

**Mr. Siddharth Chugh vs Array Networks India Pvt Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/1648604](https://sooperkanoon.com/1648604)

**Court :** Karnataka

**Decided On :** Nov-07-2025

**Judge :** M.Nagaprasanna

**Appeal No. :** CRP/458/2025

**Appellant :** Mr. Siddharth Chugh

**Respondent :** Array Networks India Pvt Ltd.

**Judgement :**

Reserved on : 01.09.2025

Pronounced on : 07.11.2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF NOVEMBER, 2025 BEFORE THE HON'BLE MR. JUSTICE M. NAGAPRASANNA CIVIL REVISION PETITION No.458 OF 2025 (IO) BETWEEN: MR.SIDDHARTH CHUGH AGED ABOUT 45 YEARS (MALE ) S/O LATE SH. VIJAY KUMAR CHUGH RESIDENT OF C-37, PAMPOSH ENCLAVE NEW DELHI - 110 048 EMAIL:chugh.siddharth@gmail.com ... PETITIONER (BY SRI PANKAJ BHAGATH, ADVOCATE) AND:

### 1. ARRAY NETWORKS INDIA PVT. LTD.,

A COMPANY REGISTERED UNDER COMPANIES ACT, 2013 HAVING ITS REGISTERED OFFICE AT INDIQUBE SIGMA NO.3B 3RD BLOCK, KORAMANGALA BENGALURU KARNATAKA, INDIA - 560 034. EMAIL: spaul@arraynetworks.net REPRESENTED BY ITS DIRECTOR MR. SHIBU PAUL.

### 2. MR. SHIBU PAUL

AGED ABOUT 53 YEARS S/O LATE MR.P.A.PAUL HAVING ITS OFFICE AT: INDIQUBE SIGMA NO. 3B 3RD BLOCK, KORAMANGALA BENGALURU KARNATAKA, INDIA - 560 034 EMAIL: spaul@arraynetworks.net

### 3. FLASH CLOUD CONSULTING

A PARTNERSHIP FIRM HAVING ITS OFFICE AT: OFFICE NO.820, 8TH FLOOR INTERNATIONAL TRADE TOWER NEHRU PALACE, NEW DELHI - 110 019 EMAIL: contact@flashcloudconsulting.com REPRESENTED BY ITS PARTNER. ... RESPONDENTS (BY SRI MANU P.KULKARNI, ADVOCATE FOR C/R-1 AND R-2) THIS CIVIL REVISION PETITION IS FILED UNDER SECTION 115 OF CIVIL PROCEDURE CODE 1908, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 30/10/2024 PASSED BY THE 35TH ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN OS NO. 7357 OF 2023 AND IN-TURN, ALLOW THE I.A.NO.3 FILED IN SUIT O.S.7357/2023 BY THE PETITIONER. THIS CIVIL REVISION PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 01.09.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:- CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

**CAV ORDER**

The petitioner-defendant No.1 is at the doors of this Court calling in question rejection of an application filed under Order VII Rule 10 of the CPC filed seeking return of the plaint to a Court having jurisdiction.

2. Heard Sri Pankaj Bhagath, learned counsel appearing for petitioner and Sri Manu P Kulkarni, learned counsel appearing for caveator/respondents 1 and 2.

3. Facts in brief, germane, as follows:

3.1 Before embarking upon consideration of the issue in the lis, I deem it appropriate to notice the protagonists in the lis. The petitioner is the defendant No.1, a partner and authorized signatory of respondent No.3/Company - Flash Cloud Consulting - defendant No.2, a partnership firm engaged in the business of sale and distribution of software. The 1st respondent is the plaintiff- Array Networks India Pvt. Ltd. (Array India for short) which is the Indian entity of Array Networks Inc. (Array, USA for short). Respondent No.2 - the plaintiff No.2 is an employee and Director of Array India, the plaintiff No.1. 3.2. On 03-09-2019, Array, USA enters into a distribution agreement with 3rd respondent/Flash Cloud Consulting for distribution and reselling of software products manufactured by Array, USA. The petitioner/defendant No.1 is a signatory to the said agreement. Close to 4 years thereafter, Array, USA discontinued their distributorship agreement with the petitioner, since the petitioners office - defendant No.2 was closed and sealed due to an investigation at the hands of the GST for alleged non-compliances under the CGST Act. 3.3. On 09-11-2023, respondents 1 and 2 received an electronic mail from their parent entity Array, USA that the defendant No.1/petitioner was sending false and defamatory e- mails to Array, USA and other third parties like KPMG, Deloitte and other Government Authorities in other jurisdiction. One day after the receipt of the email on 10-11-2023, the respondents 1 and 2/plaintiffs 1 and 2 file a suit in O.S.No.7357 of 2023 seeking injunction and declaration against the petitioner. Several reliefs were claimed in the said suit. The petitioner, after receipt of notice, files his written statement denying all the allegations and the concerned Court allows the application filed by the plaintiffs under

**Order 39 Rule 1 and 2 granting an injunction against the**

petitioner/the defendant No.1. 3.4. When things stood thus, the petitioner files an application in I.A.No.3 for return of plaint under Order VII Rule 10 of the CPC on the score, the Courts in Bengaluru have no jurisdiction to entertain the suit and it must be returned for want of jurisdiction. The concerned Court, in terms of the order dated 30- 10-2024 rejects the application. The rejection of the application has driven the petitioner to this Court in the subject petition.

4. The learned counsel appearing for the petitioner contends

that Section 20 of the CPC does not deal with residence or office of the plaintiff, but only with that of the defendant; no reasons are assigned while depicting cause of action in the plaint that the cause of action has occurred in Bengaluru; Section 19 does not have any application in the said suit; Section 19 deals with compensation, while the present suit relates to injunction and declaration. Clause

(a) and (b) of Section 20 of the CPC refers to the Court within the

local limits of whose jurisdiction the defendant resides or carries on business; clause (c) of Section 20 refers to a Court within local limits of whose jurisdiction the cause of action wholly or in part arises. There is no pleading by the plaintiff in the plaint that cause of action wholly or in part has arisen in Bengaluru. Therefore, clause (c) of Section 20 is not applicable to the facts of the case. The explanation to Section 20 only applies to such a corporation/company which has its sole or principal office at a particular place. The explanation to Sec. 20 is an explanation to Clause (a) of Sec. 20 and is in the nature of a clarification to the scope of clause (a) as to where the corporation can be said to carry on their business. The learned counsel for the petitioner would seek to place reliance upon several judgments of different High Courts to buttress his submission, all of which would bear consideration, in the course of the order qua their relevance.

5. Per-contra, the learned counsel for the respondents 1 and

2 contends that the plaintiffs were informed of the mail by their parent Company Array, USA. However, in the meanwhile the plaintiffs are said to have received several phone calls and enquiries from its customers, vendors and third parties,

regarding the allegation made by the petitioner leading to filing of the suit on 10-11-2023. It is settled law that the Court will have territorial jurisdiction where a Corporation is defamed and also where the Corporation has its registered office, which is in Bengaluru. He would also seek to place reliance upon several judgments, all of which would bear consideration qua the relevance in the course of the order.

6. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

7. The afore-narrated facts, dates, link in the chain of events,

are all a matter of record. The trigger to institute the suit happens on 09-11-2023 when the e-mail is shot by one Sean Fang to the plaintiff No.2 sharing the entire e-mail thread/trail sent by the petitioner to Array employees, KPMG and Deloitte officials. The mail is as follows: From: Sean Fang <seanfang@arraynetworks.com> Sent: 09 November 2023 20:47 To: Shibu Paul

Subject: FW: RE:FW. Array We got your complaint letter... Cheating, Foreign Corrupt Practises, Bad Business Practice, Wilfully Cooking Books of Accounts with the intention to Cheat Shareholders/Investors of Array's stock listed on Taipei Stock Exchange, Cr Attachments: Attachment-1 pdf; Attachment-2 pdf, Attachment- 4.pdf, Attachment-3.pdf, GC ordering Flash (Attachment-4A) xlsx, Attachment-6 pdf, Attachment-8 pdf, Attachment-9.pdf, Attachment- 5.pdf; Attachment-7.pdf; Attachment-12A.pdf; Attachment-11.pdf; Attachment-12.pdf; Attachment-10.pdf, Attachment-128.pdf, Attachment-120.pdf, Attachment-12F pdf, Attachment-12C.pdf; Attachment-12E pdf, Attachment-12G.pdf; Attachment-13.pdf, Attachment-13C pdf, Attachment-138 pdf; Attachment-13D.pdf; Attachment-13A pdf; Attachment-13E.pdf; Attachment-13F.pdf, Attachment-15.pdf, Attachment-13G.pdf; Attachment-14.pdf; Attachment-16.pdf, Attachment-18.pdf, Attachment-20.pdf, Attachment-17.pdf, Attachment-19.pdf; Array books cooking-Attachment-21.pdf, Attachment- 22.pdf; Attachment-

