



Neutral Citation Number: [2021] EWHC 2366 (QB)

Case No: QB-2019-003254

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 24 August 2021

Before :

THE HONOURABLE MR JUSTICE MURRAY

Between :

FARHAN JUNEJO **Claimant**
- and -
NEW VISION TV LIMITED **Defendant**

Mr David Lemer (instructed by **Stone White Solicitors**) for the **Claimant**
Mr Jonathan Barnes QC (instructed by **Gresham Legal**) for the **Defendant**

Hearing dates: 24-25 March 2021

Approved Judgment

I direct that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MR JUSTICE MURRAY

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email and release to BAILII. The date and time for hand-down are deemed to be 10:30 am on 24 August 2021.

Mr Justice Murray :

1. This is the trial of a preliminary issue in proceedings brought by Mr Farhan Junejo against New Vision TV Limited (“NVTV”), seeking damages for libel. The single factual issue for the court to determine is whether NVTV published the words said to constitute the libel during the course of its broadcast of a news bulletin on its satellite television channel on Sky TV on 18 September 2018 at 02:12 GMT.

Background

2. Mr Junejo is a Pakistani national living in the United Kingdom, who acquired British citizenship on 10 March 2010. He is a businessman with business interests in both Pakistan and the United Kingdom. Between 2009 and 2012 he served as a Director to the Pakistani Minister for Commerce, Mr Makhdoom Ameen Faheem.
3. NVTV is an English company that broadcasts television programmes in the UK through its satellite television news channel known as “New Vision” on Sky TV (Sky TV channel 736). Since 2017 it has owned the exclusive rights to broadcast content produced by ARY News in the UK and the European Union. ARY News is an Urdu language news and current affairs channel based in Pakistan. ARY News bulletins are produced in Urdu in Pakistan for broadcast there. They are also “beamed” to the UK for broadcast on the New Vision channel, subject to editorial control by NVTV in order to comply with the terms of its broadcasting licence and any editorial guidance issued by Ofcom.
4. On the morning of Monday, 17 September 2018 Mr Junejo and his wife were arrested by officers from the National Crime Agency (“the NCA”) for the purposes of interview in connection with an investigation being conducted by the NCA. They were released the same day and have never been charged with an offence or otherwise made subject to a court order arising out of the NCA’s investigation.
5. On the same day at about 16:30 Mr Shahzad Alam, then Vice President – Operations and now a Director at NVTV, was contacted by a UK-based news correspondent for ARY News named Mr Farid Qureshi in relation to a breaking news story concerning a then unnamed couple from Pakistan said to have been arrested in the UK by the NCA for alleged money laundering. Mr Alam was then and is now responsible for exercising editorial control over content broadcast in the UK on the New Vision channel.
6. Mr Qureshi told Mr Alam that the story of the arrest of a Pakistani national and his wife by the NCA for alleged money laundering would be broadcast as breaking news on an ARY News bulletin that was due to be beamed to the UK and broadcast on the New Vision channel at about 17:00 on 17 September 2018. It is common ground that that bulletin and subsequent bulletins broadcast on NVTV on 17 September 2018 did not name the claimant or his wife in connection with this story.
7. The crux of this claim is that the ARY News Bulletin broadcast on NVTV on 18 September 2018 at 02:12 GMT did name Mr Junejo and made various defamatory statements about him. NVTV does not deny that a bulletin broadcast by ARY in Pakistan at about that time (“the Relevant Bulletin”) did name Mr Junejo. It denies,

however, that the Relevant Bulletin was broadcast by NVTV on the New Vision channel in the UK at that or any other time.

8. It is common ground that NVTV did not retain a recording of what it broadcast on the New Vision channel on 18 September 2018 at 02:12 GMT. NVTV says that no copy was retained in accordance with normal company policy (and industry practice) not to retain recordings of television programmes for more than 60 days. It is also common ground that Mr Junejo has not been able to find a copy of what was actually broadcast on New Vision on 18 September 2018 at 02:12 GMT from any other source. He has obtained a copy of the Relevant Bulletin as broadcast in Pakistan at about that time and maintains that the same content was beamed to and broadcast by NVTV on the New Vision channel at that time.
9. It is NVTV's case that it did not broadcast the Relevant Bulletin on 18 September 2018 at 02:12 GMT but instead broadcast commercial or promotional material on the New Vision channel. It did this pursuant to the decision taken by Mr Alam not to broadcast on the New Vision channel any ARY News bulletin that named Mr Junejo or his wife in connection with the story of the arrest by the NCA on 17 September 2018 of a Pakistani national and his wife.
10. Mr Junejo does not claim to have seen or heard the Relevant Bulletin on the New Vision channel on 18 September 2018 at 02:12 GMT. He relies on the evidence of his wife's cousin, Mr Sarfraz Durrani, who gave evidence that he saw the Relevant Bulletin on the New Vision channel on 18 September 2018 at 02:12 GMT and that it contained the words that Mr Junejo says are defamatory.
11. Mr Junejo had also intended to call his mother-in-law, Mrs Shaista Qureshi, to give evidence that she had seen the Relevant Bulletin on New Vision at the relevant time. Ultimately, for reasons to which I will revert in due course, she did not attend to give evidence.
12. It is common ground that on 18 September 2018 at 04:20 BST NVTV broadcast an ARY News Bulletin during the course of which Mr Junejo was mentioned in the "tickers", namely, one-line texts that scroll up and appear across the bottom of the screen. These tickers repeated statements of a similar defamatory nature to those in the Relevant Bulletin. It is agreed that Mr Junejo was not mentioned in the audible part of the broadcast nor was his image or any image making reference to him displayed during the broadcast at 04:20 BST.
13. It is NVTV's case that the tickers, which were intended for broadcast in Pakistan, were inadvertently displayed on the New Vision channel, contrary to Mr Alam's instructions, due to a technical malfunction, for a period of about 45 minutes, which included the time of the ARY News Bulletin at 04:20 BST. In this regard, NVTV relies on the evidence of two employees of ARY News based in Karachi, Mr Salman Abharani and Mr Saifullah Siddiqui.
14. It is Mr Junejo's case that the tickers, which were displayed only about two hours after the broadcast at 02:12 GMT, strongly support Mr Junejo's contention that similar content was broadcast at 02:12 GMT in the form of the Relevant Bulletin.

Mr Junejo's complaint to Ofcom

15. At some time shortly after 17-18 September 2018, Mr Junejo made a complaint to Ofcom about NVTV's broadcasts on those days.
16. On the morning of 3 October 2018, Mr Azeem Mohamed of Ofcom wrote to Ms Louise McMurchie, a regulatory compliance advisor to NVTV, to notify her that Ofcom had received a complaint from Mr Junejo about the fairness of NVTV's broadcasts on 17-18 September 2018. Mr Mohamed informed her that the complaint was in the early stages of Ofcom's complaints handling process and that further information was being sought from Mr Junejo. He advised NVTV to retain all material related to the broadcasts complained about. In this initial request, Ofcom asked for an off-air time-coded recording of the main news and any headline update on 17 September 2018 to be provided in DVD format, including various items of specified information.
17. On the afternoon of the same day, Mr Alam sent an email to IQ Broadcast, a service that stores broadcast recordings in the cloud for a number of broadcasters, asking for recordings of the broadcasts on 17 September 2018 from 16:30-17:30, 20:00-21:00, 21:00-22:00, and 23:00-00:00 midnight, and 18 September 2018 from 16:00-17:00.
18. In due course, transcripts of the broadcasts were prepared and translated into English, with NVTV given the opportunity to comment on the translations.
19. On 28 February 2019, Ms Reena Jani, Standards Executive at Ofcom, sent an email to Ms McMurchie with the subject heading "News, New Vision TV, 17 September 2018 and 18 September 2018", reading in relevant part as follows:

"Further in this matter we considered that the complainant had not made a sustainable case of unjust or unfair treatment in relation to the above broadcasts. The complaint has now been closed."

