintiff's promotions, which may get affected by the said Defamatory Content. Various departmental cases filed by and against the plaintiff are sub-judice before authorities, tribunals, and courts of Delhi, which may, as per the learned senior counsel, get affected by the said Defamatory Content.

13. Substantial/maximum harm, according to Mr. Deepak, has happened in Delhi and since "wrong done" under Section 19 of the Civil Procedure Code, 1908 includes the effect of the wrong, jurisdiction of Delhi courts is made out. Learned senior counsel also submitted that the requirements put forth in *Tejpal* have also been satisfied. *Arguendo*, he also contended that para 46 of the said decision is *obiter* and of no binding consequence, and if at all the same was to be considered binding, it would be in express disregard of the bare text of the provision, as also previous authorities on this issue.

14. Mr. Deepak further argued that one of the defendants, namely defendant no. 6, has uploaded the video calling the plaintiff an "*idiot*" and is carrying on business in Delhi, and thus, the suit has been rightly instituted before this Court. He took this Court through a screenshot of the Instagram profile of Mr. Buch to contend that reference has been made to defendant no. 6, which has significantly more followers than Mr. Buch, and but for the reference to defendant no. 6, Mr. Buch's video could never have garnered the views that it did.

### **III. ANALYSIS**



15. While deciding upon an application filed under Order XXXIX Rule 1 and 2 of the CPC, it becomes incumbent upon a Court to determine, at the threshold, whether the main suit is maintainable.<sup>2</sup> If a specific objection regarding jurisdiction is raised by the defendants, the same needs to be considered before evaluating the merits of an interim injunction application. It would be unwise to subject parties to an action, including defending interlocutory applications, which ought to have been instituted before another forum. Even otherwise, it is trite law that the powers to return a plaint under Order VII Rule 10 of the CPC, as also to reject the plaint under Order VII Rule 11 of the CPC, can be exercised *suo moto* without there being an application preferred by the defendants.

16. The present suit for damages, since it agitates injury to the plaintiff's reputation and standing owing to the said Defamatory Content, is governed by Section 19 of the CPC, which deals with, *inter alia*, suits for compensation for wrongs to person, and reads as under:

***"19. Suits for compensation for wrongs to person or movables.***

*Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts."*

The aforesaid provision has been the subject of numerous judicial opinions. In the context of alleged defamation having taken place through and on the internet, the most notable authority is the decision of this Court in ***Tejpal***.

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<sup>2</sup> *Asma Lateef v. Shabbir Ahmad*, (2024) 4 SCC 696.



17. Both the plaintiff, as well as the defendants, have relied upon the said decision to argue their respective case on jurisdiction. It has, thus, become necessary for this Court to clarify and explain the decision rendered in *Tejpal*. The analysis of the said decision, may be made under three heads—*first*, what does *Tejpal* hold; *second*, the underlying rationale for the view taken in the said decision; and *third*, whether it is in conflict with earlier binding precedents.

#### **A. The Decision in *Tejpal***

18. Under Section 19 of the CPC, the plaintiff may, at its option, institute a suit either in the Court where the wrong is done or where the defendant resides, carries on business, or personally works for gain. “*Wrong*” here means a tort or actionable wrong, i.e., an act which is “*legally wrongful as prejudicially affecting a legal right of the plaintiff; but it must be a tort affecting the plaintiff's person, reputation, or his moveable property.*”<sup>3</sup> The residence or place where business or work is carried out for gain, ordinarily, may not be seriously disputed, both for cases involving individuals or corporate entities. However, the real issue arises in cases involving cyber/online defamation in identifying where the wrong is done.

19. The tort or “*wrong*” of libel or slander is the publication of matter conveying a defamatory imputation, which tends to lower him in the estimation of others, or causes him to be shunned or avoided, or exposes him to hatred contempt or ridicule.<sup>4</sup> Three aspects of defamation, therefore, are

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<sup>3</sup> Mulla, Code of Civil Procedure, 18<sup>th</sup> Ed., Lexis Nexis Buttersworths Wadhwa Nagpur, pg. 388.

<sup>4</sup> Gatley on Libel and Slander, Sweet and Maxwell, 11<sup>th</sup> Ed., Chapter 2 – Defamatory Imputations, Pg. 37-38.



*first*, the defamatory imputation itself; *second*, its publication to a third party; and *third*, the tendency of such imputation to lower the claimant's reputation and standing in the eyes of such third party.

20. ***Tejpal***, therefore, correctly held in para 39 that under Section 19, wrong would be done not when the defamatory content is made available/accessible, on and through the internet, for the world to view, but when such content is read, watched, or consumed by a third party knowing the plaintiff, other than the plaintiff or the defendant, in whose esteem, the reputation of the plaintiff may fall owing to the consumption of the defamatory content. Para 39 of ***Tejpal*** reads as under:

*"39. Wrong to the person of the plaintiff by libel would be done not by the mechanical act of tweeting by the defendant of the content defamatory to the plaintiff but by communication thereof to at least one person other than the plaintiff or the defendant and knowing the plaintiff and in whose esteem, the plaintiff would fall by reading the defamatory tweets. Merely the tweets of the defendant, even if defamatory of the plaintiff, sitting on the internet, even if accessible anywhere, would cause no wrong of defamation to the plaintiff. Merely because the tweets or other material on any other social media/internet can be accessed anywhere, would not amount to a wrong being done to the plaintiff everywhere. A post on the internet which has not been downloaded, accessed and read, is like a defamatory letter in a sealed envelope and which letter cannot be said to have done any wrong of defamation till the seal is broken, the letter taken out and read and on which reading, the esteem in which the reader holds the plaintiff, falls. Wrong would be done only at the place where the said tweets are accessed and read by someone other than the plaintiff or the defendant and who knows the plaintiff."*

21. On publication, specifically, it may be noted that while ***Tejpal*** at para 41 correctly notes that there is no "*presumption in law or of fact*" of the content posted on the internet, though accessible, as having been read; there is, however, an inference which, nonetheless can be drawn regarding



publication.<sup>5</sup> The general principle undoubtedly is that the claimant carries the burden to prove publication, however, in certain cases, owing to, *inter alia*, the nature of platform/website on which the defamatory content is posted, and the surrounding facts so pleaded by a claimant; on the basis of a bundle of facts, an inference of deemed publication may be drawn.

