

**IN THE COURT OF SH. ABHITOSH PRATAP SINGH RATHORE  
DISTRICT JUDGE-05, SOUTH WEST DISTRICT,  
DWARKA COURTS, NEW DELHI.**

**CS DJ 586/2020  
CNR No. DLSW01-008330-2020**

**Nisha**

W/o Sh. Akash  
R/o WZ-433, Gali No.3A,  
Sadh Nagar, Palam Colony  
New Delhi

**...Plaintiff**

**VERSUS**

**Kiran**

D/o Late Sh. Hukum Singh  
R/o Village Shadipur, Gudiani,  
District-Rewari Haryana.

**...Defendant**

**Date of institution of the suit** : 19.11.2020  
**Judgment pronounced on** : 19.03.2026

**SUIT FOR DAMAGES AND COMPENSATION ON ACCOUNT OF  
DEFAMATION**

1. The brief facts as stated in the plaint are that plaintiff is sister in law of the defendant and defendant has defamed plaintiff as having illicit relationship with the husband of defendant. It is stated that defendant used to send whatsapp message to plaintiff's husband. On 17.07.2019 and 18.09.2018, defendant uttered defamatory words against the plaintiff in the presence of various persons and levelled false and unfounded allegations. Legal notice was sent on 10.09.2020 however defendant failed to give any reply to the same.

By way of the present suit, plaintiff is seeking damages of Rs.4,00,000/- on account of loss of reputation and damages of Rs.1,00,000/-

for mental torture, pain and sufferings.

2. As per plaint, cause of action arose on 17.07.2019 when the defendant sent messages to plaintiff's husband regarding plaintiff's alleged illicit relations with the husband of the defendant. Cause of action further arose on each and every occasion whenever defendant threatened the plaintiff by way of making false and baseless allegations. Cause of action further arose on 10.09.2020 when the plaintiff issued legal notice to the defendant. No reply was given by the defendant and Plaintiff was compelled to file the present Civil Suit.

3. Summons were issued. Written statement was filed on behalf of defendant on 25.03.2021. As per the written statement, present suit is merely a counter blast against the defendant as defendant has lodged an FIR No. 193, dated 22.07.2020 under Section 323/406/498A/34 IPC in PS Kosli, District Rewari, Haryana against the family members of the plaintiff. It is further stated that the chat between the defendant and the husband of defendant is well covered under private chat and is a matter of privacy between two persons only. It is the husband of defendant who has misused the said whatsapp chat to take advantage on the FIR already lodged by his wife. It is also stated that plaintiff has failed to prove the allegations of defamation. In para wise reply, defendant has denied para no.1 to 15 of the plaint.

4. Replication on behalf of plaintiff in response to the WS was filed wherein plaintiff has denied all the paragraphs of the WS and has reiterated the contents of plaint.

5. Vide order dated 23.05.2022, followings issues were framed;
- 1. Whether the suit of the plaintiff is barred by the law of Limitation? OPD**
  - 2. Whether plaintiff is entitled to a money decree for a sum of Rs.5 lakhs, as prayed? OPP**
  - 3. Whether plaintiff is entitled for pendente lite and future interest, if so, at what rate and for what period? OPP**
  - 4. Relief.**
6. The plaintiff in support of her case examined herself as PW-1. PW-1/Plaintiff tendered her evidence by way of affidavit, Ex.PW1A. She relied upon following documents:
1. Photocopy of the Aadhar Card of plaintiff- Mark A
  2. Copies of the Whatsapp messages (Pages 11, 12 and 13) – Mark B
  3. Legal Notice dated 09.09.2020 - Ex. PW-1/3.
7. No other witness was examined and PE was closed vide order dated 09.05.2025.
8. Defendant in support of her case has examined herself as DW-1. She has tendered her evidence by way of affidavit, which is Ex. DW1/A. She has relied upon FIR No. 0193/2020, PS Kosli Haryana- Ex. DW-1/A (OSR). DE was closed on 29.11.2025.
9. Arguments heard. Record perused.
10. My issue wise findings are as following:

## **ISSUE NO.1.**

### **1. Whether the suit of the plaintiff is barred by the law of Limitation? OPD**

As per the Article 75 & 76 of the Limitation Act, limitation period for defamation is one year from the date of publication. In the present case, the cause of action has allegedly arisen on 17.07.2019 and 18.09.2019 when the said messages were sent and the suit has been filed on 19.11.2020. It is evident that the suit has been filed after the lapse of one year from the said date.