Procedural history

20. Mr Junejo issued this claim on 13 September 2019.
21. On 23 October 2020, there was a trial of preliminary issues before Nicklin J, following which he ruled, amongst other things, on the natural and ordinary meaning of the words complained of. Nicklin J also gave permission for a further amendment to the re-amended particulars of claim. Re-re-amended particulars of claim ("RRAPoC") were filed on 26 October 2020.
22. The specific content of the Relevant Bulletin is set out in Urdu at paragraph 3 of the RRAPoC. An agreed English translation of the Relevant Bulletin is set out in paragraph 3A of the RRAPoC. The natural and ordinary meaning of the words used in the Relevant Bulletin, as determined by Nicklin J and as set out in the RRAPoC at paragraph 4, is:

- “(a) The Claimant has been guilty of fraud and theft of money from the Development Authority of Pakistan (‘TDAP’) in 2013;
- (b) The Claimant has been guilty of laundering the funds stolen from TDAP to Dubai, America and Switzerland; and
- (c) There were grounds to investigate whether the Claimant was guilty of further money-laundering in London of the proceeds of his crime.”

23. On 17 November 2020, Nicklin J made an order that the issue of whether NVTV published the Relevant Bulletin in this jurisdiction be tried as a preliminary issue.
24. On 1 March 2021, Deputy Master Hill QC made an unless order requiring various payments to be made in respect of paragraph 10 of the order of Nicklin J dated 23 October 2020 by specified dates, failing which Mr Junejo would be debarred from pursuing this claim.
25. On 8 March 2021, Nicklin J gave directions for this trial, including listing it on 25 March for two days, with 24 March as a reading day. On 10 March 2021, Nicklin J varied the listing to 24 March for two days, with 23 March as a reading day.

Claimant’s application for adjournment

26. On 23 March 2021 at 15:59, Stone White Solicitors, Mr Junejo’s solicitors, sent an email to my clerk to say that they had been instructed by their client to seek an adjournment of this trial, attaching an email from Mr Junejo in which he said that his wife had been diagnosed with a serious medical condition and that she was in a specialist ward at Charing Cross Hospital and that, as a result, neither he nor his wife’s mother, Mrs Qureshi, were able to give evidence, his mother-in-law in particular not being in the “right frame of mind” to do so.
27. I asked my clerk to let the parties know that I would consider Mr Junejo’s adjournment application at the beginning of the trial on 24 March 2021 and that I would require his application to be supported by evidence that neither Mrs Qureshi nor he was fit to attend the trial and give evidence and that there were no reasonable accommodations that would enable them to participate effectively.
28. The next morning at the beginning of the hearing, Mr David Lemer, counsel for Mr Junejo, indicated that Mr Junejo was in attendance and was able to give evidence, but that Mrs Qureshi was not fit to give evidence as she was traumatised by her daughter’s illness and that he was instructed that Mrs Qureshi’s mental condition as a result had degenerated overnight. Mr Junejo did not have evidence to support that immediately to hand but would be able to produce supporting medical evidence in due course. Mr Lemer submitted that, given the importance of Mrs Qureshi’s evidence to Mr Junejo’s case, fairness required that there be an adjournment.
29. In support of the adjournment application, Mr Lemer also relied on the fact that on 22 March 2021 Gresham Legal, NVTV’s solicitors, had disclosed to Mr Junejo an

additional 270 pages of new material as well as a second witness statement from Mr Abharani. He noted that the deadline for disclosure was 15 January 2021 and for exchange of witness statements was 19 February 2021. Mr Junejo did not necessarily object to the admission of this material, but there were some legitimate questions about this new evidence. In the short time since it had been received, there had not been a proper opportunity for Mr Junejo's advisors to analyse it and, if necessary, get expert advice. For example, some of the material appeared to be generated by servers at ARY. An expert could advise as to whether it was possible that that material could have been manipulated. There was also a serious question as to why this material had not been produced sooner.

30. The third basis on which Mr Lemer put forward the adjournment application was that Mr Junejo had received a large amount of potentially relevant material overnight from third party sources that he required additional time to consider.
31. Mr Lemer submitted that for all these reasons fairness required that the trial be adjourned.
32. In response, Mr Jonathan Barnes QC, leading counsel for NVTV, made, in summary, the following submissions:
 - i) There was no evidential basis for an adjournment on the basis of Mrs Qureshi's health. It had already been agreed two weeks earlier that she would give her evidence via live link over CVP rather than in person because she had to stay at home in order to look after Mr Junejo's children. It was not sufficient to assert that she was not in the "right frame of mind". This claim was already nearly two years' old. NVTV was ready for trial. It would be unfair to adjourn the trial without a proper evidential basis for doing so.
 - ii) Regarding the additional disclosure by NVTV, this had been made on Friday, 19 March 2021 under cover of a letter of that date from Gresham Legal to Stone White Solicitors. The disclosure was made, pursuant to NVTV's ongoing duty, of documents that had only been received from ARY News the prior day. Mr Abharani's short second witness statement dealt with the material, only a few pages of which were of direct relevance. The questions about these materials raised by Mr Lemer were points that could be put to Mr Abharani in cross-examination and on which Mr Lemer could make submissions. NVTV's case did not depend on this additional material. It was a matter for the court to assess the weight and relevance of it. There was no material prejudice to Mr Junejo in its being admitted.
 - iii) As to the additional material that Mr Junejo had received overnight and was considering, it was untenable to suggest that the trial should be adjourned on Mr Junejo's application in order to allow him more time to consider his own late disclosure.
33. I refused the adjournment application, giving the following reasons:
 - i) The fact that Mrs Qureshi's daughter was seriously ill was, of course, a matter of concern, but Mrs Qureshi's complete inability to attend for cross-examination, having already given her evidence-in-chief in the form of two

witness statements (dated 30 May 2020 and 25 February 2021, respectively) and having already been permitted to do so via live link from her home, required some explanation and needed to be supported by some evidence.

- ii) The adjournment application was made informally and very late by Mr Junejo's solicitors, with no reference to two of the three bases on which the application was put forward by Mr Lemer at the hearing. I had no information before me as to how long an adjournment would be needed in order for Mrs Qureshi to be in a fit state to attend to give evidence.
- iii) It was relevant that Mr Junejo was, after all, able to attend and was present, although he was not able to give direct evidence on the key issue to be decided. He was represented and able to give instructions. It was also relevant that he had a witness, Mr Durrani, who was available via CVP and was able to give direct evidence on the key issue.
- iv) In relation to the additional disclosure by NVTV, that was a matter that could be dealt with by Mr Lemer by way of cross-examination and during submissions. I would consider the weight to be given to the additional evidence bearing in mind the late disclosure.
- v) Mr Junejo's need to consider material that had been provided to him overnight from third party sources was not a proper basis to grant an adjournment on his application.
- vi) I bore in mind that:
 - a) the adjournment was made very late with no evidence to support the strongest ground, namely, the unavailability of Mrs Qureshi;
 - b) these proceedings were commenced in September 2019;
 - c) the other witnesses were ready and available and would be inconvenienced by an adjournment; and
 - d) NVTV was ready to proceed, as was the court, and an adjournment at that late stage would result in wasted costs.
- vii) For these reasons, having regard to the overriding objective, I refused the adjournment sought.

