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

Royal Courts of Justice
Strand
London, WC2A 2LL

Friday, 5 February 2021

Before:

THE HONOURABLE MR JUSTICE NICKLIN
(by remote hearing)

B E T W E E N :

No. QB-2020-000336

MIAN MUHAMMAD SHABAZ SHARIF

Claimant

- and -

ASSOCIATED NEWSPAPERS LIMITED

Defendant

B E T W E E N :

No. QB-2020-002442

IMRAN ALI YOUSAF

Claimant

- and -

ASSOCIATED NEWSPAPERS LIMITED

Defendant

ADRIENNE PAGE QC and RICHARD MUNDEN (instructed by Carter-Ruck) appeared on behalf of the Claimant Mian Muhammad Shabaz Sharif.

VICTORIA SIMON-SHORE (instructed by MR Solicitors LLP) appeared on behalf of the Claimant Imran Ali Yousaf.

ANDREW CALDECOTT QC and DAVID GLEN (instructed by Wiggin LLP) appeared on behalf of the Defendant.

J U D G M E N T
(APPROVED)

MR JUSTICE NICKLIN:

1. Before the Court today are two separate libel actions. They have been brought by respective Claimants Mian Muhammad Shabaz Sharif and Imran Ali Yousaf in separate proceedings over the same Article published by the Defendant in the print and online versions of the *Mail on Sunday* on 14 July 2019 under the headline “*Did the family of UK’S foreign aid poster boy steal taxpayers’ cash meant for earthquake victims?*” (“the Article”). The online and print versions of the Article are substantially in the same terms and were illustrated by various photographs and captions. The text of the Article, as it appeared in print and online, is set out in the Appendix to this judgment, with paragraph numbers added.
2. Both the print and online versions included a particular graphic under the heading “*How the dirty money was laundered*” (“the Graphic”). It showed a map which included the UK and Pakistan and showed arrows to represent four stages of transactions that were marked:
 - “(1) In Pakistan, cash is embezzled from state projects and taken in sacks to a man called Shahed Rafiq in Lahore.”
 - “(2) Meanwhile, in the UK, honest residents take cash to a Briton called Aftab Mehmood in Birmingham to send to the relatives in Pakistan.”
 - “(3) Mehmood sends the clean money in the names of fake investors to accounts held by the family of Pakistani official Shahbaz Sharif.”
 - “(4) In Lahore, the honest Pakistani relatives of UK residents are paid with the dirty cash held by Rafiq.”

In the online version of the Article, the Graphic had a caption in the following terms:

“A flow diagram shows how some of the UK’s taxpayers’ cash was laundered by the politician. As much as £500 million of the UK foreign aid was poured into his former province, Punjab, by Britain’s foreign aid budget.”

3. Mr Sharif is the leader of the main opposition party in Pakistan and former Chief Minister of the Punjab province. Mr Yousaf is Mr Sharif’s son-in-law being the husband Mr Sharif’s daughter Rabia.
4. Mr Sharif issued his Claim Form on 29 January 2020. In his Particulars of Claim, he contended, so far as he is concerned, that the natural and ordinary meaning of the Article was:

“The Claimant is guilty, or that there are very strong grounds to suspect that the Claimant is guilty, of the embezzlement of hundreds of millions of pounds of public money while Chief Minister of the Punjab, all or most of the stolen money being British public money in the form of DFID aid to the province and using Britain to launder the stolen money, thereby cruelly depriving vulnerable victims of poverty and natural disasters, including in particular the victims of the devastating 2005

earthquake in Pakistan, of the vital aid and healthcare that the DFID money was intended to provide.”

5. There has been some correspondence between Mr Sharif’s solicitors and the Defendant’s solicitors in which an alternative formulation of the natural and ordinary meaning was advanced on Mr Sharif’s behalf as follows:

- “(a) The Claimant is guilty of being a party to and the principal beneficiary of the laundering of huge sums of stolen money in Britain; and
- (b) There are very strong grounds to suspect that the Claimant is guilty of obtaining the stolen money by his embezzlement of tens of millions of pounds of public money while Chief Minister of the Punjab, all or most of the stolen money being British public money in the form of DFID to the province, including aid intended for victims of the 2005 earthquake in Pakistan.”