22. Regarding the general rule of defamation on the internet requiring conventional proof of publication, useful reference can be made to following passage in *Gatley on Libel and Slander*<sup>6</sup>:

***“Internet publication and social media***

*Where defamatory material is posted on a website or a social media site there is publication of that material to any person who accesses that site and reads the material.<sup>19</sup> The place of publication is the place or places where the material is downloaded.<sup>20</sup> The same reasoning must apply to email, which is published to the persons to whom it is transmitted at the place where it is received. Production of a printout or screenshot of the offending material is likely to be regarded as sufficient *prima facie* evidence of publication to the addressees of email.<sup>22</sup> However, as regards material posted on the internet there is no presumption that it will have been downloaded by a significant number of persons, or indeed anyone. In *Al Amoudi v Brisard*<sup>23</sup> Gray J rejected a submission that once a posting on the world wide web had been established it was a rebuttable presumption of law that there had been publication to a significant number of identifiable persons in the jurisdiction who had downloaded the material. It was a matter of inference, and the claimant must prove a sufficient “platform of facts” for the inference reasonably to be drawn.<sup>24</sup>*

23. For the proposition that a platform of facts may lead to an inference of publication, reliance may be placed on *Al Amoudi v. Brisard and Anr.*,<sup>7</sup> in

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<sup>5</sup> Bullen & Leake & Jacob's Precedents of Pleadings, 18<sup>th</sup> Ed., Volume 1, Para. 37-10, Pg. 697: "...The claimant must prove that the words complained of have been read by a third party, even if the publication has been on the internet (although in some circumstances he can rely upon an inference of substantial publication...")

<sup>6</sup> *Gatley on Libel and Slander*, Sweet and Maxwell, 13<sup>th</sup> Ed., Para 34-006, Pg. 1221.

<sup>7</sup> [2006] 3 All ER 294.



which, Gray J. after noting his earlier observations in *Loutchansky v Times Newspapers Ltd (No 2)*,<sup>8</sup> declared the law in the following words:

*“Contrary to the submission of the claimant, I consider that my decision in Loutchansky's case [2001] EMLR 876 is in point. The facts in that case were that the claimant was complaining of the posting on the website of the Times of an article defamatory of the claimant which had been published in the newspaper. The evidence showed that a large number of visits had been paid to the website but there was no direct evidence how many of these visitors, if any, accessed the article complained of. In my judgment I said this:*

*'...However, it appears to me that proof of publication in a defamation action is no different from proof of a number of other propositions that may fall to be established in the course of such an action. It is possible for publication, as for other propositions, to be established by inviting a tribunal to draw an inference from a platform of facts. That, as it appears to me, is what [counsel for the claimant] is inviting the tribunal in the present case to do.*

*[15] I consider that the law in Gatley, albeit ante-dating website publications over the internet, accurately sets out the applicable principles. I accept that a publication may be established as a matter of inference if the underlying facts justify the inference being drawn...*

*...What I said in my judgment in Loutchansky's case appears to me to be consistent with what is now to be found in the section of Gatley dealing with proof of publication under the heading 'Inferences' (p 962 (para 32.6)). I believe it is also consistent with what Dr Matthew Collins says in *The Law of Defamation and the Internet* (2nd edn, 2005) p 65 (para 5.04):*

*'... In the case of generally accessible web pages and bulletin boards with many subscribers, it may be inferred that publication has occurred.'*

(Emphasis Supplied)

24. Since, it was upon relying on the commentary in *Gatley on Libel and Slander*,<sup>9</sup> that Gray J. based his earlier observations in *Loutchansky* (supra),

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<sup>8</sup> [2001] EMLR 876.

<sup>9</sup> 10<sup>th</sup> Ed., 2003, para. 32.6



the portion on inferences, as it now stands, would also be of useful reference, which reads as under:

*“Inferences*

*It is not necessary in all cases to prove that the libellous matter was actually seen and read by some identified third party. If it is a matter of reasonable inference that this happened, a prima facie case of publication will be established. Thus, proof that a libellous letter was sent through the post is prima facie evidence of publication to the person to whom it was addressed. The same must surely be true where it is proved that an email was sent to stated addressees. The sending of a libellous postcard has been held to be prima facie evidence of publication to the persons who handled the postcard.<sup>27</sup> There is no presumption that a letter in an unsealed envelope will be read by anyone other than the addressee.”<sup>10</sup>*

25. While **Gatley** itself does not identify circumstances, or provide examples, where such an inference could be drawn, useful hypotheticals have been provided in **Carter and Ruck on Libel and Privacy**,<sup>11</sup> the material portion of which reads as under:

*“However, it is not necessary in all cases to prove that the defamatory material was actually heard, seen or read by a third party; if it is a matter of reasonable inference that this has happened a prima facie case of publication will be established.<sup>1</sup> By way of example, if a slanderous imputation is relayed over the public address system at a premier league football match or a libel is contained in a national newspaper it would be a matter of reasonable inference that the slander was heard and the libel had been read. Similarly, where the libel is contained in a letter, proof that it was sent through the post is prima facie evidence of publication to the addressee, and proof that a telegram<sup>2</sup> or postcard<sup>3</sup> was sent constitutes prima facie evidence of publication to all persons through whose hands the postcard or telegram passed. It is submitted that proof that an email has been sent also constitutes prima facie proof of publication to the person to whom it was sent but does not, despite the fact that it can be read by those operating the system, constitute prima facie evidence of publication to anyone else.*

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<sup>10</sup> *Id.* (No. 6), pg.

<sup>11</sup> 6<sup>th</sup> Ed., Lexis Nexis Butterworths, pg. 102-103.