Legal framework

34. Publication of a statement takes place where the statement is heard or read: *Berezovsky v Michaels* [2000] 1 WLR 1004 (HL) (Lord Steyn) at 1012. It follows from this that, in the case of a statement published by television broadcast, the publication occurs where the broadcast is received and can be heard or seen.
35. In this case, the burden of proof lies on Mr Junejo to establish, on a balance of probabilities, that the words complained of in paragraph 3 of the RRAPOC were published by NVTV during the course of its broadcast of an ARY News bulletin on the New Vision channel on 18 September 2018 at 02:12 GMT.

36. In relation to the court's fact-finding task, Mr Jonathan Barnes QC, counsel for NVTV, drew my attention to the helpful distillation by Warby J (as he then was) of authority setting out the lessons of experience and of science in relation to the judicial determination of facts in *R (Dutta) v General Medical Council* [2020] EWHC 1974 (Admin) at [39]-[40]. I have had regard to that passage and the authorities and extra-judicial writing of Lord Bingham considered there.

The evidence

37. The witnesses for the claimant were Mr Junejo and Mr Sarfraz Durrani, who is Mr Junejo's wife's first cousin. Mr Junejo gave his evidence in person. Mr Durrani gave his evidence on a live link via the Cloud Video Platform (CVP) from Manchester, where he resides.
38. The witnesses for the defendant were Mr Alam, Mr Abharani, Head of Transmissions at ARY News in Pakistan, and Mr Siddiqui, Ticker Desk Controller in the Transmissions Department of ARY News in Pakistan. Mr Alam gave his evidence in person. Mr Abharani and Mr Siddiqui gave their evidence on a live link via CVP from offices of ARY News in Karachi in Pakistan, where they are both employed.
39. In addition, I had as part of the bundle, various documents and correspondence, as well as Dropbox links to video recordings of various broadcasts, including broadcasts of ARY News Bulletins on the New Vision channel at 17:00 BST, 17:26 BST and various later times on 17 September 2018 and at 04:20 BST, 15:59 BST, and 16:29 BST on 18 September 2018.
40. In addition, I had a Dropbox link to a video recording of the Relevant Bulletin, which Mr Junejo says was broadcast on 18 September 2018 at 02:12 GMT. The video recording itself is, at the start, time-stamped "8:17 AM", which, it is common ground, is a reference to Pakistan Standard Time (PST). 08:17 PST on 18 September 2018 was 04:17 BST and 03:17 GMT. In relation to the timings generally in the evidence, see my comments below at [133]-[135].
41. First, I make some general observations on the witness evidence. I had, of course, the benefit of one or two witness statements from each of the witnesses. In relation to the live evidence, I bear in mind that English is not the first language of Mr Junejo, Mr Alam, Mr Abharani, or Mr Siddiqui. All of the witnesses read, speak, and understand both Urdu and English.
42. In addition, there were occasional difficulties with the quality of the live link, and questions and/or answers frequently had to be repeated in order to make them clear to the witness. It was often the case, particularly with NVTV's witnesses, especially Mr Abharani, that the question posed was misunderstood, in whole or in part. The question would then sometimes be answered on the basis of that misunderstanding. At other times, the witness would simply ask for the question to be repeated. Both counsel, when cross-examining, proceeded with care, skill, and patience, as well as courteous persistence. For the most part, each counsel eventually succeeded in being understood by the witness, who then gave an answer that was, to a greater or lesser extent, responsive to the intended question.

43. My impression of each witness, for both parties, was that in general he was doing his best to assist the court on the basis of his sincere and honest recollection of the events of 17 to 18 September 2018, nearly two and a half years ago. It is, of course, for me to assess the reliability of that recollection, bearing in mind the passage of time and the risk that the witness was giving evidence, unconsciously, on the basis of conversations had and/or documents read subsequent to 17/18 September 2018, particularly for the purposes of preparing to give evidence in this litigation. In this regard, I have borne in mind the guidance given in *R (Dutta) v GMC*.
44. Mr Durrani was the first witness to give evidence. Mr Durrani gave his evidence in a calm and straightforward manner. He was the only witness for Mr Junejo giving direct evidence that he saw the impugned broadcast on the New Vision channel on 18 September 2018 at 02:12 GMT.
45. In his witness statement dated 25 February 2021, Mr Durrani said that on 17 September 2018 he was at home in Hayes in Middlesex where he lived at the time with his mother and his aunt (his mother's sister), Mrs Qureshi. During the day, the three of them became aware that Mr Junejo and his wife, Binnish (daughter of Mrs Qureshi), had been arrested and taken to a police station for interview. Mrs Qureshi, who had been out during the day, returned home about 5:00 pm. They received a number of telephone calls from family and friends from the UK, Pakistan and Dubai expressing concern about the fact that Mr Junejo and his wife had been arrested. Mr Durrani said at paragraph 9 of his witness statement:
- “9. We all sat in the lounge with the TV permanently on the Pakistani news channel. We were mainly watching NVTV as that is a pro-Government channel and HUM News as that is my mother and my Aunt's favourite news channel. We were also changing channels and checking what other channels such as GEO and 92 News were broadcasting.”
46. Mr Durrani said that his aunt, his mother, and he did not go to bed until very late. They were discussing what was happening and were very worried about Mr Junejo and his wife. Their “only source of information was the Pakistani news and so we were permanently watching the news trying to understand what was happening”. Mr Durrani did not have to go to work the next day, so he stayed up quite late. At paragraph 17 of his witness statement, he said:
- “17. I cannot recall the exact time but I believe I went to bed around 4am in the morning to get a few hours sleep. I say this because it was just after 2am when the news went crazy naming Farhan. The first such report I saw was on NVTV but then HUM started naming Farhan a little while later. It was as if the channel suddenly were given the go ahead to name Farhan and they went mad with breaking news and tickers across the screen. We were glued to the TV wondering what else they will be saying. I remember when I did go to bed it was difficult to fall asleep because of the stress and worry we were all under.”

47. At paragraph 20 of his witness statement, Mr Durrani said:

“20. I have watched the video of the broadcast which is at the following link and can confirm that I definitely watched this broadcast just after 2.00am on 18 September 2018:

[Dropbox link redacted]

21. I remember this vividly as it was the first broadcast I saw that named Farhan. I was shocked and felt embarrassed for Farhan and Binnish. NVTV gave the impression that Farhan was a criminal who had laundered huge amounts of public money and had fled from Pakistan. They also showed two photographs of Farhan which made it even more embarrassing, one of the photographs was when he was clearly much younger.”

48. It is common ground that the video at the Dropbox link referred to by Mr Durrani at paragraph 20 of his witness statement is the Relevant Bulletin. It does not, however, have the NVTV logo, which is normally displayed on ARY News Bulletins that are beamed to the UK and broadcast by NVTV on the New Vision channel. It is Mr Junejo’s case, which he says is confirmed by Mr Durrani’s evidence, that this is the ARNY News bulletin that was, in fact, broadcast on the New Vision channel on 18 September 2018 at 02:12 GMT, even if this version is not a copy of the video as broadcast by NVTV (namely, with the NVTV logo). In other words, apart from the absence of the NVTV logo, this video shows the content that was broadcast at the relevant time, as confirmed by Mr Durrani.