25.pdf. Attachment-26.pdf; Attachment-23.pdf, Attachment-24.pdf, Attachment-29.pdf; Attachment-27.pdf; Attachment-30.pdf. Attachment-28.pdf; Attachment-31.pdf; Attachment-33.pdf, Attachment-34.pdf; Attachment-35.pdf; Attachment-36.pdf, Attachment-32.pdf; Attachment-37.pdf

Hi Shibu This is the one, thanks

From: siddharth chugh <chugh.siddharth@gmail.com> Sent: Friday, 13 Oct 2023 5:27PM To: sean Fang <seanfang@arraynetworks.com>; Joe Hwang <joehwang@arraynetworks.com>; Joseph Lien <josephlien@arraynetworks.com>; lisaluo@kpmg.com.tw; vincentyu@kpmg.com.tw; honson.to@kpmg.com; ibradley@kpmg.com; bbthomas@kpmg.ca; rieaoki@kpmg.com; antitrust@ftc.gov; electronicfilings@ftc.gov; irs@responsibledisclosure.com; press@ntia.gov; civil.feedback@usdoj.gov; FRC@fincen.gov; Chair@sec.gov; CommissionerCrenshaw@sec.gov; CommissionerPeirce@sec.gov; CommissionerUyeda@sec.gov; CommissionerLizarraga@sec.gov; jucuzoglu@deloitte.com; labrash@deloitte.com; jasonke@deloitte.com.tw; khong@deloitte.com.tw

Subject: Fwd: RE FW. Array - We got your complaint letter Cheating, Foreign Corrupt Practises, Bad Business Practice, Wilfully Cooking Books of Accounts with the intention to Cheat Shareholders / Investors of Array's stock listed on Taipei Stock Exchange, Cr. Dear Mr. Sean Fang,

I was really surprised to read your email dated 02nd October 2023. I regret to write that it is crystal clear and evident from the gainful reading of your email dated 02nd October 2023 that neither you nor the Management including Chairman of M/s Array Networks Inc. is interested in taking any action or steps, what to say about taking of any serious action/steps. It is also evident that you and the entire management has chosen to keep silent on the issues raised by me and harassment done by the accused employees of Ms/. Array Networks Inc. towards me and my family as mentioned by me in my email dated 20th September 2023 and 27th September 2023 and your Company has not taken any action till date, despite passage of couple of months. This clearly substantiates and establishes

your weak acts and your silence on the gravity of the issue, which in your email dated 02nd October 2023, you have categorically sought to suppress.

I am constrained to reiterate that your demand of documents clearly establishes your ignorance of my earlier emails, thus, I once again am reminding your good office that I have highlighted all major wrong doings, wilfully cooking books of accounts by officials of Array with the sole intention to cheat shareholders/investors of Array's stock listed on Taipei stock exchange mal practises, foreign corrupt practises and bad business practises adopted by M/s Array Networks key employees.

In furtherance to the above, it is stated that from the perusal of your email, you seems to be oblivious of my emails written to the CEO Mr. Michael Zhao dated 10th July 2023, 20th July 2023, 30th July 2023, 09th August 2023, 13th August 2023, 18th August 2023, 26th August 2023, 02 September 2023, etc. Thus, my efforts to bring to the notice of Array the crime and the atrocities committed went in vain. It is thus evident that the CEO Mr. Michael Zhao has not presented the above emails to the Board of Directors or to the Investigating Authorities, which leaves no room but to believe that even Mr. Michael Zhao has some interest in preventing fair investigation

Considering the above, it is further evident that CEO Mr. Michael Zhao are hands in glove with Mr. Manish Kumar Gautam, Mr. Shibu Paul, Ms. Sameena Ahmad and wife of Mr. Manish Kumar Gautam i.e. Mrs. Kanika Gautam (continuous partner of Flash Cloud Consulting) and other employees of M/s Array Networks.

Your email under reply has left me with no other alternative, but to write and take this matter forward to the Federal Investigating Authorities and Economic Offences Investigating Authorities, Serious Fraud Investigation Office in the USA, Taiwan and India. I will report the matter to FBI, Department of Justice, FINSEN in USA, Financial Crimes Department in Taiwan, FSC Taiwan, Taipei Stock Exchange and to the President of Taiwan along with Central Bureau of Investigation, Enforcement Directorate, Economic Offences Wing, Investigating Wing- Income Tax Department, Director General Investigations Goods & Service Tax in India and numerous other authorities to investigate how Array Networks INC and Array

Networks India Private Limited, in connivance with each other have perpetuated several large scale financial frauds in multiple jurisdiction by systematically, wilfully cooking of books of

accounts, inflating sales, threatening people, cheating with thousands of shareholders etc.

I hereby understand from your silence that the entire harassment that has been done to me and my family for life, limbs and property here in New Delhi India by Mr. Manish Kumar Gautam along with his wife Mrs. Kanika Gautam, their associates and their goons is supported and backed by M/s Array Networks Inc. as you and your Management including Chairman has chosen to remain silent despite my repeated emails to all of you as well.

As a reminder and without prejudice to the fact that I am proceeding with my complaints to the above mentioned investigating agencies, I am once again reiterating my assertions and complaints along with substantial evidence marked with attachment numbers:- To, Respected Joseph Lien, CHAIRMAN ARRAY GROUP. Sub: Cheating, Foreign Corrupt Practices, Bad Business Practice, Wilfully Cooking Books of Accounts with the intention to Cheat Shareholders/Investors of Array's stock listed on Taipei Stock Exchange, Criminal Breach of Trust, Organized White Collar Crimes, Corporate Malpractices, Violation of Laws, Rules, Regulations, Gross Mismanagement, Abuse of Authority, Misconduct, etc by the employees of ARRAY NETWORKS INC. and ARRAY NETWORKS INDIA PVT. LTD. to earn maximum incentives from Array INC. Ref. Thanks for email of yours dated 11/06/2023 and 27/08/2023 and emails of Mr. Sean dated 28/08/2023 and 05/09/2023 and my respective replies to your emails dated 27/08/2023, 30/08/2023 and 02/09/2023. Respected Mr. Joseph, I would like to introduce myself first as asked by you:

I, Siddharth Chugh, am/was one of the partners of FLASH CLOUD CONSULTING in INDIA who was ARRAY's Distributor Value Added Partner since 2019 till Jan 2023. (Email dated 31.01.2023 by Mr. Manish Kumar Gautam informing Shahpoor ji (a customer) "the services of Flash Cloud Consulting have been discontinued for unavoidable reasons

This email came to our notice after receiving one email dated Manish Kumar Gautam has sent this email dated 31/01/2023 and thus it is surprising as no formal information or communication has been shared with Flash Cloud Consulting by M/s Array Networks Inc. for termination of distribution agreement of Flash Cloud Consulting till date. The only possible reason for this wrath of Mr. Gautam was that I had highlighted multiple malpractices & illegal acts of employees of Array Networks and have acted as a whistleblower of wrongdoings and illegal acts of Array Networks & its employees. Some of these captioned illegal acts have already been informed by my recent emails along with my email dated 20th September 2023 and further few, amongst others, will be detailed here. Multiple Supporting documents for the same are available with me, however I am only sharing a few sample pieces of evidence with you and in case no stringent action is taken by the Board of Directors of Array networks, I will submit detailed evidence with Federal investigating authorities. I reserve the right to inform federal authorities in various jurisdictions, in USA, TAIWAN and INDIA in case I find that the Board of Directors are trying to hush up the investigation as has been the case in my previous communications