*Whether this should properly be described as a rebuttable presumption of law, fact or as an inference of fact that the tribunal of fact may readily draw based on repeated human experience is not entirely clear. In *Al Amoudi v Brisard* [2006] EWHC 1062 (QB), [2006] 3 All ER 294, [2007] 1 WLR 113, at [37], Gray J rejected the claimant's argument to the effect of law that there has been substantial publication. However, he did not say that such a presumption would not arise in newspaper or book cases. In *Huth v Huth* [1915] 3 KB 32, at 46, Bray J asserted that a presumption of fact that the words are published arises where defamatory words are written on a postcard or envelope. However, *Phipson on Evidence* (16th edn, 2008) Sweet & Maxwell, at para 6-17(c) states that, 'Strictly speaking, the term "presumption of fact" is a misnomer. It describes the readiness of the court to draw certain repeated inferences as a result of common human experience.' In *Al Amoudi v Brisard* [2006] EWHC 1062 (QB), [2006] 3 All ER 294, [2007] 1 WLR 113, after referring to *Phipson*, Gray J stated that in his view such a presumption should more appropriately be described as an inference which the tribunal of fact may, depending on the circumstances, draw as a result of common human experience (at [30]).*

*5.14 Where material is published on a website, Gray J held in *Al Amoudi v Brisard*<sup>1</sup> that a claimant is not entitled to rely on a presumption of law that there has been substantial publication. However, even in the absence of production of witnesses who claim to have read the offending imputation that does not mean, in any particular case, that it may not be proper for a court to draw an inference that a *prima facie* case of publication exists.<sup>2</sup> Thus, where the defamatory imputation was published on a website or bulletin board which it can be established has many thousands of subscribers it would seem reasonable to draw an inference of publication.<sup>3</sup> However, even if the website is one which attracts a lot of 'readers', the mere creation of a hyperlink in a website does not lead to a presumption that persons read the contents of the website and used the hyperlink to access the defamatory words.<sup>4</sup>*

26. On a careful reading of the proposition discussed above, it could be observed that ordinarily, when loss of reputation and standing in the eyes of others is claimed, the defamatory imputation must be published to persons, before whom the plaintiff enjoys a reputation. However, in cases where libel is claimed, in grounds that the nature and seriousness of the impugned



content would cause the plaintiff to be shunned, avoided, or excluded from society, the requirement to identify third party before whom the plaintiff has a reputation as such may not be as relevant. Notwithstanding the same, the bare minimum which must necessarily be satisfied, even in such cases is, that the third parties to whom the defamatory content is published, must know of the plaintiff. They cannot be individuals who have not heard of the plaintiff. Naturally, the wrong of defamation cannot be done, at a place where the claimant does not enjoy a reputation or otherwise is not known. Else, it would just be a case of loss of self-esteem in the own eyes of the claimant, and not of reputational loss in the eyes of others.

27. A close manifestation of this proposition is also traceable in concept of defamation in criminal law in India, wherein one of the key ingredients is the lowering of reputation of the complainant in the estimation of others. This ingredient ordinarily places a burden upon the complainant to prove this element of lowering of reputation in the estimation of others, which often requires external third-party evidence to be led. However, the complainant can be relieved of this burden in cases wherein the content is *per se* defamatory. In *John Thomas v. Dr. K. Jagadeesan*,<sup>12</sup> the Court observed that the effect of an imputation being *per se* defamatory is that it would relieve the complainant of the burden to establish that the publication of such imputation has lowered him in the estimation of the right-thinking members of the society. The relevant extract reads thus:

*"10. ...The only effect of an imputation being per se defamatory is that it would relieve the complainant of the burden to establish that the publication of such imputations has lowered him in the*

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<sup>12</sup> (2001) 6 SCC 30



*estimation of the right thinking members of the public. However, even if the imputation is not per se defamatory, that by itself would not go to the advantage of the publisher, for, the complaining person can establish on evidence that the publication has in fact amounted to defamation even in spite of the apparent deficiency. So the appellant cannot contend, at this stage, that he is entitled to discharge on the ground that the imputations in the extracted publication were not per se defamatory.”*

(Emphasis supplied)

28. The purport of this inferential exercise is to simplify the application of the law of defamation in the practical context of modern-day communication. As noted above, in order to draw such inference of publication to the third parties, the Court exercises its wisdom based on human experiences. This proposition is not only one based on common law, rather, it bears a close connection with the codified law of evidence in India. Section 119 of the Bharatiya Sakshya Sanhita, 2023 empowers the Court to presume the existence of certain facts, based on the common course of natural events, human conduct and public and private business. Therefore, the conclusion reached by this Court herein is not only drawn from the principles of common law but is also rooted in the codified principles of evidence in India.

29. Importantly, it may be noted, under Section 19 of the CPC, the expression “*wrong done*”, in addition to constituting the tort, injury or wrong itself, also means and includes the effect and consequences of the wrong. Thus, in principle, wrong may be done at the place where the effect/consequence of the tort is felt. Reliance may be placed on ***M/s Frank***



**Finn Management Consultants v. M/s. Subhash Motwani & Anr.**,<sup>13</sup> (hereinafter “**Frank Finn**”) para 17 of which reads as under:

*“17. ...A Single Judge of the High Court of Bombay in the The State of Maharashtra v. Sarvodaya Industries, AIR 1975 Bombay 197 has held that the phrase wrong done in Section 19 would clearly take in not only the initial action complained of but its result and effect also and Section 19 is wide enough to take in those places where the plaintiff actually suffered the loss because of the alleged wrongful act. It was further held that the court within whose local jurisdiction damage was caused or suffered or sustained, would clearly answer the requirements of Section 19 for the purposes of the suits mentioned therein. I respectfully concur with the said view and unless Section 19 of the CPC is so interpreted, the purpose thereof would be defeated. Similarly, State of Meghalaya v. Jyotsna Das, AIR 1991 Gauhati 96 also held that wrong done includes and covers the effect of the act....”*

30. Ordinarily, as per **Tejpal** (in paras 31 and 35), reputation of a corporation is at the place where it has its registered office and of an individual at its place of residence. Resultantly, the wrong of defamation, would, normally, for a corporation, take place at the place where it has its registered office, and for an individual, where the individual resides. These places are the “*natural forums*” for bringing an action for defamation. When suing at such a place, an averment of publication, without detailing particulars of the persons in whose esteem the plaintiff has fallen, may suffice. The rationale for the same being that at the natural forums, it is assumed that the individual/corporation has a reputation, and the third parties in those natural forums, to whom publication is made, know of the plaintiff.