49. Mr Durrani gave evidence in his witness statement that his aunt’s Sky Box was set up to record HUM News and the New Vision channel on 17-18 September 2018. They had “hours and hours of recordings” as they “wanted to make sure we had proof of what was being said”. He said that they “definitely recorded [the broadcasts on HUM News and the New Vision channel] as we showed them to our relatives who visited”. It appears, however, that the recordings were deleted accidentally. As the recordings were deleted, it is not necessary for me to say anything further about this aspect of Mr Durrani’s evidence.

50. Mr Durrani concluded his witness statement with a description of the impact on him and other close family members of the news stories naming Mr Junejo and his wife in connection with the NCA arrest story.

51. During cross-examination by Mr Barnes, Mr Durrani denied that he had any knowledge prior to 17 September 2018 of there having been any allegations against Mr Junejo of involvement in a scandal relating to TDAP. It was put to him that his memory of Mr Junejo and his wife being named on the broadcast news on that evening would have been from another Pakistani news channel broadcasting or available on-line in the UK such as Geo News, 92 News or Hum TV. Mr Durrani conceded that he had watched the news on Hum TV as well as on the New Vision channel on 17-18 September 2018 but denied that he (or his aunt or mother) had seen

any news bulletin mentioning Mr Junejo before seeing the Relevant Bulletin on the New Vision channel on 18 September 2018 at 02:12 GMT.

52. Mr Durrani was shown a print-out of an article that had appeared in English on the AbbTakk.TV website on 17 September 2018, which named Mr Junejo and referred to his arrest by the NCA and that of his wife in relation to alleged money laundering. According to the article, the NCA had refused to identify the two persons it had arrested, but “reports circulating in the Pakistani media identified the man as Farhan Junejo”. Mr Durrani denied that he (or his aunt or his mother) had seen that article, although he accepted that others would have done so.
53. Mr Durrani was also shown an article that appeared in English on the website of The Express Tribune, a Pakistan newspaper, on 17 September 2018, which reported the arrest by the NCA of a Pakistani national and his wife in the UK, noting that it “was later reported that the arrested man was Farhan Junejo”. He denied having seen the article.
54. Mr Durrani was shown a news clip that was broadcast in the UK on Geo News on Sky channel 723 on 17 September 2018 at 21:11 BST (20:11 GMT). Mr Durrani agreed that Mr Junejo was mentioned in this news clip as the person who had been arrested by the NCA and that the broadcast included their correspondent, Mr Murtaza Ali Shah, speaking to camera, discussing Mr Junejo’s alleged involvement in a scandal relating to TDAP which had become public in 2013 and resulted in an enquiry being opened by the Federal Investigation Agency of Pakistan (FIA). Mr Barnes suggested to Mr Durrani that this was more likely to have been the moment when “the news went crazy naming” Mr Junejo than six hours later at 02:12 GMT. Mr Durrani agreed that it could have been, but he had not seen that broadcast at that time. He did not remember Mr Junejo being mentioned in the news on any channel or website before he was mentioned on the New Vision channel at 02:12 GMT.
55. Turning to Mr Junejo’s evidence, Mr Junejo did not see the impugned broadcast, so his evidence was principally relevant to the background of the claim. He clearly felt keenly and sincerely that his reputation in the UK had been harmed by its having become known in the UK that he had been arrested and interviewed by the NCA on 17 September 2018. It is therefore, perhaps, not surprising that his evidence was given in a somewhat excited and emotional manner. He frequently began a sentence and then mid-sentence began a new one, making it difficult at times to follow him. He tended to give long answers to the questions put to him, often straying quite far from the question into argument and comment on other matters.
56. Mr Junejo’s principal evidence for this trial was set out in his witness statement dated 25 February 2021, his third witness statement in these proceedings. He set out his family and professional background. He had served in the government of the Pakistani People’s Party (“PPP”). Following a change of government in 2013, he was accused by the new government of corruption along with many others who had been associated with the PPP government. It was “an age-old problem” in Pakistan, Mr Junejo said, that each new government seeks to establish its anti-corruption credentials by accusing the prior government of corruption. Mr Junejo said that the media, including NVTV, are well aware of this but love to sensationalise a story, as they did when the story broke that he and his wife had been arrested by the NCA. Mr Junejo noted that it has been more than 2 years and 5 months since his arrest by

the NCA, and nothing further has happened. He has never been charged with anything in this country. Mr Junejo strongly refuted the allegations of money laundering and corruption that had been made against him, which he maintained have never been substantiated and amount to no more than a “political witch hunt”.

57. Mr Junejo said that at some time after 18 September 2018, he was sent a link to a video on YouTube by a third party. It was, he alleged, a link to a recording of the broadcast by NVTV on the New Vision channel on 18 September 2018 at 02:12 GMT. It had the ARY World logo in the bottom right-hand corner and the NVTV logo in the top left-hand corner. After he complained to Ofcom about the broadcast, the YouTube link was taken down. He has not been able to locate it since.
58. Mr Junejo explained that at the time of his complaint to Ofcom, he was “in a very bad place emotionally . . . I was a mess. I could not think straight.” For these reasons, he got the details of the broadcasts mixed up when making his complaint to Ofcom but did not discover his error until after the 30-day period within which Ofcom requires complaints to be made. When he tried to amend his complaint, Ofcom informed him that it was too late, as broadcasters are only required to retain a recording of a broadcast for a period of 60 days following transmission.
59. Mr Junejo said that NVTV broadcasts each ARY News Bulletin simultaneously with its broadcast in Pakistan. His mother-in-law, Mrs Qureshi, had told him that NVTV had broadcast an ARY News Bulletin in which his name was first mentioned on 18 September 2018 at just after 2:00 am. He relayed this information to a cousin of his in Pakistan, who was able to obtain a copy of the ARY News Bulletin broadcast at that time in Pakistan. It is common ground that the recording Mr Junejo obtained from his cousin shows the Relevant Bulletin.
60. On 21 September 2019 Mr Junejo obtained from a cousin of his wife in the UK a recording of the ARY News Bulletin broadcast on NVTV on 18 September 2018 at 04:20 BST, which referred to him in the tickers appearing at the bottom of the screen but did not mention him otherwise or show his image during the broadcast. This recording has both the ARY News logo in the lower right-hand corner and the NVTV log in the upper right-hand corner. It is common ground that it is a recording of what was broadcast on NVTV on 18 September 2018 at 04:20 BST.
61. Mr Junejo accepted that on 17 September 2018 NVTV did not mention his name either during its broadcasts or in any of the tickers.
62. During cross-examination by Mr Barnes, Mr Junejo said that he was treated well and respectfully by the NCA, who never disclosed his name or that of his wife to the media. He denied that there was any truth in the various allegations that have been made about him over the years in relation to the TDAP scandal. It was a political witch hunt, as he had said in his witness statement.
63. Mr Junejo denied that he was aware that his alleged involvement in the TDAP scandal was known to his family in the UK prior to 17 September 2018. It was not something that he would have discussed, for example, with his mother-in-law, Mrs Qureshi, or his cousin, Mr Durrani.