I would like to put spotlight on few facts right from the day Flash Cloud Consulting was made the Distributor/Value Added Partner of ARRAY, before I reveal some of the material facts of complaints of cheating, foreign corrupt practices, willfully cooking books of accounts with the intention to cheat shareholders/investors of Array's stock listed on Taipei Stock Exchange, criminal breach of trust, bad business practices, organized white collar crimes, corporate malpractices, violation of laws, rules, regulations, gross mismanagement, abuse of authority, misconduct, etc. opted by the employees of ARRAY NETWORKS INC and ARRAY NETWORKS INDIA PVT. LTD. namely Ms. Sameena Ahmad, Mr. Shibu Paul, Mr. Manish Kumar Gautam along

with his wife Mrs. Kanika Gautam (CONTINUOUS Partner of Flash Cloud Consulting/FCC which is/was the Distributor/Value Added Partner of ARRAY in INDIA since 2019) and many other employees of ARRAY who will surface out during the course of further investigations.

a. That Mrs. Kanika Gautam (wife of Mr. Manish Kumar Gautam, Managing Director, Array India and SAARC) is one of the partners of Flash Cloud Consulting/FCC since Sept 2018 and I am the other partner, however, I have been made partner of the firm, periodically in the manner deemed fit by Mr. Manish Kumar Gautam and Mrs. Kanika Gautam

b. Mr. Manish Kumar Gautam reached out to me and gave me a conditional offer that he would make Flash Cloud Consulting distributor of Array Networks inc. USA, only if his wife-Mrs. Kanika Gautam is made at least 50% partner in the firm M/s Flash Cloud Consulting/FCC. I was not into the IT (hardware/software) distribution business before.

However, I enquired further that how can M/s Array Networks INC. allow its Managing Director of India & SAARC namely Mr. Manish Kumar Gautam's wife to be a partner in a distribution firm of ARRAY as Mr. Manish Kumar Gautam heads India Sales for ARRAY Networks Inc. and his wife will become a partner in distribution company. To which Mr. Gautam, assured that his company has no problem as India contributes approx. 40% of revenue of Global Sales and he has taken consent with the other higher managerial officials of Array Networks INC.

c. However, as I was not convinced from the above explanation, and I have a belief that USA based companies usually have very high corporate governance, thus, I further wanted a confirmation from ARRAY's Management. Then M. Manish Kumar Gautam called up (from his own mobile) Ms. Sameena Ahmad

(CFO) and Mr. Shibu Paul (VP International Sales) and

they assured me that right up to CEO everyone is aligned in the company and Mrs. Kanika Gautam and Mr. Manish Kumar Gautam will be key drivers of the distribution firm on loading orders and other business affairs. It was also informed that the higher management is

aware of the developments and has accorded their positive consent. One of the condition was Mrs. Kanika Gautam (W/o Mr. Manish Kumar Gautam) will not send emails nor sign on documents other than partnership deed and bank account opening documents of the firm as they are a US based company and are listed in Taipei Stock Exchange hence because of external compliance and corporate governance

**issues her name would not be mentioned. They further**

instructed me to have a common id [contact@flashcloudconsulting.com](mailto:contact@flashcloudconsulting.com) which can be used by both the partners including Mrs. Kanika Gautam to place purchase orders to Array Network. In good faith, I agreed as I had developed friendly relations with Mr. Manish Kumar Gautam, Array team and Mrs. Kanika Gautam and I trusted them. I therefore, considering their representations to be true and correct, agreed to work with them in good faith.

d. Accordingly, I and Mrs. Kanika Gautam became partners in equal proportion i.e, 50:50. Since, the entire business was controlled by the above-named accused persons with active participation of Mr. Manish Kumar Gautam and Mrs. Kanika Gautam, it is also worth mentioning that they also removed me from the Partnership firm from time to time as per their requirements and suitability and inducted other partner as my replacements. Thus, the entire business of Flash Cloud Consulting/FCC was under the control of Mr. Manish Kumar Gautam, Mrs. Kanika Gautam and senior management of Array (persons named above).

Even Mr. Manish Kumar Gautam instructs Flash Cloud to buy from Redington and give buying working Mr. Shibu Paul has clearly stated in his email that-- "We have big plans for FLASH in the long run and I am sure Manish would have discussed" Mr. Shibu Paul on instructions of Ms. Sameena Ahmad and connivance with Mr. Manish Kumar Gautam, Mrs. Kanika Gautam and entire Array India team discusses among themselves the entire purchase and sales plan for Flash Cloud Consulting.

e. Mr. and Mrs. Gautam initially started with orders from Ghangor Cloud INC. (A Data Leakage Prevention Company) having its registered office at 2001 Gateway

Place, Suite

710W, San Jose, CA, USA, wherein as informed by Mr. Manish Kumar Gautam that Ms. Sameena Ahmad, Mr. Shibu Paul, Mr. Manish Kumar Gautam and many other employees of Array Networks are investors of Ghangor Cloud in their individual capacity. It is pertinent to mention that one of the co-founders of M/s Ghangor Cloud Inc. is Mr. Bhanu Panda

(<https://ghangorcloud.com/company/about/>). Prior to founding Ghangor Cloud, Mr. Bhanu Panda held the position of VP of worldwide Sales, Business Development & Services of Array Networks Inc.

As further informed by Mr. Manish Kumar Gautam himself, Mr. Manish Kumar Gautam was hired by Mr. Panda at Array Networks Inc. By virtue of his role at Array Networks Inc., Mr. Panda had also worked very closely with Ms. Sameena Ahmad, CFO. Mr. Panda is a close friend of Mr. Manish Kumar Gautam, Ms. Sameena Ahmad, Mr. Shibu Paul and many other existing employees of Array Networks.

Mr. Manish Gautam from his personal email idgautammanish7@gmail.com dated 28/03/2019 communicated with Mr. Bhanu Panda and buying on behalf of Flash Cloud Consulting and receiving license from Mr. Bhanu Panda on his personal email id and also Mr. Bhanu Panda giving 180 days credit to Flash Cloud Consulting on its very first invoice, all this because of active involvement of Manish Kumar Gautam, Mrs. Kanika Gautam and other aforementioned persons.

In later sections of this compliant, I will also highlight & detail that the entire sales team of Array Networks Inc. and Array Networks India Private Limited in India under instructions of Ms. Sameena Ahmad, Mr. Manish Kumar Gautam, Mr. Shibu Paul are selling/sharing quotes on behalf of Ghangor Cloud Inc., Dynavisor, etc through their official ids. (Array email ids) to their customers/distributors and are transacting on behalf of Ghangor Cloud, thereby, clearly cheating Array and abusing their official positions for their personal benefits. I urge you to kindly investigate why Mr. Manish Kumar Gautam was buying Ghangor Cloud's Licenses from his personal email id for and on behalf of Flash Cloud Consulting and why

employees of

Array including Mr. Manish Kumar Gautam were selling License for and on behalf of Ghangor Cloud through Array's official email id with direct involvement of Ms. Sameena Ahmad and Mr. Shibu Paul alongside. Mr. Manish Kumar Gautam used to control Flash Cloud Consulting along with all accused persons is clearly evident from the said email sent by mgautam@arraynetworks.com to dewendra.thakur@inspiraenterprise.com dated 17th December 2021 at 6:21 pm The excerpts of the email reads Manish Gautam mgautam@arraynetworks.net Re PO #INS-PO-003663||MORADABAD SMART CITY || ARRAY SUPPORT 17 December 2021 at 6:55 PM Dewendra Thakur: dewendra.thakur@inspiraenterprise.com

contact@flashcloudconsulting.com, Shibu Paulspaul@ar

kothari@inspiraenterprise.com. Rajeev Saxena Rajeev. saxena@inspiraenterprise.com, Narinder Sharma narinder. sharma@inspiraenterprise.com. Harish Padmashali harish. padmashali@inspiraenterprise.com "Hi Devendra, We will get DLP certificate tonight. We will share the invoice by tomorrow without fail. We are extremely sorry for delayed response. Thanks Manish" Even the client M/s Inspira Enterprises confirms that Array told to load the order of Ghangor on Flash Cloud "Array has told to load the order of Ghangor on Flash Cloud. Hence we had loaded this order on Flash Cloud with the same payment terms." Mr. Manish Kumar Gautam along with all accused have told clients that Ghangor Cloud is sold under Array Brand. "As Redington is writing to Flash in the attached email table under Brand is Array". For Ghangor Cloud (GC) one engineer namely Mr. Saransh Malhotra was also appointed in India by Mr. Manish Kumar Gautam and Mr. Sanjeev Chauhan Technical Head-Array through their official email id of Array. Mr. Saaranish Malhotra joining as Sales Engineer for GC-(Ghangor Cloud) -

f. Further, after direct involvement Ms. Sameena Ahmad (CFO), Mr. Shibu Paul (VP International Sales), Mr. Manish Kumar Gautam and Mrs. Kanika Gautam and basis their representations and assurances (as mentioned above), finally a distribution agreement/value added partner

agreement between Flash Cloud Consulting and Array Networks INC. was signed in 2019. (VAR draft agreement shared by Mr. Manish Kumar Gautam) -(Attachment-)

g. However, as soon as a distribution agreement with Array Networks was signed in September 2019, Mr. Manish Kumar Gautam (Managing Director, India and SAARC and Country Sales Head of India) and Mrs. Kanika Gautam (Partner, Flash Cloud Consulting) preloaded fraudulent orders worth USD 2.5 million USD in December 2019 to Array Networks INC. These orders were preloaded including MCG and POSOCO was loaded despite Flash Cloud Consulting having no sales orders in its hands. One major example to quote here is of MCG which individually was of USD 960K. -(Attachment)