31. However, if a suit is filed at a place where a corporation is not registered or a person does not reside, since the presumption of reputation

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<sup>13</sup> 2008 SCC OnLine Del 1049, para. 17.



does not apply, naturally, the plaintiff in order to invoke the jurisdiction of such a Court, is required to specifically plead, in whose esteem the plaintiff claims to have fallen and/or the loss, effect or consequence of the wrong suffered. The same is again noted in para 35 of *Tejpal*. However, additionally, it may also be considered, that the possibility of an inference being drawn on publication may still arise in such a case. Given the purpose for which such a pleading is required, a pan-India company or a politician/celebrity who, *ex facie*, is seen to enjoy a reputation across various places in the country, may not be, assuming other foundational facts are such, required to make the specific pleadings of the individuals in whose eyes his reputation is lowered.

32. Significantly, it may be clarified that this judgement, so far, has not dealt with a situation where wrong is done in the jurisdiction of multiple courts, and the manner in which it is to be treated under Section 19 of the CPC. The discussion above, has merely explained the requirements for filing an action for defamation before, what may be considered, a natural forum and an unnatural forum. Situations where wrong is done in the jurisdiction of more than one court may in turn be divided into two parts, *first*, where wrong is also done at the place of the defendant's residence; and *second*, where no wrong is done where the defendant resides.

33. With respect to the first situation, it may be seen that under Section 19 of the CPC, the plaintiff may, at its option, institute a suit either in the Court where the wrong is done or where the defendant resides, carries on business, or personally works for gain. This election can be made by the plaintiff in a case where the wrong is done within the jurisdiction of one court and the



defendant resides, carries on business, or personally works for gain within the jurisdiction of another court. In para 46 of *Tejpal*, it has been held that if there is a merger between the place where the wrong is done, and where the defendant resides, the suit is to be filed at that common place, and at no place else (hereinafter “**Merger Rule**”). Para 46 of *Tejpal* reads as under:

*“46. There is another aspect. Section 19 vests a plaintiff in a suit for compensation for defamation with an option to sue in either of the Courts i.e. where the wrong is done or where the defendant resides/carries on business, only when the two are different. This is clear from use of the words “....if the wrong was done within the local limits of jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of jurisdiction of another Court ....”. However this option would not be available to a plaintiff, wrong to whom by defamation is done within the jurisdiction of same Court within whose jurisdiction the defendant resides. It will not be open to such a plaintiff to contend that wrong has been done to him/it, also within the jurisdiction of another Court. I repeat, Section 19 vested option only in plaintiff for a situation where no wrong is done where defendant resides. If wrong is done where defendant resides, there is no option but to sue where defendant resides.”*

34. As per *Tejpal*, if the defendant’s residence and the place of wrong done is within the jurisdiction of a Court, there does not exist “*another Court*”, which is mandated by Section 19. This interpretation of Section 19, it appears, was arrived at by giving full force to the words “*and*” and “*another*” as they appear in the text of Section 19. The argument of Mr. Deepak, that the law laid down in para 46 of *Tejpal* has no basis in the statutory text is, therefore, bereft of merit.

35. Notably, even if, in addition to the place of merger, wrong is also done at some other place, a description of this situation as wrong having been done in the jurisdiction of one court and the defendant residing in the



jurisdiction of *another* Court would be palpably false and misleading. Thus, even if wrong is done at multiple places, one of which is also the place where the defendant resides, the suit must be filed at that place only.

36. For a brief moment, reliance may be placed on the decision of a coordinate bench in *Ajay Pal Sharma v. Udaiveer Singh*,<sup>14</sup> para 10 of which reads as under:

*“10. This Court has, thereafter, analysed Section 19 of the Code of Civil Procedure, 1908, (CPC), and held that a wrong of defamation, “on social media platform/internet cannot be said to have been done across the globe or across the country, permitting a plaintiff to choose jurisdiction of a Court, contest wherein would cause maximum harassment to the defendant, compelling the defendant to give in to the demand of the plaintiff, even if unreasonable.” Paras 38 and 39 of the decision, as reproduced hereinabove, are even more categorical and hold that the latitude, available to a plaintiff under Section 19 of the CPC, to sue, for compensation, for the wrong done to the plaintiff, either in the Court within the local limits of whose jurisdiction the wrong was done, or the Court, within the local limits of whose jurisdiction the defendant resides, or carries on business, or personally works for gain, would be available only where the wrong was not done within the local limits of the jurisdiction of the Court, where the defendant resides, or carries on business, or personally works for gain. In other words, if the wrong, which the plaintiff claims to be aggrieved, was done within the jurisdiction of various Courts, one of which is the Court within whose jurisdiction the defendant resides, or carries on business, or personally works for gain, the suit would necessarily have to be instituted in that Court. In such an event, it is not open to the plaintiff to contend that, as the wrong was also done within the jurisdiction of another Court, he could sue within such jurisdiction.”*

The said decision clarifies an important proposition which emerges from *Tejpal*, it being that the Merger Rule is the primary rule in *Tejpal* i.e., there is no scope to override, wriggle out of, or otherwise supersede the requirement to file an action before the place of merger.

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<sup>14</sup> 2020:DHC:2408.



37. Assuming, that there is no merger between the place where the wrong is done and where the defendant resides, carries on business, or personally works for gain, the option that the plaintiff has in a case for cyber/online defamation, where wrong is done at multiple places, may be discussed.

38. For such a scenario, while wrong may have been done at multiple places, for the purposes of Section 19, and *qua* the specific issue of where a person is competent to sue, *Tejpal* at para 43 provides that it is the place where maximum wrong is done. Since, as noted in para 30, there is a presumption of an individual and corporation's reputation being at its place of residence and place of registered office respectively; naturally, maximum wrong also, would be presumed to be at these places.<sup>15</sup> The plaintiff, must therefore, ordinarily sue at these places. The carve out to this rule, importantly, is where it is pleaded that at the place of registered office, or the residence of a person, wrong done is "minuscule" in comparison to the wrong done at another place (hereinafter "**Maximum Wrong Rule**"). Para 43 of *Tejpal* reads as under:

*"43. I may further state that even in cases where the wrong done by the defamation is spread out across several jurisdictions, as would be the case with respect to a natural person enjoying a public stature and in the case of a company/corporation having business interest across several jurisdictions, in my opinion, the jurisdiction even then for institution of a suit for defamation would be of a Court where the maximum wrong is done and which generally in the case of a company/corporation would be the place where the registered office of the company/corporation is, unless it is pleaded that at the place of registered office wrong done is minuscule in comparison to wrong done at another place where the business interest largely is."*

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<sup>15</sup> See also *eDate Advertising*, Joined Cases C-509/09 & C-161/10, ECLI:EU:C:2011:685, at para. 49, noting the "centre of interest" generally corresponding to the claimant's habitual residence.