64. Mr Junejo admitted that some time on the evening of 17 September 2018, he was named publicly on various Pakistani news channels. Mr Junejo said that news of his and his wife's arrest by the NCA on 17 September 2018 was the biggest Pakistani news item on 17-18 September 2018 and that the media went "crazy" about it. It appeared on all of the Pakistani news channels.
65. Mr Barnes took Mr Junejo to various materials relating to Pakistani news sources available in the UK that had mentioned Mr Junejo on 17 September 2018 in connection with the story of the arrest of a Pakistani national and his wife by the NCA, including those to which Mr Durrani had been taken during cross-examination.
66. Mr Barnes showed Mr Junejo the recording of the Relevant Bulletin. Mr Junejo agreed that it did not show the NVTV logo or indicate any Sky channel number. He also agreed that the time stamp in the lower right-hand corner of the recording indicated 8:17 PST, which was 04:17 BST (03:17 GMT). Mr Junejo maintained, however, that the same ARY News Bulletin was broadcast by NVTV at 02:12 GMT.
67. Mr Barnes asked Mr Junejo why he had waited until August 2019 before he sent a pre-action protocol letter to NVTV specifying the broadcast on NVTV on 18 September 2018 at 02:12 GMT as the defamatory publication. Mr Junejo explained that the delay was due to the time it took to obtain a copy of a recording of the Relevant Bulletin.
68. Mr Barnes put it to Mr Junejo that his case was based on the false assumption that NVTV *always* broadcast in the UK the same footage as it was showing at the same time in Pakistan. Mr Junejo replied that the assumption was not false. Mr Junejo also relied on the tickers displayed on the broadcast at 04:20 GMT as evidence supporting his assertion that the Relevant Bulletin was shown on NVTV at 02:12 GMT.
69. I do not doubt Mr Junejo's sincerity or strength of feeling. However, his evidence, while important to establishing the background of his claim, was of little assistance to me in resolving the preliminary issue.
70. For NVTV, Mr Alam was the principal witness. His evidence-in-chief was given in his witness statement dated 26 February 2021. NVTV acquired the exclusive UK and EU rights to broadcast content produced by ARY News in 2017. Mr Alam commenced employment with NVTV in or around June 2017 and was appointed a Director of the company in November 2018. On 17-18 September 2018, he was Vice President of Operations. He has over 15 years' experience working in the television industry in the UK.
71. Mr Alam's role includes responsibility for exercising editorial control over what is broadcast on the New Vision channel. In particular, he is responsible for ensuring that content broadcast on New Vision complies with the terms of NVTV's broadcasting licence as well as any editorial guidance issued by Ofcom. He is therefore regularly consulted regarding the selection and organisation of programmes to be shown on New Vision.
72. Mr Alam was responsible for ensuring that what was broadcast on 18 September 2018 at 02:12 GMT was in compliance with relevant UK law, regulation, and editorial guidance. He has not been able to locate or retrieve a copy of a recording of what was

broadcast on New Vision at that time. It is company policy and industry practice not to retain recordings of television programmes for more than 60 days, absent a special reason, and it appears that the recording has been deleted. It would be impractical to retain most recordings beyond 60 days, given the substantial volumes of data involved. NVTV's recordings are stored by IQ Broadcast, which provides various broadcasting services, including data storage. NVTV does not store content itself. Having made inquiry, Mr Alam was informed by IQ Broadcast that it had deleted the recording that was broadcast on New Vision on 18 September 2018 at 02:12 GMT.

73. Mr Alam said that the broadcast on New Vision on 18 September 2018 at 02:12 GMT was not the Relevant Bulletin, nor did it identify Mr Junejo or his wife due to a deliberate policy decision that he had made. Mr Alam was first informed at about 16:30 on 17 September 2018 by a UK-based news correspondent of ARY News, Mr Farid Qureshi, that there was a breaking news story involving a couple from Pakistan who had been arrested in the UK by the NCA for alleged money laundering. Mr Alam said that Mr Qureshi was required, as part of his UK-based role, to liaise with NVTV in relation to editorial control matters.
74. Mr Alam said that Mr Qureshi informed him that the names of those who had been arrested had not been released by the NCA. He also told him that ARY News would be broadcasting a news bulletin about the story at 17:00.
75. Mr Alam said that he had the power to ensure that, where necessary or appropriate, names and other information about individuals could be excluded from any programme to be beamed to the UK by ARY News on its global feed. He had this power because he was responsible for compliance, among other things, with the libel laws in this jurisdiction, which he said were stricter than those in Pakistan. He would exercise this power by giving appropriate instructions either by email or, where that is not practical and/or possible given the timescales involved, by telephone.
76. Mr Alam told Mr Qureshi that NVTV would not broadcast the names of the individuals arrested by the NCA until he was satisfied that it was proper to do so. Mr Alam also telephoned the Head of Transmissions, Mr Abharani, in Pakistan and asked him to exclude the relevant individuals' names and any related images from any content that would be broadcast in the UK. In any such case where content was to be excluded from the UK feed, the gap would be filled by showing advertisements or other promotional content or otherwise by making adjustments to the programming.
77. Mr Alam said that Mr Abharani confirmed to him that he would ensure that the names of the individuals arrested by the NCA would be removed from the UK feed until he received further notice from Mr Alam that it was safe to broadcast those names in the UK.
78. Mr Alam said that when rumours began to circulate about 19:00 or 20:00 on 17 September 2018 that the individuals arrested by the NCA were Mr Junejo and his wife, he rang Mr Abharani again and told him not to include their names in the feed beamed to the UK, as the names had not been confirmed by the NCA. When Mr Alam saw an updated news bulletin at approximately 20:00 on 17 September 2018 that named Mr Junejo, he was again in touch with Mr Abharani to instruct him to cut the feed beamed to the UK and replace it with commercial or other filler material each time Mr Junejo was mentioned.

79. Mr Alam said that, although he was not able to locate a recording of the broadcast on 18 September 2018 at 02:12 GMT, he was able to obtain recordings of the broadcasts at 16:30, 17:00, and 17:30 on 17 September 2018 and at 16:30 on 18 September 2018 from IQ Broadcast, as these were requested by Ofcom on 3 October 2018 following Mr Junejo's complaint to Ofcom. Ofcom did not request or require a copy of the bulletin broadcast at 02:12 GMT. Similarly, NVTV requested and retained recordings of the bulletins broadcast at 20:00, 20:30, 21:30, 23:00, and 23:30 on 17 September 2018 from IQ Broadcast as part of its normal review practices for UK local packages and commercials broadcast on the channel. None of these broadcasts mentioned Mr Junejo's name.
80. Mr Alam said that, by the time Mr Junejo sent his pre-action protocol letter on 8 August 2019 referring to the broadcast on 18 September 2018 at 02:12 GMT, the recording of that broadcast had been deleted in accordance with NVTV's normal 60-day retention policy. It had never previously been suggested by Mr Junejo that he had a complaint about that broadcast.
81. Mr Alam confirmed that his instructions were recorded in the ARY News logs and implemented by the engineers responsible for transmissions on 17 and 18 September 2018. By 16:30 on 18 September 2018, there were no further mentions of the story on ARY News owing largely to that story having been overtaken by coverage of the India versus Pakistan cricket match the following day.
82. During cross-examination by Mr Lemer, Mr Alam confirmed that NVTV had only four employees including himself. He was the most senior employee, despite his title being only Vice President at the time. There was no President. ARY News, he agreed, had hundreds of employees in Pakistan, but he was not able to say how many with any greater precision than that. Mr Alam accepted that the technical side of transmission, including supplying content to the UK feed and implementing Mr Alam's instruction to alter the content for the UK feed to avoid mention of Mr Junejo's name, all took place at ARY News in Pakistan.
83. Mr Alam accepted that New Vision was the top-rated Pakistani news channel in the UK according to the UK's Broadcasters Audience Research Board (BARB). He also agreed that pursuant to clause 9 of the Master Content Provider Agreement dated 9 February 2017 between ARY Digital FZ LLC ("ARY Digital") and NVTV, ARY Digital agreed to indemnify NVTV in respect of any legal actions brought by a third party against NVTV in relation to broadcast content produced by ARY Digital, including any legal fees or judgment debts resulting from any such legal actions.
84. Mr Lemer asked Mr Alam about a document in the bundle headed "Broadcast Intervention Procedure". Mr Alam confirmed that he had drafted the document around the time New Vision was launched and that it set out the policy under which the "UK Editorial Team" had responsibility for monitoring the content of live news and talk shows to ensure that each news item was "fit for purpose" in the UK. He was the UK Editorial Team for the purposes of the policy.
85. Mr Lemer put it to Mr Alam that he had not seen what was broadcast on New Vision on 18 September 2018 at 02:12 GMT. Mr Alam initially said that he had been "monitoring" the broadcast, but, when it was pointed out that he had not said that in his witness statement, Mr Alam said that he was confident that his instruction not to