(Emphasis added) A perusal at the mail so quoted would indicate that several officials of Array, USA and India and the 2nd plaintiff were involved in financial frauds and all other minute details are narrated in the mail. The mail is not only communicated to the plaintiffs, but to employees of KPMG and Deloitte, as the copies were marked to them. The next day, the suit is instituted. The cause of action depicted in the suit is as follows:

32. Cause of Action: The cause of action in the present suit arose on 09.11.2023 when the Plaintiffs received an email from its parent entity, learning of the defamatory emails issued by the Defendant No.1 to various government authorities, and Deloitte and KPMG who are third party auditing companies, and the cause of action further arose on every day thereafter where the Plaintiffs have received various phone calls and enquiries from customers, vendors and other third parties regarding the allegations made by the Defendants. Further, it is likely that the Defendants will take recourse to various forms of media to continue their smear campaign against the Plaintiffs. The Plaintiffs have not filed any other suit or proceedings in respect of the same cause of action.

(Emphasis added) The plaintiffs further aver in the plaint that they requested the defendants not to mark the mail to third parties and despite that it is marked. The plaintiffs also aver that the defendants sent the defamatory emails with the intention of destroying the plaintiffs contractual relations with other companies. The relevant paragraphs of the plaint are as follows: . . .

12. It is submitted that Deloitte is a renowned multinational company that is part of the Big Four', and renders various services such as audits, and financial and risk advisory. Several investors and companies, including the Plaintiffs, engage Deloitte as their advisor for audits and diligences, especially prior to entering into any business or investment transactions. In the circumstances, a request was made to the Defendant No.1 to refrain from marking third parties.

13. Despite the aforesaid request, Defendant No.1,

on 20.09.2023, issued another lengthy email and marked employees of KPMG, another third-party, in copy. It is submitted that KPMG is also a multi-national company and part of the Big Four', and renders similar services as Deloitte. KPMG is renowned for its diligence and background verification services and is one of the most sought-after auditors across the world.

. . .

21. It is apparent from the foregoing that the conduct of

the Defendant No.1 reeks of malafides and that Defendant No.1 is deliberately defaming the Plaintiffs with its false allegations, with an intention to ruin their reputation, in the eyes of thirdparties, such as Deloitte, KPMG and various government authorities as detailed hereinabove.

22. As is evident from the Defendant No.1's email dated

13.10.2023, there is an imminent threat to the Plaintiffs' reputation, as the Defendant No.1 is threatening to go public with his false and baseless allegations, with the ill intentions of degrading the goodwill and reputation of the Plaintiffs.

23. In fact, it is submitted that pursuant to the

aforesaid emails from the Defendant No.1, the Plaintiffs have been receiving enquiries from various clients, vendors and other persons regarding the allegations made against the Plaintiffs. Plaintiffs have also received anonymous phone calls, and there are murmurs in the market that the Plaintiffs are involved in international fraudulent activities. The Plaintiffs' reputation has been damaged, in the circumstances.

24. Further, it is apparent from the material furnished by the Defendant No.1 that the allegations made by the Defendant No.1 are completely unsubstantiated and totally false. Most of

the documents produced by Defendant No.1 with his email dated 13.10.2023, are incomplete emails or emails taken out of context or are tables prepared by Defendant No.1. The statements in this regard in the said email of the Defendant No.1 are also false, grossly misleading and maliciously defamatory. This is done with the clear intent to not only curtail the growth of the Plaintiffs, but cause clear financial damage, harm and loss by impacting their commercial business.

25. By virtue of the Defendant No. 1's incessant and

false allegations, and circulation/publication of the same to multi-national accounting diligence companies like Deloitte and KMPG, and various governmental authorities, grave injury is being caused to the goodwill and repute of the Plaintiffs, and in turn, to their business.

26. More importantly, insofar as the Plaintiffs are

concerned, the aforesaid allegations of Defendant No.1 wrongly refer to the Plaintiffs' involvement in improper and illegal activities, even though it is no way concerned with the arrangement between Array US and the Defendant No.2 firm. The reference to the Plaintiffs is, therefore, unjustified and malicious. The denotation is deliberate, malicious and defamatory, with the intent of causing false alarm and inducing the government authorities and auditing firms such as Deloitte and KPMG into drawing false conclusions against the Plaintiffs.

27. The Defendant No. 1 is on a crusade to initiate a

calculated and concerted maligning campaign against the Plaintiffs, to spread false and derogatory canards about the Plaintiffs. As a result of the Defendant No. 1's aforesaid emails to third parties, the Plaintiffs have been put to immense hardship in growing their business. The Plaintiffs have already received numerous inquiries regarding the baseless and malicious statements made by the Defendant No. 1. The Plaintiffs are continuing to receive such enquiries and the same have caused huge commotion, confusion and reputational damage to the

Plaintiffs. It has impacted the credibility and trustworthiness of the Plaintiffs in the eyes of the members of society. There is no truth or merits in the insinuations and allegations made by the Defendant No.1.

28. The acts of the Defendants are damaging and are

likely to further damage the Plaintiffs' functioning of its businesses and reputation and goodwill, which is the very intention of Defendant No.1. the Defendant No. 1's intention is also apparent from the fact that he has not chosen to approach the relevant authorities such as the Registrar of Companies regarding any concerns that he may have with respect to the functioning of the Plaintiff No.1 company (a company incorporated in India), but has chosen to publish false and defamatory statements and also threaten to publish the same before the media and the public. If the Defendant No.1 is not injuncted and is permitted to continue to make such allegations against the Plaintiffs, without any semblance of truth to such allegations whatsoever, irreparable harm and injury will be caused to the Plaintiffs' hard-earned reputation in the market and their business, which cannot be compensated in terms of money or its worth.

29. The Defendant No. 1 has no right to publish

such defamatory statements to third-parties. The Defendant No.1 has published the impugned emails with the clear intention to injure the commercial, contractual and other best interests of the Plaintiffs. The Plaintiffs submit that the Defendant No. 1's publications of such false and derogatory statements concerning the

Plaintiffs, in letter or spirit thereto, will not only cause irreparable harm and injury to the Plaintiffs business, reputation, goodwill, but it will also denigrate and

disparage the Plaintiffs' business, commercial relationships and services rendered thereunder. In addition, it will prejudice the legal proceedings that the Plaintiffs have already initiated. As the Defendant No.1 continues to indulge, with impunity, in the aforesaid illegal acts of commission and omission, the Plaintiffs are before this Hon'ble Court seeking reparations for the injury, damage and injustice being inflicted on it by the Defendant No. 1, who should be, therefore, restrained by an order of injunction of this Hon'ble Court. The goodwill and reputation of the Plaintiffs has been assiduously built by them by their own efforts solely, and the wrongful and misleading statements threatened to be published by the Defendant No.1 to the public, may result in irreversible

damage to the Plaintiffs. It is submitted that the balance of convenience lies in favour of the Plaintiffs and if an

**order is not granted by this Hon'ble Court, then the**

Plaintiffs will suffer irreparable harm and damage. The Plaintiffs reasonably apprehend that there is a real threat of the Defendant No.1 continuing to publish such unethical, illegal and wholly defamatory materials in various media platforms and in public.

30. The Defendant No.1 has clearly concocted the

allegations made against the Plaintiffs, solely with the intention of defaming the Plaintiffs and damaging their reputation. This is all the more apparent from the Defendant No.1's emails dated 31.07.2023, 20.09.2023 and 13.10.2023, wherein, the Defendant No.1 has merely raised questions with respect to the Plaintiffs' involvement in certain transactions, without any legal basis or even any reference to the law that the Plaintiffs purportedly are in violation of.