39. Before detailing further, it may be briefly clarified, that while para 43 of *Tejpal* does not specifically note that for an individual as well, the place of maximum wrong can be a place distinct from his residence, it is, in the considered opinion of this Court, a logical conclusion to draw as there is no intelligible way to treat the individuals differently in the eyes of law on this aspect.

### **B. The Rationale underlying *Tejpal***

40. The rationale underlying both the *Merger Rule* and the *Maximum Wrong Rule* is to ensure that Section 19 of the CPC does not confer an arbitrary and unguided discretion on the plaintiff in deciding where to institute the suit. In the context of online defamation, where theoretically, it is possible for a plaintiff to plead “*wrong done*” across the country, an unqualified application of Section 19 would permit a plaintiff to institute proceedings in any forum of its choosing, wholly divorced from the place where the defendant resides or where the gravamen of the alleged wrong has actually occurred. Such an interpretation would defeat the object of the provision, and open the door to forum shopping, libel tourism, and luxury litigation. Moreover, if the intent of the law makers was to open a nation-wide arena for the plaintiff to sue someone for a wrong, there would have been no need to provide for a duly circumscribed provision of territorial jurisdiction akin to Section 19 of CPC.

41. While the *Merger Rule*, as paras 34-35 explained above, does bear out from the text of the provision; admittedly, there is nothing in the text of Section 19 that allows the *Maximum Wrong Rule* to be propounded. To that extent, Mr. Deepak is right to contend, that *Tejpal* goes beyond the literal



text of the provision. The interpretation of Section 19 espoused by the learned senior counsel is that both the *Merger Rule* and the *Maximum Wrong Rule* are bad in law, and jurisdiction is to be determined basis where the plaintiff pleads wrong has been done, and averments to that effect, are to be considered on a demurrer, and until evidence is led, the veracity of claims made in the plaint cannot be doubted.

42. During the course of the hearing, a question was put to Mr. Deepak as to whether on his interpretation of Section 19, this suit could have been validly filed at a far-off place, unconnected with the defendant's residence, on grounds that individuals in such place also watched the said Series including the said Defamatory Content and wrong, therefore, was done there. Candidly, learned senior counsel answered in the affirmative. Such an interpretation, however, cannot possibly be countenanced by this Court.

43. In the absence of any limiting principle, Section 19 would permit jurisdiction to be founded on any pleaded effect. By way of illustration, if X and Y both reside in Leh, Ladakh, but X pleads that his reputation has been lowered in the eyes of the top management of his employer Z situated at Thiruvananthapuram, Kerala, X could sue Y in Kerala and compel Y to defend proceedings in a forum totally unconnected with either of the parties' residence. Construing Section 19 in this manner is wholly impermissible.

44. The case of *Kedutso Kafpo v. Keneingulie*,<sup>16</sup> though not in the context of internet defamation, exemplifies the extent to which the meaning of "wrong done" could be pushed by the claimants. In the said decision, the jurisdiction of Kohima Courts was invoked claiming that the defendant, a

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<sup>16</sup> 1993 SCC OnLine 134.



resident of Mysore, had written a defamatory letter to a Joint Commissioner at New Delhi, which caused certain inquiries to be made against the plaintiff at Kohima, Nagaland, which according to him, constituted “*wrong done*”. The High Court, rightly so, rejected such an argument.

45. It may also be noted that the present Section 19 of the CPC is the same as the erstwhile Section 18 of the Code of Civil Procedure, 1877, which read as under:

***“18. Suits for compensation for wrongs to person or moveables.***

*In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.”*

The same provision was retained in the Civil Procedure Code, 1882, and after changing the order of the provisions, the present Section 19 of the CPC was enacted. The Courts, in the ordinary course of their functioning and in order to prevent abuse, are often called upon to evolve rules not strictly found in the bare text of the provision, which, at times, becomes necessary to adapt the applicable provision to evolving situations. It becomes more necessary in situations which may have, strictly speaking, not been in the contemplation of the law makers in the times when the law was made. The Courts, by refusing to evolve such rules, when necessary, are not expected to render the provisions as otiose or unworkable.

46. The *Merger Rule* and the *Maximum Wrong Rule* are intended to provide a certain degree of certainty both to the plaintiff, as to where he ought to sue in cases where wrong is done/harm has occurred in the



jurisdiction of more than one court, and further, gives clarity to the defendant as to where it can be subjected to litigation. These rules thus promote predictability,<sup>17</sup> in an area of law which can, but for these limiting factors, be left to the mercy of the plaintiff and his plaint.

47. While the test adopted by the Courts in the U.S. is not of “*maximum wrong*”, the underlying principle on the basis of which the American decisions justify their jurisdictional rule, is, again, predictability and foreseeability. Reliance may be placed on ***World-Wide Volkswagen Corp. v. Woodson***:<sup>18</sup>

“\*297 *This is not to say, of course, that foreseeability is wholly irrelevant. But the foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum State. Rather, it is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.* See *Kulko v. California Superior Court*, *supra*, 436 U.S., at 97–98, 98 S.Ct., at 1699–1700; *Shaffer v. Heitner*, 433 U.S., at 216, 97 S.Ct., at 2586, and see *id.*, at 217–219, 97 S.Ct., at 2586–2587 (Stevens, J., concurring in judgment). The Due Process Clause, by ensuring the “orderly administration of the laws,” *International Shoe Co. v. Washington*, 326 U.S., at 319, 66 S.Ct., at 159, gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.

*When a corporation “purposefully avails itself of the privilege of conducting activities within the forum State,” *Hanson v. Denckla*, 357 U.S., at 253, 78 S.Ct., at 1240, it has clear notice that it is subject to suit there, and can act to alleviate the risk of burdensome litigation by procuring insurance, passing the expected costs on to customers, or, if the risks are too great, severing its connection with the State.”*

48. As noted by the U.S. Supreme Court, though in a different context, “*simple jurisdictional rules also promote greater predictability*.

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<sup>17</sup> See *eDate Advertising*, Joined Cases C-509/09 & C-161/10, ECLI:EU:C:2011:685, para 50 as also the cases cited therein for the relevance of predictability.