name Mr Junejo in any material beamed to the UK had been followed. Later in his evidence, he said that he was awake at the time of the broadcast on 18 September 2018 at 02:12 GMT and had watched it.

86. Mr Alam agreed with the suggestion put to him by Mr Lemer that he was relying on records provided to him by ARY News to confirm this, including a copy of the New Vision channel log, which was a chronological record of broadcast items, annotated with an “Action/Amendments” column indicating relevant instructions. In relation to the broadcast of “Headline News” at 17:00 BST on 17 September 2018, the following information was recorded under “Action/Amendments”:

“Called TX, NCA report broke, advised no names to go on air as no official statement available. Decided to go ahead with the news of Arrest only – Local reporter on beeper, instructed not to mention names on-air”

87. Mr Alam confirmed that the New Vision channel log was prepared by the Transmissions team at ARY News. It was not normally something that he would have seen, but he had seen it in connection with this litigation.
88. Mr Alam said that he contacted Mr Abharani by telephone, rather than by email, in order to give his instruction that the name of the arrested Pakistani individuals should not be mentioned on air. He normally dealt with Mr Abharani on matters such as this, as Mr Abharani was the Head of Transmissions. He normally telephoned him rather than sending an email. He had spoken to Mr Abharani previously on that day. Where, pursuant to his instructions, it was necessary for ARY News to interpolate new material into the UK feed in place of material that was being broadcast in Pakistan, that would be done by engineers acting under Mr Abharani’s supervision.
89. Mr Lemer put it to Mr Alam that after he had gone to bed on 17 November 2018 and as the news evolved during the night, ARY News would have made a judgment call to broadcast the name of Mr Junejo. Mr Alam denied that this would have happened. He said that nothing would be broadcast in the UK via the UK feed from ARY News in breach of his original instructions without his agreement.
90. Mr Alam confirmed that he knew about the technical issue that had led to the tickers from the Pakistan feed being shown in the UK at 04:20 BST. He was told by Mr Abharani on 18 September 2018 that a technical error had occurred and been corrected. When pressed on whether he actually remembered this two and a half years later, he said that he would have been routinely told about such a matter by Mr Abharani and therefore he assumed that he had been.
91. Mr Abharani’s evidence-in-chief was set out in his witness statement dated 26 February 2021 and his second witness statement dated 22 March 2021. As Head of Transmissions at ARY News, his job is to control the global feed, ensuring that all schedules are ready for play-out and that programmes are broadcast consistently with company policy. His role required him to be “in near constant contact” with NVTV and, in particular, Mr Alam, who is responsible for editorial control over content broadcast on NVTV. It would sometimes be necessary for him to make changes to the UK feed relative to the main global feed in order to ensure compliance with UK law or other editorial guidelines.

92. Mr Abharani said that on 17 September 2018 he was telephoned by Mr Alam, who told him about a story concerning two Pakistani individuals who had been arrested in the UK by the NCA. Mr Alam instructed him that nothing should be broadcast that would reveal the identity of the individuals.
93. Mr Abharani said that this was not an unusual request where a story concerned an arrest and the identity of the person arrested had not yet been officially confirmed. In such circumstances, Mr Abharani would produce a “clean” news story by cutting out any reference to the individual and replacing the footage with filler material such as commercials. That is what was done in this case.
94. Mr Abharani said that the story first went out at 17:00 GMT on New Vision. About two to three hours later, the story developed, and rumours began circulating that the individuals concerned were Mr Junejo and his wife. The content for the global feed was updated to include this information, but Mr Alam confirmed to him that the instructions for the UK feed remained in place until further notice. Mr Abharani then instructed Mr Siddiqui, the engineer responsible for the tickers on the UK feed, to ensure that no tickers were broadcast on the UK feed naming Mr Junejo or his wife.
95. Mr Abharani was confident that there was no broadcast of Mr Junejo’s identity on the UK feed from 17 September 2018 until 08:00 on 18 September 2018. He was aware that at 04:00 there was a technical issue as a result of which the “clean” ticker that was supposed to be broadcast on the UK feed was replaced by the ticker displayed on the global feed. The matter was reported to the IT department at ARY News and resolved by about 04:45.
96. In his second witness statement, Mr Abharani said that on 16 March 2021 he had mentioned to Mr Shahid Saleem Rathod, ARY News’s Head of IT and Technical Department, that he would be giving evidence in this litigation at the hearing on 24-25 March 2021. Mr Rathod told him that he had been unaware of these proceedings. Mr Rathod subsequently provided him with the “as run” logs from the ARY News servers. Mr Rathod explained that these logs were generated by the servers and identified what was actually shown on the air at any particular time. They were used to reconcile what was actually shown with advance schedules provided by the Sales or Programming departments. Where last minute changes were necessary, for example, for a breaking news story, material that was postponed could then be rescheduled. Mr Abharani exhibited the logs to his second witness statement and said that they demonstrated that on 18 September 2018 at 02:12 GMT New Vision was “on a commercial/promo break” and therefore did not broadcast then the words complained of by Mr Junejo.
97. In cross-examination by Mr Lemer, Mr Abharani denied that the “as run” logs could be tampered with. Given that the “as run” logs were recorded continuously, any manual alteration of the timing in the logs would impact all subsequent timing.
98. Mr Abharani said that he did not make changes to the UK feed himself. That would be done by his team under his supervision. When it was necessary to make such a change, typically either commercial content or the recording of a prior broadcast would be inserted in place of the material to be deleted.