31. Plaintiffs have not yet collated the details of the entire

extent of damages caused by the Defendants. The Plaintiffs therefore crave leave of this Hon'ble Court under Order II Rule 2 of the Code of Civil Procedure, 1908, to institute a separate suit/action or amend the present suit in that regard, as may be required, and have filed a separate application before this Hon'ble Court.

(Emphasis added) In the suit, an application is filed by the petitioner under Order VII Rule 10 of CPC seeking return of the plaint, for want of jurisdiction. The concerned Court rejects the application by an order dated 30- 10-2024, the reason so rendered is as follows: . . .

7. Point No.1:- I have gone through the pleadings, the

plaintiffs has sought declaration that the allegation made by the first defendant is improper and illegal and defamatory in law. Further, he sought permanent injunction restraining the defendants from publishing. distributing etc., to any media whatsoever which is perceived as defamatory and derogative to the plaintiffs. Section 19 of the CPC speaks suits for compensation for wrong done to the person or to

movables. The plaintiffs have not sought any compensation for runs to person or movables. Therefore, Section 19 of CPC is not applicable to the case in hand. Section 19 of CPC reads thus; . . . Further, it also gives three option to the plaintiff to

institute the suit. Firstly if the defendant has two residents or offices with leave of the Court, he can institute the suit in any one of the place and the third and final option is what where the cause of action only or in part arises. There is a specific allegation against the plaintiff No.2, plaintiff No.2 - Company as its office in 7th 'C' main, 3rd block, Koramangala, it may have other branches, whereas, the registered office is situated at Bengaluru and plaintiff No.2 is residing in Bengaluru. There is a specific allegation against the plaintiff No.2 and other regarding involvement of corrupt trace practices. Therefore, Section 20 of CPC is applicable to this case and not Section 19 of CPC.

8. The learned counsel for the defendant No.1 relied upon

as many as decisions referred above. It is in respect of Order 7 Rule 10 of CPC, Section 20 of CPC and Section 24 of CPC. According to the first defendant, the plaintiffs Company is situated in Delhi, therefore, this Court has no jurisdiction to try the suit and therefore, sought to return the plaint to the plaintiff to present it before the Court.

9. The learned counsel for the plaintiffs relied upon

the Judgment of Hon'ble High Court of Karnataka reported in Manu/KA/1164/2014 in case of Vasudeva Rao & Sons Vs. Prathiba Devi, wherein, it is held that the issue regarding jurisdiction is an issue of law, it may be tried as preliminary issue. But, as I have already stated, the plaintiff No.1 Company has registered office in

Bengaluru, plaintiff No.2 is residing in Bengaluru. The cause of action arose with the jurisdiction of this Court. Therefore, this Court has jurisdiction to try the suit. Hence, I answer point No.1 in the affirmative.

10. Point No.2:- In view of my answer to the above points, I pass the following:-

## **ORDER**

I.A.No.3 filed by the first defendant under Order 7 Rule 10 of CPC is dismissed, call on 5-12-2024. (Emphasis added)

8. The issue now would be, whether the entertainment of

the suit for defamation by the concerned Court suffers from want of jurisdiction for the plaint to be returned to be represented before the Court having jurisdiction?

9. To consider the said issue, it is germane to notice Sections 19 and 20 of the CPC. They read as follows:

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.

#### Illustrations

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

#### 20. Other suits to be instituted where defendants

reside or cause of action arises.-Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants

where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more

than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises. Explanation.-A corporation shall be deemed to carry

on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

#### Illustrations

(a) A is a tradesman in Calcutta. B carries on business in

Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta and C at

Delhi. A, B and C being together at Benaras, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benaras, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides, but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court. (Emphasis supplied)

Section 19 speaks about compensation for a wrong done to a person or movables. It is no case of the plaintiffs that they have asked for any compensation or damages. A perusal of the pleadings would indicate none to that effect. Therefore, it becomes necessary to notice the interpretation of Section 20 of the CPC qua cause of action.

10. Jurisprudence is replete with the Apex Court and several

High Courts considering the issue. 10.1. In the case of UNION OF INDIA v. LADULAL JAIN<sup>1</sup>, the Apex Court while discussing the principle behind determination of territorial jurisdiction of the Court under Section 20 of the CPC, holds that under clauses (a) and (b) of Section 20 of the CPC, the 1963 SCC OnLine SC 133 suit should be instituted at a place where the defendant would be able to defend the suit without undue trouble. The Apex Court observes as follows:

6. The territorial jurisdiction of a court is in general determined by the provisions of Section 20 of the Code which reads: Subject to the limitations aforesaid, every suit shall be instituted in a court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants

where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more

than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I.-Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence. Explanation II.-A corporation shall be deemed to carry on business at its sole or principal office in India or in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

The principle behind the provisions of clauses (a) and (b) of Section 20 is that the suit be instituted at a place where the defendant be able to defend the suit without undue trouble. (Emphasis supplied) 10.2. In *PATEL ROADWAYS LTD. v. PRASAD TRADING CO.*<sup>2</sup>, the Apex Court extensively interprets the Explanation appended to Section 20 of the CPC and observes as follows:

9. Clauses (a) and (b) of Section 20 inter alia refer to a court within the local limits of whose jurisdiction the defendant inter alia carries on business. Clause (c) on the other hand refers to a court within the local limits of whose jurisdiction the cause of action wholly or in part arises. It has not been urged before us on behalf of the appellant that the cause of action wholly or in part arose in Bombay. Consequently clause (c) is not attracted to the

### **facts of these cases. What has been urged with the aid of the**

Explanation to Section 20 of the Code is that since the appellant has its principal office in Bombay it shall be deemed to carry on business at Bombay and consequently the courts at Bombay will also have jurisdiction. On a plain reading of the Explanation to Section 20 of the Code we find an apparent fallacy in the aforesaid argument. The Explanation is in two parts, one before the word or occurring between the words office in India and the word in respect of and the other thereafter. The Explanation applies to a defendant which is a corporation, which term, as seen above, would include even a company such as the appellant in the instant case. The first part of the Explanation applies only to such a corporation which has its sole or principal office at a particular place. In that event the courts within whose jurisdiction the sole or principal office of the defendant is situate will also have jurisdiction inasmuch as even if the defendant may not be actually carrying on business at that place, it will be deemed to carry on business at that place because of the fiction created by the Explanation. The latter part of the Explanation takes care of a case where the defendant does not have a sole office but has a principal office at one place and has also a subordinate office at another place. The words at such place occurring at the end of the Explanation and the word or referred to above which is disjunctive clearly suggest that if the case falls within the latter part of the Explanation it

is not the court within whose jurisdiction the principal office of the defendant is situate but the court within whose jurisdiction it has a subordinate office which alone shall have jurisdiction in respect of any cause of action arising at any place where it has also a subordinate office.

10. Here we may point out that the view which we take finds

support from a circumstance which, in our opinion, is relevant. Section 20 of the Code before its amendment by the Code of Civil Procedure (Amendment) Act, 1976 had two Explanations being Explanations I and II. By the Amendment Act Explanation I was omitted and Explanation II was renumbered as the present Explanation. Explanation I so omitted read as hereunder:

Explanation I.- Where a person has a permanent dwelling at one place and also temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

11. This Explanation dealt with the case of place of residence

of the defendant and provided with regard to a person having a permanent dwelling at one place and also temporary at another place that such person shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence. The language used in Explanation II on the other hand which is the present Explanation was entirely different. Had the intention been that if a corporation had its principal office at one place and a subordinate office at another place and the cause of action arose at the place where it had its subordinate office it shall be deemed to be carrying on business at both places the language used in Explanation II would have been identical to that of Explanation I which was dealing with a case of a person having a permanent dwelling at one place and also temporary residence at another place. The marked difference in the language of the two Explanations clearly supports the view which we have taken with regard to the interpretation of the present Explanation to

Section 20 of the Code which was Explanation II earlier as indicated above.

