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THE DEFAMATION ORDINANCE, 2002

ORDINANCE No. LVI OF 2002

[1st October, 2002]

An Ordinance to make provisions in respect of defamation

WHEREAS it is expedient to make provisions in respect of defamation and for matters connected therewith or incidental thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Defamation Ordinance, 2002.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once,

2. Definitions.— In this Ordinance, unless there is anything repugnant in the subject or context,—

lpe * * * * *

(b) “broadcasting” means the dissemination of writing, signs, signals, pictures and sounds of all kind, including any electronic device, intended to be received by the public either directly or through the medium of relay stations, by means of.

(i) a form of wireless radio-electric communication utilizing Hertzian waves, including radiotelegraph and radiotelephone, or

(ii) cables, computer, wires, fibre-optic linkages or laser beams, and “broadcast” has a corresponding meaning;

*[(bb) “Court” means the District Court;]

(c) “editor” means a person or operator having editorial or equivalent responsibility for the content of the statement or the decision to publish or circulate it;

'Clause (a) omitted by the Defamation (Amdt.) Act, 2004 (IX of 2004), s.2.

New clause (bb) Ins. by the Defamation (Amdt.) Act, 2004 (IX of 2004), s.2.

(d) “newspaper” means a paper containing public news, intelligence or occurrences or remarks or observations or containing only, or principally, advertisements, printed for distribution to the public and published periodically, or in parts or members, and includes such other periodical works as the Federal Government may, by notification in the official Gazette, declare to be newspaper;

'l(dd) “originator” means the initiator of a defamatory statement or any other defamatory act;]

(e) “publication” means the communication of the words to at least one person other than the person defamed and includes a newspaper or broadcast through the internet or other media; and

(f) “publisher” means a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.

3. Defamation.—(1) Any wrongful act or publication or circulation of a false statement or representation made orally or in written or visual form which injures the reputation of a person, tends to lower him in the estimation of others or tends to reduce him to ridicule, unjust criticism, dislike, contempt or hatred shall be actionable as defamation.

(2) defamation is of two forms, namely:—

(i) slander; and

(ii) libel.

(3) Any false oral statement or representation that amounts to defamation shall be actionable as slander.

(4) Any false written, documentary or visual statement or representation made either by ordinary form or expression or by electronic or other modern means or devices that amounts to defamation shall be actionable as libel.

4. Defamation actionable.— The publication of defamatory matter is an actionable wrong

without proof of special damage to the person defamed and where defamation is proved, damage shall be presumed.

5. Defences.— In defamation proceedings a person has a defence if he shows that—

(a) he was not the author, editor, publisher or printer of the statement complained of;

(b) the matter commented on is fair and in the public interest and is an expression of opinion and not an assertion of fact and was published in good faith;

(c) it is based on truth and was made for public good;

'New clause (dd) Ins. by the Defamation (Amdt.) Act, 2004 (IX of 2004), s.2.

(d) assent was given for the publication by the plaintiff;

(e) offer to tender a proper apology and publish the same was made by the defendant but was refused by the plaintiff.

(f) an offer to print or publish a contradiction or denial in the same manner and with the same prominence was made but was refused by the plaintiff;

(g) the matter complained of was privileged communication such as between lawyer and client or between persons having fiduciary relations;

(h) the matter is covered by absolute or qualified privilege.

6. Absolute privilege Any publication of statement made in the Federal or Provincial legislatures, reports, papers, notes and proceedings ordered to be published by either House of the Parliament or by the Provincial Assemblies, or relating to judicial proceedings ordered to be published by the court or any report, note or matter written or published by or under the authority of a Government, shall have the protection of absolute privilege.

Explanation.— In this section legislature includes a local legislature and court includes any tribunal or body exercising the judicial power

7. Qualified privilege.— Any fair and accurate publication of parliamentary proceedings, or judicial proceedings which the public may attend and statements made to the proper authorities in order to procure the redress of public grievances shall have the protection of qualified privileges.

8. Notice of action.— No action lies unless the plaintiff has, within two months after the publication of the defamatory matter has come to his notice or knowledge, given to the defendant, fourteen days notice in writing of his intention to bring an action, specifying the defamatory matter complained of.

9. Remedies.— Where defamation shall be proved to have occurred, the court may pass order directing the defendant to tender an apology, if acceptable to the plaintiff, and publish the same in similar manner and with the same prominence as the defamatory statement made and pay reasonable compensatory damages as general damages with a minimum of Rs.50,000 (Rupees fifty thousand) '[* * *]' and in addition thereto, any special damage incurred that is proved by the plaintiff to the satisfaction of the Court 7[:]

3[Provided that in case of the originator the minimum compensatory damages as general damages shall be three hundred thousand rupees]

10. Code of Civil Procedure and Qanun-e-Shahadat Order to apply.— The Code of Civil Procedure, 1908 (Act No.V of 1908) and the Qanun-e-Shahadat, 1984 (P.O. No 10 of 1984) shall mutatis mutandis, apply to the proceedings under this Ordinance

11. Ordinance not to prejudice action for criminal defamation. Nothing in this Ordinance shall prejudice any action for criminal libel or slander under any law for the time being in force.

‘Omitted, subs. ins. by the Defamation (Amdt.) Act, 2004 (IX of 2004), s.3.

*Subs. ibid for the full stop, s. 3.

*Ins. ibid. s. 3.

12. Limitation of actions.— An action against—

(a) an author, editor, proprietor or publisher of a newspaper;

(b) the owner of broadcasting section;

(c) an Officer, servant or employee of the newspaper or broadcasting station; or

(d) any other purpose,

for defamation contained in the newspaper or broadcast from the station or its publication otherwise shall be taken within six months after the publication of the defamatory matter came to the notice or

knowledge of the person defamed.

'113. Trial of cases.— The District Court shall have jurisdiction to try cases under this Ordinance.]

14. Court to decide the cases expeditiously.— The Court shall decide a case under this Ordinance within a period of [ninety days].

3[15. Appeal.— An appeal against the final decision and decree of the Court shall lie to the High Court within thirty days and High Court shall decide the appeal within sixty days:

Provided that no appeal shall lie against an interlocutory order of the Court.]

16. Power to make rules.— The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

'Subs by the Defamation (Amdt.) Act, 2004 (IX of 2004), s.4-6.

*Subs. *ibid.* s. 5.

*Subs. *ibid.* s. 6.