99. Mr Abharani said that he had a large team, including 58 Transmissions operators. There were three feeds, each with its own server, including (i) the Asia and Middle East feed, which included Pakistan, India, and Bangladesh, (ii) the USA and Canada feed, and (iii) the UK and EU feed. There was a separate team for each feed, and the teams operated in shifts to provide 24-hour coverage.
100. When Mr Abharani received instructions from one of the persons responsible for editorial control of a feed, for example, Mr Alam in relation to the UK feed, Mr Abharani would initially make a handwritten note of the instructions, which would in due course be added to the electronic record for the relevant feed.
101. Mr Abharani confirmed that he had compiled the document that Mr Alam had referred to as the “channel log” by reference to relevant records at ARY News. He was confident that it was accurate.
102. Mr Abharani disagreed with the suggestion put to him by Mr Lemer that, while Mr Alam was sleeping and as the news story about the NCA arrests developed, ARY News would have exercised its editorial judgment and taken the decision to name Mr Junejo on the UK feed.
103. As far as the technical fault with the tickers was concerned, Mr Abharani said that such faults happened sometimes, but it was not a frequent occurrence.
104. Mr Siddiqui’s evidence-in-chief was set out in his witness statement dated 26 February 2021. He was employed by ARY News in the Transmissions Department as a Ticker Desk Controller. He was responsible for the tickers for the UK feed on 17-18 September 2018. His shift started at 20:00 on 17 September 2018 and ended at 08:00 on 18 September 2018. At the start of his shift, he was told about the story of the arrest in the UK by the NCA of two Pakistani individuals, and he was instructed not to include on any tickers for the UK feed any information that included the name of any person related to the story.
105. In such circumstances, Mr Siddiqui said, ARY News would use generic tickers containing only headline news, which is what happened in this case. He set out the texts of the generic tickers used on 17-18 September 2018 in his witness statement. He had reminded himself of the relevant texts by looking at a recording of the relevant footage shortly before preparing his witness statement.
106. Mr Siddiqui said that he was monitoring the tickers on the UK feed and noticed around 08:00 PST (04:00 BST) on 18 September 2018 that the servers supplying the tickers to the main global feed had frozen and had also stopped supplying the generic tickers to the UK feed. The ticker for the UK feed then defaulted to the tickers for the global feed in accordance with their normal system protocol. He reported the matter to the IT team, and the problem took about 45 minutes to rectify. An incident report regarding this issue was prepared. Apart from that 45 minute period, the generic tickers were properly supplied to the UK feed throughout his shift.

Submissions

107. Mr Lemer urged me to accept Mr Durrani’s evidence, which he said was credible and consistent. He acknowledged that Mr Durrani was a member of Mr Junejo’s family

and therefore arguably pre-disposed to provide evidence to support Mr Junejo's claim. He submitted, however, that his status as a close relative of Mr Junejo meant that he was likely to have a particularly accurate memory of matters relating to the impugned broadcast.

108. Mr Lemer submitted that there was no necessity for Mr Junejo to pursue a confected claim against NVTV if, as NVTV contended, the Relevant Bulletin was not broadcast in the UK. Other Pakistani news channels in the UK had broadcast defamatory statements identifying Mr Junejo and actions against those other publishers had been pursued.
109. On the other hand, Mr Lemer submitted, there was good reason to doubt the evidence of NVTV's witnesses, for the following reasons:
 - i) As Mr Alam had accepted when giving evidence, NVTV was indemnified by ARY News under clause 9 of the Master Content Provider Agreement. Witnesses employed by ARY News had an interest in providing evidence tailored to support NVTV's case.
 - ii) It was remarkably convenient that NVTV had been able to provide broadcasts of its news programmes on 17 September from 17:00 to 23:30, and thereafter from 16:00 on 18 September 2018, but no footage covering the period 02:00 to 16:00 on 18 September 2018, after which point it appears that ARY News stopped covering the NCA arrest story in favour of other news.
 - iii) The tickers on the broadcast at 04:20 naming Mr Junejo strongly support the contention that Mr Junejo was being named in the coverage earlier that evening, namely, at 02:12 GMT. In his third witness statement at paragraph 41, Mr Junejo set out a comparison of the tickers on the Relevant Bulletin with the tickers on the broadcast at 04:20. This comparison strongly supported Mr Junejo's contention that the Relevant Bulletin was broadcast at 02:12 GMT. The only evidence supporting NVTV's contention that the relevant tickers were only published due to a technical error came from Mr Abharani and Mr Siddiqui, whom there was reason to disbelieve on this point. Had footage of the broadcast at 04:20 come into Mr Junejo's possession sooner, the offending tickers would clearly have formed part of his claim.
 - iv) None of NVTV's witnesses were able to provide a reliable account of matters that occurred on 17-18 September 2018 from their personal memory. Each was relying on:
 - a) records at ARY News, the originals of which were not before the court;
 - b) his recollection of how matters were generally handled; and
 - c) his assumption that matters must have been handled in the same way on 17-18 September 2018.
110. Mr Lemer submitted that Mr Alam's evidence was not consistent but varied as he gave it. For example, in relation to whether he had actually seen what was broadcast on New Vision on 18 September 2018 at 02:12 GMT, Mr Alam initially said during

cross-examination that he had been watching New Vision at that time, then he admitted that he had not been watching but said that he had good reason to assume that his instructions had been followed, and then later still said that he had been watching New Vision at 02:12 GMT.

111. Mr Lemer submitted that there were inconsistencies between Mr Alam's evidence and that of Mr Abharani. He further submitted that Mr Siddiqui had given implausible evidence when he said that he personally recalled the alleged technical issue on 18 September 2018 as a result of which the generic tickers were said to have been replaced by tickers from the global feed naming Mr Junejo in relation to the NCA arrest story.
112. Mr Lemer accepted that the recording of the Relevant Bulletin that was in evidence showed a time of 08:17 PST, which would be 04:17 BST (03:17 GMT), but that did not mean that it had not been shown at 02:12 GMT as per Mr Durrani's evidence.
113. Mr Lemer submitted that it was significant that the channel log referred to by Mr Alam, which had been compiled by or on behalf of Mr Abharani and provided to Mr Alam for this litigation, was based on records at ARY News that were not available to the court. The court was entitled to be sceptical about that.
114. As for the "as run" logs disclosed by NVTV shortly before the hearing, which Mr Abharani had obtained from Mr Rathod, the court did not have the benefit of evidence directly from Mr Rathod. Mr Lemer suggested that I should give the "as run" logs, and Mr Abharani's evidence regarding them, relatively little weight in the absence of evidence from Mr Rathod.
115. Mr Lemer also urged the court to reject the explanation given by Mr Abharani and Mr Siddiqui of there having been a 45-minute technical error to explain the offending tickers on the 04:20 broadcast. It was far more likely that the tickers were part of on-going coverage by NVTV on the New Vision channel of Mr Junejo's involvement in the NCA arrest story.
116. Finally, Mr Lemer submitted that, considering the reliability of the direct evidence of Mr Durrani and having regard to the multiple weaknesses in NVTV's evidence, the court could comfortably conclude on a balance of probabilities that the Relevant Bulletin was published by NVTV on 18 September 2018 at 02:12 GMT. The court should therefore decide the preliminary issue in favour of Mr Junejo.
117. Mr Barnes began his submissions by reminding the court of the scope of the claim. Mr Junejo's complaint was only about the words spoken during the Relevant Bulletin, which Mr Junejo alleged was shown on New Vision on 18 September 2018 at 02:12 GMT. He did not plead reliance on any pictures or footage shown to accompany those words or on the broadcast of any words in the tickers accompanying the footage shown during the Relevant Bulletin.
118. Mr Barnes noted that Mr Junejo did not see the impugned broadcast and that one of his intended witnesses, Mrs Qureshi, who was alleged to have seen the offending broadcast, did not attend to give evidence.