12. We would also like to add that the interpretation sought to

be placed by the appellant on the provision in question renders the Explanation totally redundant. If the intention of the legislature was, as is said on their behalf, that a suit against a corporation could be instituted either at the place of its sole or principal office (whether or not the corporation carries on business at that place) or at any other place where the cause of action arises, the provisions of clauses (a), (b) and (c) together with the first part of the Explanation would have completely achieved the purpose. Indeed the effect would have been wider. The suit could have been instituted at the place of the principal office because of the situation of such office (whether or not any actual business was carried on there). Alternatively, a suit could have been instituted at the place where the cause of action arose under clause (c) (irrespective of whether the corporation had a subordinate office in such place or not). This was, therefore, not the purpose of the Explanation. The Explanation is really an Explanation to clause (a). It is in the nature of a clarification on the scope of clause (a) viz. as to where the corporation can be said to carry on business. This, it is clarified, will be the place where the principal office is situated (whether or not any business actually is carried on there) or the place where a business is carried on giving rise to a cause of action (even though the principal office of the corporation is not located there) so long as there is a subordinate office of the corporation situated at such place. The linking together of the place where the cause of action arises with the place where a subordinate office is located clearly shows that the intention of the legislature was that, in the case of a corporation, for the purposes of clause (a), the location of the subordinate office, within the local limits of which a cause of action arises, is to be the relevant place for the filing of a suit and not the principal place of business. If the intention was that the location of the sole or principal office as well as the location of the subordinate office (within the limits of which a cause of action arises) are to be deemed to be places where the corporation is deemed to be carrying on business, the disjunctive or will not be there. Instead, the second part of the Explanation would have read and, in respect of any cause of action arising at any place where it has a subordinate office, also at such place.

13. As far as we can see the interpretation which we have

placed on this section does not create any practical or undue difficulties or disadvantage either to the plaintiff or a defendant corporation. It is true that, normally, under clauses (a) to (c), the plaintiff has a choice of forum and cannot be compelled to go to the place of residence or business of the corporation and can file a suit at a place where the cause of action arises. If a corporation desires to be protected from being dragged into litigation at some place merely because a cause of action arises there it can save itself from such a situation by an exclusion clause as has been done in the present case. The clear intendment of the Explanation, however, is that, where the corporation has a subordinate office in the place where the cause of action arises, it cannot be heard to say that it cannot be sued there because it does not carry on business at that place. It would be a great hardship if, in spite of the corporation having a subordinate office at the place where the cause of action arises (with which in all probability the plaintiff has had dealings), such plaintiff is to be compelled to travel to the place where the corporation has its principal place. That place should be convenient to the plaintiff; and since the corporation has an office at such place, it will also be under no disadvantage. Thus the Explanation provides an alternative locus for the corporation's place of business, not an additional one.

14. There may be only one extraordinary situation in

which this interpretation may cause an apparent anomaly. This is where the plaintiff has also his/its place of business at the same place as the corporation but the cause of action has arisen at some other place. The above interpretation would preclude him from filing a suit in that place of business common to both parties and compel him to go to a court having jurisdiction over the place where the cause of action has arisen. But this is not really a hardship because such plaintiff must have had some nexus or connection with the place since some part of the cause of action had arisen there; if he can have dealings with the corporation at such a place giving rise to the cause of action, there is no reason why he should find it disadvantageous or difficult to file a suit at such place.

Equally, the corporation, having a subordinate office at the place, will suffer no disadvantage. (Emphasis supplied)

The Apex Court holds that the Explanation to Section 20 of the CPC is essentially an explanation to clause (a) of Section 20. The first part of the Explanation applies only a corporation which has its sole or principal office at a particular place, where the courts within whose jurisdiction the sole or principal office of the defendant is situated will have jurisdiction and the defendant would be deemed to carry on business at that place because of the fiction created by the Explanation. The latter part of the Explanation takes care of a case where the defendant does not have a sole office but has a principal office at one place and also has a subordinate office at another place, where the cause of action arises and in such an event, litigation must be instituted at the place of the subordinate office. The Apex Court also holds that the Explanation provides an alternative locus for the corporation's place of business and not an additional one. In the event the plaintiff has also his/its place of business at the same place as the corporation but the cause of action has arisen at some other place the Apex Court holds that the plaintiff has to necessarily go to the court having jurisdiction over the place where the cause of action has arisen. 10.3. In the case of *HARSHAD CHIMAN LAL MODI v. DLF UNIVERSAL LTD.*<sup>3</sup>, the Apex Court holds that a suit under Section 20 of the CPC can be instituted in a court within whose jurisdiction the defendant resides, or carries on business, or personally works for gain or cause of action wholly or partly arises. The Apex Court observes as follows:

21. A plain reading of Section 20 of the Code leaves no room for doubt that it is a residuary provision and covers those cases not falling within the limitations of Sections 15 to 19. The opening words of the section, subject to the limitations aforesaid are significant and make it abundantly clear that the section takes within its sweep all personal actions. A suit falling under Section 20 thus may be instituted in a court within whose jurisdiction the defendant resides, or carries on business, or personally works for gain or cause of action wholly or partly arises. (Emphasis supplied)

10.4. In the case of LAXMAN PRASAD v. PRODIGY ELECTRONICS LTD.<sup>4</sup>, the Apex Court discusses the difference between the phrases cause of action and applicability of law

(2005) 7 SCC 791

(2008) 1 SCC 618 while interpreting Section 20 of the CPC. The Apex Court observes as follows:

30. We find considerable force in the submission of the learned counsel for the respondent Company. In our view, cause of action and applicability of law are two distinct, different and independent things and one cannot be confused with the other. The expression cause of action has not been defined in the Code. It is, however, settled law that every suit presupposes the existence of a cause of action. If there is no cause of action, the plaint has to be rejected [Rule 11(a) of Order 7]. Stated simply, cause of action means a right to sue. It consists of material facts which are imperative for the plaintiff to allege and prove to succeed in the suit. The classic definition of the expression (cause of action) is found in the observations of Lord Brett in *Cooke v. Gill* [1873 LR 8 CP 107 : 42 LJCP 98] . His Lordship stated:

Cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court.

31. In *A.B.C. Laminart (P) Ltd. v. A.P. Agencies* [(1989) 2 SCC 163] this Court said : (SCC p. 170, para 12)

12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is

not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff. (emphasis supplied)

32. Now, Sections 16 to 20 of the Code deal with

territorial jurisdiction of a court (place of suing). Whereas Sections 16 to 18 relate to immovable property, suits for compensation for wrongs to persons or movables have been dealt with under Section 19. Section 20 of the Code is a residuary provision and covers all cases not falling under Sections 16 to 19.

33. The relevant part of Section 20 reads thus:

34. Bare reading of Clause (c) leaves no room for doubt that a suit would lie in a court within the local limits of whose jurisdiction the cause of action has arisen, wholly or partly.

35. Section 20 has been designed to secure that

justice might be brought as near as possible to every man's hearthstone and that the defendant should not be put to the trouble and expense of travelling long distances in order to defend himself.

(Emphasis supplied) The Apex Court holds that every suit presupposes the existence of a cause of action and that cause of action must necessarily include everything which if not proved would give the defendant a right to immediate judgment. Under clause (c) of Section 20 of the CPC a suit would lie in a court within the local limits of whose jurisdiction the cause of action has arisen, wholly or partly. Further, the Apex Court observes that the main object of Section 20 of the CPC is to bring justice as close as possible, to every man's hearthstone, in

## **order to prevent the defendant from travelling long distances to**

defend himself. 10.5. The High Court of Bombay in an earlier judgment in the case of *STATE OF MAHARASHTRA v. SARVODAYA INDUSTRIES*<sup>5</sup>, discusses the difference between Section 19 and Section 20(c) of the CPC. The Court observes as follows:

13. Provisions of Section 19 are specific in subject and clear in its operation. Firstly it governs a suit seeking restitutive reliefs of compensation on the basis of wrong done to the person or to movable property. Secondly it offers and furnishes option or choice if the conditions indicated by the qualifying clause are satisfied in that wrong complained of was done within the local limit of one Court while the defendant in fact resides or carries on business within the local limits of jurisdiction of another Court. Unless both these conditions together are available, no question of option or choice for forum can conceivably, arise. The conjunction and in the qualifying clause is very much indicative of this result, leaving aside the cases where these conditions together are not available, the matters of such suit are still governed by other provisions of the Code. It is noticeable that in the body of Section 19 the phrase the cause of action, wholly or in part has not been used and it only finds place in Section 20 of the Code. In a suit for compensation wrong done or complained of is the cause of action by which Code understands and contemplates all the bundle of necessary facts capable on proof of sustaining the relief claimed. Compensation clearly posits an injury resulting in loss and damage. Mere injury or wrong without anything more would not suffice to sustain the claim for compensation. It is clear that the phrase wrong done is not used in any narrow

1974 SCC OnLine Bom 21

sense but has to be understood in all its amplitude so as to afford forum and necessary relief. That clearly takes in both cause and effect. Injury or actual wrong

may occur at place A but its effect may be felt at places other than A and may effect places B or C. Act or actions taking place at a given place may still give rise to results affecting persons or property at places quite different and at all these places and for all those effects, cause would arise seeking compensation. Without resultant loss or its proof restitutive justice may not afford any relief nor there could be any remedy in vacuum. Thus the phraseology used by Section 19 about the wrong done would clearly take in not only the initial action complained of but its resultant effect.