*Predictability is valuable to corporations making business and investment decisions.*<sup>19</sup> The same, also, is true for individuals, who seek from the law, with all its fluxes and changes, a bare minimum degree of predictability.

49. The Indian law, in *Tejpal*, with the aim of balancing adherence to statutory text and a need to reject an interpretation which may subject parties to abuse, propounded the *Maximum Wrong Rule*. This Court is in full agreement with the said decision. Even otherwise, the Supreme Court, has on numerous occasions, held that a co-ordinate bench decision is binding upon a subsequent bench, in order to maintain judicial discipline and stability of precedent. A brief reference for this may be made to *Adani Power Ltd. & Anr. v. Union of India & Ors.*,<sup>20</sup> paras 77-78 of which read as under:

*“77. The discipline expected of coordinate Benches does not permit such an approach. This Court, in *State of Uttar Pradesh v. Ajay Kumar Sharma* (2016) 15 SCC 289, has reiterated that once a coordinate Bench of a High Court has settled a question of law, a subsequent Bench of equal strength is bound to follow that view when confronted with the same issue. If the later Bench believes that the earlier view is so manifestly erroneous or inapplicable that it ought not to be followed, the later Bench must refer the matter to a larger Bench for reconsideration. What it cannot do is to sidestep or whittle down the earlier pronouncement by confining it artificially or by treating it as a fact-specific indulgence.*

*78. The discipline of precedent is not a matter of personal predilection; it is an institutional necessity. *Stare decisis et non quieta movere* which means to stand by what is decided and not to disturb what is settled, is a working rule which secures stability, predictability and respect for judicial outcomes. The law cannot change with the change of the Bench.”*

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<sup>18</sup> 444 U.S. 286 (1980), 100 S.Ct. 559.

<sup>19</sup> 559 U.S. 77 (2010).

<sup>20</sup> 2026 INSC 1.



50. Another question which may arise is whether it is possible for a claimant to avoid the application of the *Merger Rule* or the *Maximum Wrong Rule* by consciously not pleading certain facts. For instance, *qua* the *Merger Rule*, would it be permissible, if the plaintiff does not plead and effectively suppresses, the fact that wrong is also done, or harm has also occurred, at the place of the defendant's residence, is a serious issue to be considered. While this question does not arise in the instant case, as the pleadings of the plaintiff himself, allow the conclusion that the wrong was also done at the place of the defendant's residence, it appears that there are a few material considerations that Courts can be mindful of, while adjudicating upon this issue as and when it arises before it.

51. At the very top, without doubt, is the principle that the plaint is to be looked on a demurrer. The averments contained within it, for the purposes of determining maintainability, jurisdiction, or while exercising powers under Order VII Rule 10 and 11 of the CPC, are to be considered as true.<sup>21</sup> Equally, also, it may be remembered that courts are to read the plaint not formally but intelligently with a keen judicial eye. A plaint which otherwise deserves to be returned or rejected owing to lack of jurisdiction or other defects, cannot, by clever drafting, be made maintainable before a given Court. Various authorities could be cited on this point, most eloquent of all remain the following words of Krishna Iyer J. in *T. Arivandandan v. T.V. Satyapal and Anr.*:<sup>22</sup>

“5. We have not the slightest hesitation in condemning the petitioner

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<sup>21</sup> See illustratively *Allied Blenders v. RK Distillers*, 2017 SCC OnLine Del 7224 and *RSPL Ltd. v. Mukesh Sharma*, 2016 SCC OnLine Del 4285.

<sup>22</sup> (1977) 4 SCC 467.



*for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi:*

*“It is dangerous to be too good.””*

52. The said decision has been followed in various cases to adjudicate whether a case for rejection is made out under Order VII Rule 11(a)<sup>23</sup> or 11(d). The question of jurisdiction, may either be seen as a determination of, under Rule 11(a), whether there exists a cause of action capable of being taken cognizance of; or, under Rule 11(d), whether the jurisdictional provisions under the CPC bar a Court not having jurisdiction to entertain the *lis*. There, also, does not seem to be an impediment in utilizing the principles in *T. Arivandandan* (supra) to analyse the applicability of Order VII Rule 10, or the maintainability of an action in general. The underlying essence of the discussion is that the Court is amply empowered, armoured and safeguarded from letting itself fall for an illusion, be it in the constitution of cause of action or maintainability or jurisdiction of the Court.

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<sup>23</sup> See for instance I.T.C. Ltd. v. Debts Recovery Appellate Tribunal and Ors., (1998) 2 SCC 70, paras. 16



53. In terms of what can be looked at when an intelligent reading of a plaint is undertaken, illustratively, to examine whether it is drafted to engineer an evasion of the application of the *Merger Rule*, the Court may assess whether certain inferences can be drawn regarding the publication of the defamatory content at a given place, including the place of the defendant's residence, from the pleadings relating to — *first*, the nature of the platform on which the defamatory content is hosted; *second*, the extent of viewership or dissemination pleaded; *third*, the reputation, image, and standing of the claimant; and *fourth*, other pleaded events or circumstances relating to the publication.

54. If, upon a careful and meaningful reading of the plaint, it becomes evident that the wrong was also done at the place where the defendant resides, and that the plaintiff has consciously omitted such facts with a view to surmount the jurisdictional bar, the Court would be duty-bound to return the plaint for presentation before the competent court having jurisdiction. Similar consequences would follow if a claimant attempts to evade the application of the *Maximum Wrong Rule*.