119. Mr Barnes submitted that all of the available footage of broadcasts by NVTV on 17 and 18 September 2018, both before and after the critical time of 02:12 GMT on 18 September 2018, corroborates the evidence of Mr Alam that he instructed ARY News, through Mr Abharani, not to broadcast any material that identified Mr Junejo or his wife. Mr Alam's evidence as to the instructions he gave to ARY News is corroborated by the evidence of Mr Abharani and Mr Siddiqui and by the channel logs prepared by Mr Abharani. No sustainable challenge to the authenticity of those logs was mounted by Mr Junejo. No proper case was put by Mr Lemer to any of NVTV's witnesses that the logs were doctored. The "as run" logs provided further confirmation that Mr Alam's instructions were implemented and complied with.
120. Mr Barnes noted that the recording of the Relevant Bulletin, which was obtained by Mr Junejo from a cousin in Pakistan, indicated clearly that it was shown at 08:17 PST on 18 September 2018, which was 04:17 BST (03:17 GMT). It also does not display the NVTV logo, in contrast to the undisputed recordings of NVTV broadcasts, such as the one at 17:26 on 17 September 2018 and the one at 04:20 on 18 September 2018. Mr Durrani viewed that recording via a Dropbox link supplied to him by Mr Junejo's solicitors and then gave evidence, 29 months after the fact, that he "vividly" remembered seeing the Relevant Bulletin on New Vision at 02:12 GMT on 18 September 2018 and that it was "definitely" the first broadcast he saw that named Mr Junejo.
121. Mr Barnes submitted that the evidence showed that, in contrast to NVTV, a number of other Pakistani news channels in the UK began identifying Mr Junejo in connection with the NCA arrest story on 17 September 2018 by about 20:00. ARY News also began identifying Mr Junejo in connection with the NCA arrest story in news broadcast in Pakistan about that time. Mr Barnes submitted that Mr Durrani's "vivid" recollection of having seen the Relevant Bulletin on 18 September 2018 at 02:12 GMT was most plausibly explained as an effect of preparing to give his witness statement in these proceedings, an example of litigation bias as discussed in the authorities considered by Warby J in *R (Dutta) v GMC* at [39]-[40].

Findings of fact

122. In my judgment, on the balance of probabilities, the words complained of by Mr Junejo in paragraph 3 of the RRAPoC were not published by NVTV on 18 September 2018 at 02:12 GMT.
123. Mr Alam's evidence on his instructions to ARY News and the reasons for those instructions was clear and consistent. The instructions were given pursuant to a written policy that was not successfully challenged by Mr Junejo. The principal reason that he gave for giving those instructions was sensible, namely, that the identity of those arrested by the NCA had not been officially confirmed. Although Mr Alam's evidence and Mr Abharani's evidence might have been inconsistent on some minor points, as is only to be expected, there were no material inconsistencies on any relevant point. Mr Siddiqui's evidence was also consistent and supported the accounts given by Mr Alam and Mr Abharani.
124. I have no reason to doubt the accuracy of the channel logs produced by Mr Abharani, which is further supported by the "as run" logs. Even without the evidence of the "as run" logs, however, I would have found, on the basis of the other evidence adduced

- by NVTV, that, on the balance of probabilities, the words complained of by Mr Junejo were not published in this jurisdiction.
125. Mr Siddiqui's evidence was clear and consistent as to the occurrence of a technical error at 04:00 that caused the generic tickers being broadcast on the UK feed to be replaced for a period of about 45 minutes with tickers from the main global feed.
 126. Despite Mr Lemer's robust cross-examination, I accept the evidence given by Mr Alam, Mr Abrahani, and Mr Siddiqui as to the material elements of NVTV's case. Each was cross-examined as to whether he was relying on personal recollection or contemporary records or assumptions based on normal practice. In all likelihood, it was a combination of the three, with personal recollection probably the weakest element after a period of 29 months between 18 September 2018 and the preparation of their witness statements in February 2021. Mr Alam did give inconsistent evidence as to whether he had actually seen the broadcast at 02:12 GMT. It is likely that he did not.
 127. It is relevant that all of the NVTV recordings available for the relevant period on 17 and 18 September 2018 are consistent with NVTV's case, with the exception of the tickers being shown at 04:20, for which a plausible explanation has been provided. Furthermore, even in relation to the broadcast at 04:20, it is relevant that, apart from the tickers during that broadcast, there is no mention of Mr Junejo or any display of any image identifying him.
 128. I do not doubt Mr Durrani's sincerity, but I do consider that he has most likely fallen prey to the unconscious influence of the pressure of litigation on his recollection, as discussed in *R (Dutta) v GMC* at [39]-[40]. The recording of the Relevant Bulletin that he viewed was broadcast in Pakistan. It was broadcast at 08.17 PST, which was 03:17 GMT (04:17 BST). It does not display the NVTV logo. It provides no internal support for Mr Durrani's recollection that he saw it at 02:12 GMT.
 129. It is more likely than not that Mr Durrani became aware some time on the evening of 17 September 2018 of the fact that Mr Junejo and his wife were being named as having been arrested by the NCA on various Pakistani news sources available in the UK. It is likely that he became aware of this either directly from having watched the news on one or more other channels, such as Geo News, or indirectly via telephone or email contact with other concerned family or friends of Mr Junejo. This finding is, in my view, supported by paragraph 9 from Mr Durrani's witness statement, which I have set out at [45] above.
 130. It is implausible that "just after 2am ... the news went crazy naming Farhan", as Mr Durrani said in his witness statement, given that Mr Junejo's name was already connected with the story on multiple Pakistani news sources available in the UK for several hours before that time. There is no other evidence that provides any material support for Mr Durrani's recollection that the first mention of Mr Junejo was on the New Vision channel on 18 September 2018 at 02:12 GMT.
 131. For all the foregoing reasons, I have decided the preliminary issue in favour of NVTV.

132. Mrs Qureshi, as I have already noted, was not available to give evidence in support of Mr Junejo's claim. I had, however, already read her witness statement before I became aware that she would not be attending to give evidence. It may be worth noting here that it is unlikely, had I had the benefit of her evidence, that I would have reached a different conclusion on the preliminary issue. Mrs Qureshi's evidence is likely to have suffered from the same effect of litigation bias as her nephew's. It is likely that she too, and for the same reasons, would have become aware on the evening of 17 September 2018 of Mr Junejo's having been identified in connection with the NCA arrest story. It is relevant, also, that at that time Mrs Qureshi and Mr Durrani were living in the same household. Their evidence was not independent of each other. It is also relevant that they are both close relatives of Mr Junejo. Theirs is the only direct evidence supporting Mr Junejo's allegation that the words complained of were published by NVTV.
133. My final observation concerns time references in the evidence. On 17 and 18 September 2018, British Summer Time (BST) applied in England and Wales. PST at that time was 4 hours ahead of BST, and 5 hours ahead (as always) of Greenwich Mean Time (GMT). Mr Junejo's claim concerns the alleged publication of defamatory words by NVTV on 18 September 2018 at 02:12 GMT, which was 03:12 BST.
134. Mr Durrani's witness statement gives all time references as simply "am" or "pm". It would be natural to assume that he was referring to BST, which applied at that time, rather than GMT, although to be fair this question was not put to him. If, however, that is right, then the reference to "2am" as the time "when the news went crazy naming Farhan" would be inconsistent with Mr Junejo's case, as it would have occurred at 01:00 GMT.
135. In considering the timings in the evidence of the various witnesses, I have had regard to the whole of the evidence and made common-sense assumptions about the timing that was intended, where necessary construing any doubt in favour of Mr Junejo for purposes of this trial of preliminary issue. I note that all of the video recordings of ARY News Bulletins broadcast on NVTV, for which Dropbox links were provided as part of the evidence, showed the current time in the lower right-hand corner just under the ARY News logo, alternating between the time in BST and the time in PST. None of them referred to GMT.

Conclusion

136. On the preliminary issue ordered to be determined by Nicklin J by his order dated 17 November 2020, I find that the words complained of in paragraph 3 of the RRAPoC were not published by NVTV on 18 September 2018 at 02:12 GMT.