#### 14. Putting the matter in terms of Section 20(c) the

resultant damage would surely be the part of cause of action and would feedback the answer for jurisdiction. Assuming, therefore, that both Sections are to be read together the same would indicate a overlapping which is not at all attributable to such legislative scheme. It is enough to answer that Section 19, which deals with cases of compensation for wrong done to the person or movable property, is wide enough to take in those places where plaintiff or person complaining actually suffered the loss because of the alleged wrongful act notwithstanding the place of such wrongful act clearly furnishing place of action. The phrase wrong done is indicative of completed action as stated (supra) and is wide enough to take in the results as the basis for the purposes of restitution. The Court within whose local jurisdiction damage was caused or suffered or sustained would clearly answer the requirements of Section 19 for the purpose of suits mentioned therein. The matters of option afforded are not relevant nor decisive for this purpose nor the provisions of Section 20(c). The extract of the provisions of Section 20(supra) by its opening part indicates that Section 19 is treated as limitation upon the generality of the provisions of Section 20 itself. Reading both sections together if a case is not squarely answered by the earlier sections then it may still be answered by Section 20 itself. Its terms are thus residuary. Turning to suits for compensation, if any narrow construction is to be placed on the phrase wrong done available in Section 19 then the matter still can be

answered by Section 20(c) of the Code. For then Section 1.9 would indicate and only operate as part of cause of action having in mind only

the initial act or cause indicated by wrong done and not its effect and though the latter as of necessity must be established to have relief, for that reliance will have to be placed on the intendments of Section 20(c) of the Code. Such dichotomy is not indicated nor such exercise necessary for in the structure of Section 19 itself both parts of cause of action, i.e., the initial act and its effect are capable of being worked out. Therefore, by its contemplation a suit filed in a Court within the local limits of whose jurisdiction the damage was suffered would still uphold its jurisdiction.

(Emphasis supplied)

10.6. A Division Bench of High Court of Delhi in the case of

BANYAN TREE HOLDING (P) LIMITED v. A. MURALI KRISHNA REDDY<sup>6</sup>, extensively analyses the issue of jurisdiction in online intellectual property disputes and observes as follows:

38. Having surveyed the law as it has developed in different jurisdictions, this Court is of the view that the essential principles developed as part of the common law can be adopted without difficulty by our courts in determining whether the forum court has jurisdiction where the alleged breach is related to an activity on the internet. At the outset, this court does not subscribe to the view that the mere accessibility of the Defendants' website in Delhi would enable this Court to exercise jurisdiction. A passive website, with no intention to specifically target audiences outside the State where the host of the website is located, cannot vest the forum court with jurisdiction. This court is therefore unable to agree with the proposition laid down in Casio. The said decision cannot be held to be good law and to that extent is overruled.

2009 SCC OnLine Del 3780

39. India TV appears to be somewhat closer to the

development of law in this regard since the decision in Casio. In India TV, the learned single Judge impliedly doubted the correctness of the decision in Casio. The learned single Judge in India TV acknowledged that a mere accessibility of website may not be sufficient to attract jurisdiction of the forum court. This, in the considered view of this Court, is the correct position in law.

40. There was no occasion for this court even in India TV to

examine the finer aspects of the question of jurisdiction based on the nature of the website, the intention of the host of the website to specifically target viewers outside its jurisdiction, and the effect of hosting such website on audiences outside such state. It appears to this court that for the purposes of a passing off action or an action for infringement where the Plaintiff is not carrying on business within the jurisdiction of the forum court, and where there is no long arm statute, the Plaintiff would have to show that the Defendant purposefully availed itself of the jurisdiction of the forum court. It is not enough merely to show that the website hosted by the Defendant is an interactive one. It would have to be shown that the nature of the activity indulged in by the Defendant by the use of the website was with an intention to conclude a commercial transaction with the website user.

41. This court is not able to accept the submission of the

learned counsel for the Plaintiff that the test of purposeful availment must be replaced by the test of purposeful avoidance. While the Defendant may in his defence show how he avoided the forum state, the initial burden is on the Plaintiff to show that the Defendant purposefully availed itself of the jurisdiction of the forum court. The issue of incorporating filters to block access to the website by viewers located outside the forum state will have to be considered while deciding if the Defendant had purposefully avoided the forum state. However, that question will arise only if the Plaintiff has been able to show that the website of the Defendant is interactive and permits commercial transactions to be concluded by the Defendant with a user of the website.

42. This Court holds that jurisdiction of the forum

court does not get attracted merely on the basis of interactivity of the website which is accessible in the forum state. The degree of the interactivity apart, the nature of the activity permissible and whether it results in a commercial transaction has to be examined. For the effects test to apply, the Plaintiff must necessarily plead and show prima facie that the specific targeting of the forum state by the Defendant resulted in an injury or harm to the Plaintiff within the forum state. For the purposes of a passing off or an infringement action (where the plaintiff is not located within the jurisdiction of the court), the injurious effect on the Plaintiff's business, goodwill or reputation within the forum state as a result of the Defendant's website being accessed in the forum state would have to be shown. Naturally therefore, this would require the presence of the Plaintiff in the forum state and not merely the possibility of such presence in the future. Secondly, to show that an injurious effect has been felt by the Plaintiff it would have to be shown that viewers in the forum state were specifically targeted. Therefore the effects test would have to be applied in conjunction with the sliding scale test to determine if the forum court has jurisdiction to try a suit concerning internet based disputes.

(Emphasis supplied)

The Division Bench of the High Court of Delhi discusses the different tests laid down by Courts across the world for determining jurisdictional disputes in the online media. The Court further holds that under Section 20(c) of the CPC, in order to show that some part of the cause of action has arisen in the forum state by the use of the internet by the defendant, the plaintiff will have to plead and show that, prima facie the website of the defendants, was specifically targeted at viewers in the forum state for commercial transactions, which resulted in an injury or harm to the Plaintiff within the forum state.

11. From a reading of the afore-quoted judgments of the

Apex Court and various High Courts what would unmistakably emerge is that while instituting a suit under Section 20 of the CPC, the plaintiff can either file a suit in the principle - registered office of the defendant or at the subordinate office of the defendant if the cause of action arises there or at any other place where the cause of action in whole or in part arises. If the plaintiff chooses to institute a suit at the place where the cause of action arises, then the plaintiff has to necessarily prove the facts leading to the infringement of his rights. Though most of the aforequoted judgments do not deal with online disputes, the principles of law laid down in those judgments while determining the territorial jurisdiction of a court under Section 20 of the CPC are squarely applicable to this case too.