Notably the date of 19.11.2020 falls within the period of 15-03-2020 to 28-02-2020, which as per the judgment passed by the Hon'ble Supreme Court of India in ***In Re: Cognizance For Extension Of Limitation Suo Motu WP(C) 3 Of 2020*** has to be excluded while computing period of limitation. The plaintiff is entitled to benefit of exemption in computation of limitation period granted in ***In Re: Cognizance For Extension Of Limitation (supra)*** as well as in ***Arif Azim Co. Ltd Vs. Aptech Ltd. 2024 INSC 155***, wherein the entire period from 15.03.2020 to 28.02.2022 was directed to be excluded while computing any sort of limitation.

Hon'ble Supreme Court of India in '***In Re: Cognizance For Extension Of Limitation [Suo Motu WP(C) 3 Of 2020]***' vide order passed on 10.01.2022 observed as following:-

*“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:*

*I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is*

directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. **In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.**

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

The operation and effect of the aforesaid order was considered and explained by Hon'ble Supreme Court of India in ***Prakash Corporates vs. Dee Vee Projects Pvt.Ltd (2022) 5 SCC 112.***

Hon'ble Supreme Court of India in this matter observed as following:-

“28. As regards the operation and effect of the orders passed by this Court in SMWP No. 3 of 2020, noticeable it is that even though in the initial order dated 23-3-2020 [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801], this Court provided that the period of limitation in all the proceedings, irrespective of that prescribed under general or special laws, whether condonable or not, shall stand extended w.e.f. 15-3-2020 but, while concluding the matter on 23-9-2021 [Cognizance for Extension of Limitation, In re, (2021) 18 SCC 250 : 2021 SCC OnLine SC 947], this Court specifically provided for exclusion of the period from 15-3-2020 till 2-10-2021. A look at the scheme of the Limitation Act 1963 makes it clear that while extension of prescribed period in relation to an appeal or certain applications has been envisaged under section 5 the exclusion of time has been provided in the provisions like sections 12 to 15 thereof. When a particular period is to be excluded in relation to any suit or proceeding, essentially the reason is that such a period is accepted by law to be

*the one not referable to any indolence on the part of the litigant, but being relatable to either the force of circumstances or other requirements of law (like that of mandatory two months' notice for a suit against the Government [Vide section 15 of the Limitation Act, 1963.]). The excluded period, as a necessary consequence, results in enlargement of time, over and above the period prescribed.” (emphasis supplied)”*

In ***Arif Azim Co. Ltd Vs. Aptech Ltd. 2024 INSC 155*** Hon'ble Supreme Court while referring to the both ***In Re: Cognizance for Extension Of Limitation(supra)*** and ***Prakash Corporates vs. Dee Vee Projects Pvt.Ltd*** (Supra) observed as following:-

*“The effect of the above-referred order of this Court in the facts of the present case is that the balance limitation left on 15.03.2020 would become available w.e.f. 01.03.2022. The balance period of limitation remaining on 15.03.2020 can be calculated by computing the number of days between 15.03.2020 and 27.03.2021, which is the day when the limitation period would have come to an end under ordinary circumstances. The balance period thus comes to 1 year 13 days. This period of 1 year 13 days becomes available to the petitioner from 01.03.2022, thereby meaning that the limitation period available to the petitioner for invoking arbitration proceedings would have come to an end on 13.03.2023.”*

Applying the above quoted directions of the Hon'ble Supreme Court of India to the present case, would make limitation period of 90 days available to the plaintiff on 28.02.2022, which would expire on 28.05.2022. Or, if the whole period of 15.03.2020 to 28.02.2022 is excluded as per dictum of Hon'ble Supreme Court in ***Arif Azim Co.Ltd. (supra)*** then the balance period of limitation remaining on 15.03.2020 would become available on 28.02.2022. In the present case the balance of limitation available on 15.03.2020 was of almost six months. These six months would have been

available to plaintiff on 28.02.2022. And even if Counsel of defendant's contention that only 90 days would have been available to the plaintiff after 28.02.2022 is accepted, limitation would have expired on 28.05.2022

In both the scenarios, the suit filed on 19.11.2020 is well within limitation.

**Issue No.1 is decided in favour of the Plaintiff.**

**Issue no.2 & 3**

***2. Whether plaintiff is entitled to a money decree for a sum of Rs.5 lakhs, as prayed? OPP***

***3. Whether plaintiff is entitled for pendentelite and future interest, if so, at what rate and for what period? OPP***

(Both issues are taken up together as being interconnected in nature.)

Plaintiff's case in short is that defendant spoke certain defamatory words about her in the presence of several people and also sent certain defamatory messages to her own husband, which plaintiff saw in defendant's husband mobile. A copy of the screenshot of the Whatsapp messages has been annexed with the suit.

Now, the law on defamation is well settled. It is settled position of constitutional law that right to reputation is a part of Right to life under Article 21. Defamation is injury to the reputation of a person. If a person injures the reputation of another it is treated as an injury to his legal right. A man's reputation is his asset and by several means even more valuable than any other tangible asset.