### **C. Whether *Tejpal* is in Conflict with Other Decisions**

55. Before analysing the plaint, the authorities cited by the plaintiff may also be considered. In *Frank Finn*, the plaintiff having its registered office in Delhi impugned an article which, besides publication in the magazine which had circulation in Delhi, was also put by the defendants on its website. The defendants being residents of Mumbai, claiming that the

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and 27; *Sameer Madan v. Ashok Kumar Kapoor*, (2021) SCC OnLine Del 5290, para. 18; and *M/s.*



magazine was published in Mumbai, submitted that the courts in Delhi did not have jurisdiction to entertain the *lis*. The court, however, rejecting the defendants' contention held as under:

*“17. The wrong within the meaning of Section 19 of the CPC in an action for defamation is done by the publication. The defendants are confusing publication in the sense of printing, with publication as in the case of libel. The publication in the sense of a libel is not the mechanical act of printing of the magazine but is of communication of the libelous article to at least one person other than the plaintiff or the defendant. In this regard also see Aley Ahmed Abdi v. Tribhuvan Nath Seth, 1979 All. LJ 542. If the magazine, as aforesaid, has a circulation at Delhi, then it cannot be said that the wrong would not be done to the plaintiff at Delhi and thus the courts at Delhi would have jurisdiction under Section 19 of the Act.”*

56. There is no indication in the said decision of the plaintiff therein having a reputation in Mumbai, in relation to which it could have sought a relief in Mumbai. There is also no mention of the wrong having occurred at a place other than Delhi. The jurisdiction, therefore, was governed by conventional principles and the *Merger Rule* or the *Maximum Wrong Rule* had no application. The suit therein was filed in Delhi, which was the place where the plaintiff had its registered office. The presumption of the plaintiff having a reputation at that place, thus applied, and the suit was rightly held to be maintainable.

57. The decision of this Court in *Indian Potash Ltd. v. Media Contents & Communication Services (India) Pvt. Ltd. and Anr.*,<sup>24</sup> concerned the plaintiff-company having its registered office in Chennai and filing before this Court, a suit for defamation against the defendants who were residents of Noida, Uttar Pradesh, in relation to a news program telecasted by the

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*Spearhead Digital Studio Pvt. Ltd. v. H.K. Mitroo*, 2014 SCC OnLine Del 2661, paras. 10-13, 23, and 25.



defendants. The said decision concerned itself with an application under Order VII Rule 11, while the ultimate suit was decided in *Indian Potash Ltd. v. Media Contents and Communications Services (India) Pvt. Ltd. and Anr.*,<sup>25</sup> interestingly by the same learned judge who authored *Tejpal* and *Frank Finn*.

58. A perusal of the decision in the main suit, which contains the facts in a bit more detail, reveals that the defendants had imputed that the plaintiff's factory in Sikandrabad, Uttar Pradesh utilises certain substances to adulterate its milk. Since “*the plaintiff was supplying milk to many organizations and institutions and marketing companies in Delhi...The business of the plaintiff was allegedly hit by broadcasting of such publication in Delhi.*”<sup>26</sup> It also appears that an argument was also made, while relying on the pleadings of the plaintiff, that the sale of milk constitutes only a very small i.e., 0.15% of the business of the plaintiff.<sup>27</sup> Thus, even though not explicitly recorded, from the decisions concerning the Order VII Rule 11 application and the main suit, it does not appear that wrong was done where the defendant resided. With the conditions for the application of the *Merger Rule* not being fulfilled, conflict with *Tejpal* does not arise. Also then, despite *Indian Potash* (supra) not relying on *Tejpal*, it appears that the ultimate conclusion rested on principles akin to the *Maximum Wrong Rule*.<sup>28</sup>

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<sup>24</sup> 2009 SCC OnLine Del 4410.

<sup>25</sup> 2019 SCC OnLine Del 11991.

<sup>26</sup> *Id.* (No. 24), para. 7.

<sup>27</sup> *Id.* (No. 25), para. 12.

<sup>28</sup> *Id.* (No. 26).



59. In *GMR Infrastructure Ltd. v. Associated Broadcasting Company Pvt. Ltd. and Ors.*,<sup>29</sup> the plaintiff-company, having its registered office in Delhi, brought a defamation action before this Court against the defendant-company which though, had its registered office at Hyderabad, Telangana, also had a “small branch office used only for liaison purposes” at Delhi. While the said decision is distinguishable, again, on grounds that there was no finding of the wrong being done in the jurisdiction of more than one Court, and therefore, neither *Merger* or the *Maximum Wrong* Rules becoming applicable; but from a different perspective, it may also be seen that the defendants’ office at Delhi may be considered as a place at which it worked for gain, within the meaning of Section 19 of the CPC. Thus, even if the wrong would have been done at more than one place, the *Merger Rule* would have applied, and the suit would be maintainable in Delhi.

60. The decision of this Court in *Dr. Shama Mohamed v. Smt. Sanju Verma and Ors.*<sup>30</sup> also does not appear to be inconsistent with the discussion above. The said decision also, at para 27, notes, what is called in the present judgement as the *Merger Rule*, and its affirmation by *Ajay Pal Sharma* (supra). There was no finding of the wrong being done at the place where the defendant resided.<sup>31</sup> *Per contra*, in the instant case, the same can be concluded on the basis of the plaintiff’s pleading itself.

#### **D. Analysing the Plaintiff**

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<sup>29</sup> 2018 SCC OnLine Del 6866.

<sup>30</sup> 2025:DHC:7075.

<sup>31</sup> *Ibid.*, see para. 27 which explicitly kept such questions open for adjudication.



61. On the conspectus of the above discussed law, the plaint may be analysed. The plaintiff has, *inter alia*, averred the following about his reputation and standing in his plaint:

*“2. That the Plaintiff is a respectable, law-abiding and upright citizen who has always conducted himself with dedication, sincerity, and utmost integrity in both his personal and professional life. The Plaintiff is an officer of the Indian Revenue Service (IRS) and is currently officiating as Additional Director in Directorate General of Taxpayer Services (DGTS), Chennai under the Central Board of Indirect Taxes and Customs (CBIC).*

*3. Prior to the present posting, the Plaintiff was officiating as the Zonal Director, Narcotics Control Bureau, Mumbai, Maharashtra on deputation. The Plaintiff is a decorated IRS Officer for the last 17 years and throughout the tenure of his service the Plaintiff has been instrumental in curbing the menace of illegal activities, apprehending law-offenders involved in smuggling, illegal use, procurement and sale of narcotic drugs and psychotropic substances.*

*...  
10. That the Plaintiff has an unblemished and distinguished record of service in combating organized crime and narcotics trafficking....”*

62. Further, the following has been claimed in relation to the said Series and the said Defamatory Content:

*“12. ...The television series titled “The Ba\*\*\*ds of Bollywood” produced by the Defendant No. 1 is available for viewing on the streaming platform of the Defendant No. 2 w.e.f. 18.09.2025, throughout the country including Delhi.*

*13. ... It is submitted that this defamatory content, being available on the internet, is accessible/viewable by users across the country including Delhi.*

*...  
16. The Plaintiff is constrained to prefer the present suit seeking reliefs of permanent and mandatory injunction, declaration and damages against the Defendants being aggrieved by a false, malicious, and defamatory video produced by the Defendant No. 1 and broadcast by the Defendant No. 2 (hereinafter referred to as the “Defamatory Content”) as a part of their television series titled “The Ba\*\*\*ds of Bollywood” which is broadcast on the platform operated by the Defendant No. 2 and enjoy wide viewership across India including Delhi and abroad including through digital dissemination*



on platforms such YouTube, Facebook and Instagram....