12. The concerned Court, as quoted hereinabove, rejects the

application filed under Order VII Rule 10 CPC, seeking placing of the plaint before the Court having jurisdiction, without properly considering the purport of Section 20. The suit before the concerned court was one for defamation. But, the concerned court in the order impugned fails to discuss how, where and by whom the plaintiffs were defamed. Several Courts have discussed the importance of proving cause of action and effect of the action while determining the jurisdiction of a case, in suits relating to defamation. I deem it appropriate to notice a few: 12.1 In *INDIAN POTASH LTD. v. MEDIA CONTENTS & COMMUNICATION SERVICES (INDIA) (P) LTD.*<sup>7</sup>, the High Court of Delhi was dealing with a suit for defamation filed under Section 19 of the CPC. However, the High Court also touches upon the issue of how territorial jurisdiction in online defamation disputes must be decided. The High Court holds that since the publication of defamatory material against a person gives rise to a cause of action only when it is made known to the third party, the place of the third party and the place where it is known to a third party gains importance. The High Court observes as follows:

7. The above Section makes it abundantly clear that any suit for compensation for wrong done to a person can be filed either within the territorial limits of the jurisdiction where the defendant resides or carrying on business or it may be instituted at the option of the plaintiff if the wrong done was within the local limits of the jurisdiction of the Court. In

the event of publication of defamatory material, the wrong is done where the defamatory material is communicated and the moment the same is received by the persons, for whom it has been written. The publication of defamatory material against a person gives rise to a cause of action only when it is made known to the third party. The place of the third party and the place where it is known to a third party gains importance. The plaintiff may be living at any place. If publication of defamatory material against him is made at a place different from where the plaintiff lives or defendant lives, the Court at that place will have the jurisdiction to entertain the suit for compensation on the ground of defamation where the defamatory material is printed in books, newspaper is published, through electronic media on TV and the defamatory material directly hits the reputation demolishing the esteem and standing of the plaintiff. It is the choice of the plaintiff to file the suit either at the place where publication has been made or the place where the defendant resides. Since in case of telecasting of a feature on TV by the channel which is for Indian audience and has all India viewers, the plaintiff has a choice to file the suit at those places where the plaintiff has been hit the most.

(Emphasis supplied) 12.2 Again, in *ESCORTS LTD. v. TEJPAL SINGH SISODIA*<sup>8</sup>,

the High Court of Delhi was dealing with a case of an online

defamation dispute with respect to the jurisdiction of the Court 2019 SCC OnLine Del 7607 under Section 19 of the CPC. However, the observations of the court with respect to deciding the jurisdiction of a case in online defamation disputes, assumes importance. The High Court holds that in a suit for defamation, to establish the jurisdiction of a case, the plaint has to contain specific pleas of wrong done within the jurisdiction of that Court, by giving particulars of the persons in that jurisdiction, in whose esteem the plaintiff claims to have fallen and/or the loss or damage suffered. The Court observes as follows:

31. The plaintiff herein, being a corporation, its person is deemed to be resident of and/or carrying on business within the jurisdiction of the Court within whose territorial jurisdiction the registered office of the plaintiff is and which is at Faridabad and not within the jurisdiction of this Court. Ordinarily a wrong to the reputation of a company would be done at its registered office. However, in today's day and age, with businesses of a company spreading across countries and at least within the country, the company may have a reputation not only at the place of its residence i.e. its registered office but at each of such places where the company carries on business and/or where the goods and services are sold/provided by the plaintiff and wrong may be done to the reputation of the plaintiff at such places also.

35. In my opinion, wrong by defamation, ordinarily would be

done to a natural person, at the place of his residence, where he/she has a reputation and to an artificial person as a corporation/company, at the place of registered office of the corporation/company. In such case, the Court of the place of which a person is residence of or where the corporation/company has its registered office, would be a natural court which would have jurisdiction and in a suit instituted at such place, averment of publication without

even a specific plea of wrong done with particulars of the persons in whose esteem the plaintiff has fallen may suffice. However, where a plaintiff in a suit for defamation, chooses to invoke the jurisdiction of an unnatural place i.e. a place of which that person is not a resident of and/or if a corporation/company in which it does not have its registered office, to invoke the jurisdiction of that Court, the plaint has to necessarily contain specific pleas of wrong done within the jurisdiction of that Court, by giving particulars of the persons in that jurisdiction, in whose esteem the plaintiff claims to have fallen and/or the loss or damage suffered.

(Emphasis supplied) 12.3 Lastly, the High Court of Himachal Pradesh in the case of PARMODH SHARMA v. ONKAR SINGH THAKUR<sup>9</sup>, holds that, in a suit for defamation, it is important for the plaintiff to prove loss of his reputation in the eyes of the society. The Court observes as follows:

16. A statement which disparages a man in his reputation in relation to his office, profession, calling trade or business may be defamatory, e.g. the imputation of some quality which would be detrimental to the absence of some quality which is essential to the successful carrying on of his office, trade or profession, such as want of ability, incompetence and, of course, dishonest or fraudulent conduct. Injurious statement which do not reflect on a person's reputation (e.g., that he has ceased to trade) are not defamatory but may be actionable if made maliciously.

27. The question whether an imputation or accusation is defamatory or not is a mixed question of law and fact. 2019 SCC OnLine HP 721

28. To succeed in a claim for defamation be it based on

libel or slander, the plaintiff has to establish the nature of the imputations; the person or person to whom they were addressed, or spoken, and the likelihood of injury caused to his or its reputation.

29. In an action for defamation, the wrongful act is damage to the plaintiff's reputation. The injuries that he sustains may be classified under two heads:

(i) the consequences of the attitude adopted to him by other persons as a result of the diminution of the esteem in which they hold him because of the defamatory statement, and

(ii) the grief or annoyance caused by the defamatory statement to the plaintiff himself.

30. It is of the essence of defamation that the words

tend to be injurious to a person's character or reputation. The standard to be applied in determining whether a statement is defamatory or not is that of a right minded citizen, a man of fair average intelligence. The standard to be applied is not that of a special class of persons whose values are not shared or approved by fair-minded members of the society generally. An imputation is defamatory, if it exposes one to disgrace and humiliation, ridicule or contempt.

39. As observed above, the standard to be applied in

determining whether a statement is defamatory or not is that of a right minded citizen, a man of fair average intelligence and not that of a special class of persons whose values are not shared or approved by fair-minded members of the society generally. An imputation is defamatory, if it exposes one to disgrace and humiliation, ridicule or contempt. There must be some evidence to show that the right minded citizens and persons of fair average intelligence, after coming to know about the slander or libel as the case may be, had avoided or shunned the company of the plaintiff and his reputation in their eyes had been lowered and it has to be proved that nature of the statement was such that it had tendency

to excite against the plaintiff the adverse opinions or feelings of other persons and the plaintiff was brought into ridicule or contempt.

40. Thus, it is not the individual's own opinion of having

been defamed which matters, but it is the perspective of the right thinking members of the society, reasonable people of time and place, which matters. The test of defamatory nature of a statement, therefore, is its tendency to excite against the plaintiff by the the adverse opinions or feelings of other persons. The statement is judged by the standard of opinion, which prevails among ordinary, right-thinking members of society, reasonable people of time and place, and not the opinion, which prevailed in another time. Hence, the test is an objective one.

42. What is penable is an offence, which affects a

person's reputation and not a person's estimation of himself or his reputation. The estimation has to be in which a person is held by others, character imputed to him in the community in which he lives because reputation is the esteem in which a person is held by the community and, therefore, harm of reputation must then be an injury which esteem suffers in the estimation of others.

43. In *Imtiaz Ahmad v. Durdana Zamir*, 2010 (8) RCR (Cri)

1513, it was held by the Hon'ble Delhi High Court that the reputation of a man primarily and basically is the opinion of friends, relatives, acquaintance or general public about a man. It is his esteem in the eyes of others. It shall be apposite to refer to the necessary observations in para 7, which reads thus:..

47. Therefore, once there is no proof of reputation of

the plaintiff being tarnished or lowered in the society, obviously then the suit as filed by him could not have been decreed by the learned first appellate court. The substantial question of law is answered accordingly. (Emphasis supplied)

13. On the bedrock of elucidation of the law laid down by the

### **Apex Court and several High Courts on the issue, if the order**

impugned is considered, it would become unsustainable for the reason that, it bears no application of mind, for having rejected the application seeking rejection of the plaint. What is referred to is only a few judgments relied on by the parties and nothing worth the name of consideration on the merit of the application. The issue touches upon the jurisdiction of a Court to entertain the plaint or otherwise in a suit for defamation. Therefore, the Court ought to have dealt with every submission/contention of the parties. Not having done so, as observed hereinabove, the order is rendered unsustainable.

14. For the aforesaid reasons, the following:

### **ORDER**

(i) Writ Petition is allowed in part.

(ii) Impugned order dated 30-10-2024 passed by the learned 35th Additional City Civil and Sessions Judge, Bengaluru on I.A.No.3 filed by the petitioner under

**order VII Rule 10 of CPC in O.S.No.7357 of 2023 stands**

quashed.

(iii) The matter is remitted back to the hands of the concerned Court to consider the application filed under

**Order VII Rule 10 of the CPC afresh, bearing in mind**

the observations made in the course of the order. Consequently, I.A.No.1 of 2025 also stands disposed. Sd/- (M.NAGAPRASANNA) JUDGE BKP CT:MJ

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