Hon'ble Supreme Court of India in ***Kiran bedi & ors. vs. Committee of Inquiry & Anr., 1989 SCC (1) 494*** made following observations:

*"In D.F. Marion v. Davis, 55 American Law Reports, page 171, it was held: "The right to the enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security, and is protected by the Constitution equally with the right to the enjoyment of life, liberty, and property."*

Any intentional false communication that has potential to lower the standing of a person in the estimate of others is called defamation.

To constitute defamation three essentials are required;

1. Any statement pertaining to the plaintiff must be made.
2. It must be published.
3. It must be of such a nature that would lower a person in the estimation of right-thinking members of society.

There are certain defences available to the suit for defamation.

- (a) Truth / justification
- (b) Fair comment
- (c) Privilege which may be either absolute or qualified

The present case also involves the issue whether communication made by wife to her husband about any third person can amount to defamation. A relationship between husband and wife comes within the ambit of confidential relationship. Both husband and wife are barred from deposing about any communication made between them during the currency of marriage. However, in the present case, before delving deeply into the legal aspect of the communication between the husband and wife and the consequent defamation thereon, it would be pertinent to see whether the communication of any kind has been conclusively established or not. Plaintiff in her evidence has tendered three documents i.e. Photocopy of the Aadhar Card of plaintiff- Mark A, Copies of the

Whatsapp messages (Pages 11, 12 and 13) – Mark B and Legal Notice dated 09.09.2020 - Ex. PW-1/3.

In her evidence affidavit, she has stated that defendant defamed the plaintiff on various dates such as 17.07.2019, 18.09.2019 by speaking defamatory words in presence of various persons of the society and levelled allegations of illicit relationship against the defendant. It is stated in para no. 7 of evidence affidavit that defendant further defamed the plaintiff when she sent whatsapp messages to her own husband containing allegation regarding illicit relations which had no iota of truth. It is important to note that no witness has been examined on the behalf of plaintiff to show that defendant spoke anything defamatory about plaintiff before the other persons of the society. In her cross-examination plaintiff has stated that defendant also called her ‘*Chachi saas*’ and used filthy language against her. However, the said witness has not been examined.

Now, coming to the print-outs/screen-shots of the whatsapp chats that have been annexed with the plaint. First of all there is no certificate as contemplated under Section 65B of Indian Evidence Act, 1872 with the print-outs of the said chats. This is fatal to her suit. Certificate had to be provided by the person under whose control the device was at the relevant time. In the present case, it would be the husband of the defendant. But he couldn't have legally done so as being barred under section 122 of Indian Evidence Act, 1872. And non-production of certificate under section 65B makes the whatsapp chats inadmissible in evidence.

Hon'ble Supreme Court of India in *Arjun Pandit Rao vs. Kailash*

**Kushan Rao 2020 INSC 453** observed as follows:

*“We may reiterate, therefore, that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. (supra), and incorrectly “clarified” in Shafhi Mohammed (supra). Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in Taylor v. Taylor (1876) 1 Ch.D 426, which has been followed in a number of the judgments of this Court, can also be applied. Section 65B(4) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.”*

It is a settled position of law that the whatsapp conversations cannot be read as evidence without there being a proper certificate as mandated under the Evidence Act, 1872 (***Dell International Services India private limited v. Adeel Feroze & ors 2024: DHC:4954***).

Besides, there is no proof to show that the given whatsapp number belonged to the defendant. Defendant during her cross-examination denied that the said number belonged to her. She has denied that she sent any whatsapp messages to her husband at that time. She has stated in her cross-examination that she did not send any whatsapp messages which could harm the reputation of Plaintiff.

Even the messages do not contain any word or name that would conclusively make them identifiable with the plaintiff. Therefore even if the requirement of Section 65B, IEA certificate is glossed over for a moment and whatsapp chats are admitted, it no-where establishes that the statement was made by the defendant, and if made by defendant, concerned the Plaintiff.

This court is of the considered opinion that the very first pre-

requisite for the civil wrong of the defamation is not present in the present case. Whatever allegations are made against defendant in the plaint remained largely unproved. Hence, it cannot be said that defendant defamed the plaintiff.

**Issue no. 2 & 3 are, accordingly, decided against the plaintiff.**

15. **Relief**

In view of the findings of issue no. 2 & 3, plaintiff is held not entitled to any relief. Suit of the plaintiff stands dismissed.

No orders as to cost.

**Decree sheet be prepared accordingly, on filing of deficient court fees, if any.**

**File be consigned to Record Room.**

**Typed to the dictation directly,  
corrected and pronounced in the  
open Court on 19.03.2026.**

**(Abhitosh Pratap Singh Rathore)  
DJ-05 (SW)/Dwarka Courts  
New Delhi**