23A. The above per-se defamatory and humiliating content, being available on the internet, is easily accessible and viewable by the users across the country including Delhi. Hence, the effect of such content has far-reaching consequences across the country including Delhi.

24. ... The defamatory content also has the tendency of prejudicing the proceedings which are presently pending or sub-judice before Courts...

24A It is pertinent to submit that multiple intra-department enquiries against the Plaintiff, and the litigations arising therefrom, are currently pending in the various forums including Central Administrative Tribunal (CAT), Principal Bench, New Delhi. Therefore, the Defamatory Content may inter alia, have a negative effect on these proceedings as well.

### III CAUSE OF ACTION

36. The cause of action arose on 18.09.2025 when the defamatory content was released for viewing to the public as a part of the television series titled “The Ba\*\*\*ds of Bollywood” which is broadcast on the platform operated by the Defendant No. 2 and enjoy wide viewership across India and abroad including through digital dissemination on platforms such YouTube, Facebook and Instagram....

### IV JURISDICTION

37. This Hon'ble Court has the territorial jurisdiction to entertain and adjudicate the present suit inasmuch as, the wrong doing in the nature of Defamatory Content, forming part of the television series produced by Defendant No.1 and being broadcasted on the platform of Defendant No.2, is accessible and viewable, within the territorial limits of this Hon'ble Court. Further, having regard to the fact that the said wrong doing/ Defamatory Content is available on the internet, the same has a far-reaching effect across the country including Delhi.”

(Emphasis Supplied)

63. At the outset, it may be seen that averments to the effect that the said Defamatory Content “may” impact legal proceedings, or has a “tendency” to do the same, have no bearing to determine the “wrong done”. As noted in *Tejpal* at para 38, Section 19 contemplates the place where wrong is done, not where it could have been done, or may likely occur. Moreover, the argument that a Court would get swayed against the plaintiff, in a pre-



existing case, by watching a television series is *per se* speculative in nature and even otherwise, it does not reflect any wrong done.

64. Next, a bare perusal of the aforesigned extracts of the plaint would reveal that as per the plaintiff's own case, the said Defamatory Content has been published throughout the country, and naturally, therefore, at Mumbai as well. It is also his case that the effect/consequences of defamation are being felt throughout the country, thus, including, at Mumbai. Para 47 of *Tejpal* further serves as precedent to allow such an inference to be drawn, it reads as under:

*“47. It is not the case of plaintiff that it has no reputation in Udaipur or no wrong has been done to it at Udaipur. In fact the wrong done, if any, would be maximum at Udaipur where, both plaintiff as well as defendant would be known. The plaintiff, by pleading wrong done across the globe, has rather admitted wrong done at Udaipur.”*

65. Insofar as the averments pertaining to defendant no. 6 are concerned, they do not have any material bearing on the question of jurisdiction as — *first*, defendant no. 6, in actuality, is not a legal entity to begin with, as the correct legal entity is Business Media Pvt. Ltd.; *secondly*, defendant no. 6 is not pleaded as being either the producer, or the publisher of the said Defamatory Content; and *thirdly*, the main contesting defendants i.e., defendant nos. 1 and 2, being at Mumbai, the averments made *qua* defendant no. 6 appear to this Court to be an attempt to wriggle out of the conditions provided for in *Tejpal*. It appears that defendant no. 6 was hunted to create a mirage of having an illusory cause to proceed against an individual resident at New Delhi, solely to plead before this Court that *Tejpal* does not apply. Given the prayers in the instant case, particularly those against defendant no. 3-5, the impleadment of defendant no. 6 neither appears to be proper nor



necessary. It is an instance of clever drafting aimed at subverting the rigours of jurisdictional principles, as found in the CPC, and declared by Courts.

#### **IV. CONCLUSION**

66. From the discussion above, in relation to Section 19 of the CPC and the wrong of cyber/online defamation, the following conclusions may be drawn:

66.1 Where the wrong has not been done within the jurisdiction of more than one Court:

- a. The plaintiff may sue at the place where he resides, or in the case of a company, the place where it has its registered office. When he/it sues at such a natural forum, there is no requirement to specifically plead in whose eyes the reputation of the plaintiff has been lowered; and
- b. The plaintiff is also entitled to sue at the place where he is not resident, or in the case of company, a place where it is not registered, but in such a case, he/it is required to plead in whose eyes the reputation of the plaintiff has been lowered.

66.2 Where the wrong has been done within the jurisdiction of more than one Court:

- c. If wrong has also been done within the jurisdiction of the Court in which the defendant resides, carries on business or works for gain, the plaintiff must sue at this place of merger and at no place else; and



2026:DHC:701



d. If wrong has not been done within the jurisdiction of the Court in which the defendant resides, the plaintiff must sue at the place where maximum wrong has been done, which normally shall be where he is a resident or in case of a corporation, where it has its registered office. However, he/it can also sue at an unnatural forum, claiming maximum wrong to have been done there, if the wrong done at the natural forum, in comparison to the place in which the plaintiff seeks to sue, is minuscule.

66.3 With the main contesting defendants residing in Mumbai, the plaintiff himself being a resident of Mumbai, and further the wrong, as per the plaintiff's own plaint, having also occurred at Mumbai, the *Merger Rule* of *Tejpal* applies with full force. The jurisdiction to entertain the present suit, lies only with the courts in Mumbai.

## **V. ORDER**

67. This Court lacks the jurisdiction to entertain the plaint, the same is, therefore, returned to the plaintiff, to be presented, if so advised, before a Court of competent jurisdiction. Pending applications, if any, stand disposed of.

68. Liberty is, however, granted to the plaintiff to make an application, and avail appropriate directions, under Order VII Rule 10A of the CPC.

**PURUSHAIN德拉 KUMAR KAURAV, J**

**JANUARY 29, 2026/nc/ksr**