Ms Page QC today submitted that this reformulated meaning was offered by the Claimant as an effort to agree the meaning with the Defendant. She made clear, however, that Mr Sharif stood by the meaning that was originally pleaded in his Particulars of Claim which, of course, includes both guilt and strong grounds to suspect meanings that are pleaded and set out in the Particulars of Claim.

6. Mr Yousaf issued his Claim Form on 13 July 2020. In his Particulars of Claim, he contends, so far as he is concerned, the natural and ordinary meaning of the Article is:

- “(1) That the Claimant was guilty of the most serious criminal misconduct in that he was secretly involved in knowingly receiving proceeds of theft or misappropriation of funds intended for charitable purposes;
- (2) That the individual admitting guilt was the ‘right-hand man’ of the Claimant and therefore undertook criminality under the direction and/or encouragement of the Claimant.”

7. The Defendant has not yet filed a Defence in either claim. Instead, the Court has directed that the following preliminary issues should be determined in relation to both claims:

- a. the natural and ordinary meaning of the Article in respect of each Claimant; and
- b. whether that meaning of the defamatory of the Claimant at common law.

8. In accordance with the now well-established practice for determination of meaning prior to service of a Defence, the Defendant has set out the natural and ordinary meaning that it contends is borne by the Article in relation to each Claimant. The Defendant contends:

- a. as regards Mr Sharif, the natural and ordinary meaning of the Article is:

“There are strong grounds to suspect that the Claimant was party with close members of his family to the embezzlement and

laundering of tens of millions of pounds of Pakistan's public funds including by kickbacks and commission and including funds related to public development and welfare projects.”

b. as regards Mr Yousaf, the natural and ordinary meaning of the Article is:

- “(1) The Claimant was a beneficiary along with his wife and other close members of Shabaz Sharif's wider family of millions of pounds of laundered payments which has been embezzled from Pakistan's public funds, including by kickbacks and commission, and including funds related to public development and welfare projects;
- (2) There are strong grounds to suspect that the Claimant knew that the monies received by him, as set out in (1), had been embezzled or stolen at the time of receipt; and
- (3) In one particular incident, the Claimant received almost £1 million of a sum of £1.5 million which his 'right-hand man' Ikram Naveed had embezzled from Pakistan's earthquake relief and reconstruction authority, and there are strong grounds for suspecting that the Claimant knew this at the time of receipt.”

9. The Defendant does not contend that the meanings it has advanced are not defamatory at common law. So, the second preliminary issue that the Court had directed should be determined is, in fact, not contentious between the parties and does not require resolution.

NATURAL AND ORDINARY MEANING: THE LAW

10. The law I apply in relation to resolution of the first preliminary issue is well settled and is set out in *Koutsogiannis -v- Random House Group* [2020] 4 WLR 25 [11]-[12].

11. In *Sheikh -v- Associated Newspapers Ltd* [2019] EWHC 2947 (QB), Warby J noted the following:

[24] The overriding rule when dealing with both meaning and the question whether a statement is factual or opinion is encapsulated in principle (iii) above. It is always a question of how the reasonable reader would respond to the words.

[25] One important principle that follows from that overriding rule is the need to avoid unduly elaborate analysis. This is a constant theme of the jurisprudence. It applies to the arguments of Counsel, to the reasoning process undertaken by the Judge, and to the reasons to be given by the judge when explaining his or her conclusions on meaning.

12. There are two other principles, that arise in this case, that have particular importance to the matters that have to be decided. The first is the *Chase* levels of meaning. They are explained in *Koutsogiannis* [13]. The second is the repetition rule; *Koutsogiannis* [15], *Brown -v- Bower* [2017] 4 WLR 197 [19]-[32], and *Hewson -v- Times Newspapers Ltd & Anor* [2019] EWHC 650 (QB) [35]-[42]. Extracting, particularly from *Hewson*, the proper application of

the repetition rule to an article that repeats or includes the allegations of others can be summarised as follows:

- a. from [38], the repetition rule is not to be “*applied mechanistically*” and that it “*takes its place alongside all the other matters to which the court must have regard when determining meaning*”. For example, the interrelation between the repetition rule and the principle of bane and antidote was considered in ***Mark -v- Associated Newspapers Limited* [2002] EMLR 839** [36]-[44];
- b. from [40], there are myriad ways in which the allegations of others can be reported in a publication. It is impossible to lay down hard and fast rules. The abiding principle is that it is the effect of the publication overall that matters when it comes to deciding meaning;
- c. from [42], an article that reports both sides of a dispute may well result in a meeting that is not a *Chase* level 1. Whether it does so will depend upon the context of the publication taken as a whole. Where an article presents both sides in a way that the reader will see as roughly even-handed; or certainly not containing any steer as to which side should be believed [or accepted], the ordinary reasonable reader can only suspend judgment on whether the Claimant is guilty. Instead, and depending on context, she or he may well alight on either a *Chase* level 2 or 3 meaning; and
- d. by way of contrast, an article that presents allegations in a way that has no real balance or antidote is likely to result in a meeting at *Chase* level 1. In ***Poroshenko -v- British Broadcasting Corporation* [2019] EWHC 213 (QB)**, for example, the overall effect of a news broadcast was the presentation of a large amount of incriminating evidence against the Claimant. No evidence was presented to the viewer that she or he might have provided reason to doubt the allegations that were being made. The only available antidote included in the report was a denial advanced on the behalf of the Claimant. In context, that was found to be insufficient to negate or reduce the defamatory impact of the overwhelming message of guilt that came from the report as a whole. In [26], I said this:

“...The application of the repetition rule in this case does play a significant role in the determination that the meaning is *Chase* level 1. Viewers are presented with information provided by sources which they are given no reason to doubt beyond the various denials. Publications that result in a meaning at *Chase* level 2 or 3, tend to flag clearly to viewers/readers that there are reasons why they should be cautious before accepting allegations made by others, perhaps for motives of their own, for example. Not only are there no independent signals in either Report for the need for caution, on the contrary, the various sources’ credibility appears to the reader/viewer mutually to support the overall credibility of the allegations that are being presented...”

13. The modern and approved practice when the court comes to determine the natural and ordinary meaning of the publication in a defamation claim, which I have adopted in this case, is to read the words complained of without reference to the party’s contentions or submissions: ***Tinkler -v- Ferguson & Ors* [2019] EWCA Civ 819** [9] in the judgment of Longmore LJ. The purpose of doing so is “*to capture the Judge’s initial reaction as a reader*” and only after doing so have I gone on to consider the parties’ pleaded cases and argument.

14. No evidence is admissible when determining the natural and ordinary meaning. I am aware, in general terms, that there are proceedings involving Mr Sharif in Pakistan. I have deliberately not read anything about those proceedings as they are irrelevant to the determination I have to make.

NATURAL AND ORDINARY MEANING: THE PARTIES' SUBMISSIONS

15. Ms Page QC asked the Court to note that a comparison of the rival meanings between the parties in Mr Sharif's claim demonstrates that there is no dispute that the Article means at least that:

“...there are strong grounds to suspect that the Claimant was party to the embezzlement and laundering of tens of millions of pounds public money.”

16. The dispute, she contends, is over two principal areas:
- a. the correct *Chase* level in respect of the allegations implicating Mr Sharif in (a) laundering the stolen money and (b) theft or embezzlement as the precursor to the laundering of tens of millions of pounds of public money; and
 - b. which elements of the Article should find expression in the natural and ordinary meaning, in particular:
 - (1) whether, as Mr Sharif contends, the Article states that he was the principal beneficiary of such money laundering;
 - (2) whether, as the Defendant contends, the meaning should include statements as to who else other than the Claimant is the subject of the allegations in the Article; that is a question of whether it extends, as it does in the Defendant's meaning, to other members of Mr Sharif's family;
 - (3) whether the Article means that the Claimant was Chief Minister of the Punjab at the time of the embezzlement of public funds and how those funds should be described; and
 - (4) whether, as the Defendant contends, the meaning should state that the embezzlement and laundering included kickbacks and commission.
17. Ms Page QC highlights, particularly, the following features of the Article. The broad impression is that substantial sums of UK foreign aid sent to Pakistan and the Punjab particularly have been stolen and money laundered. The Article identifies two sources of the laundered funds: the UK grant aid from DFID and kickbacks or commissions. There are two references to kickbacks in the Article, in [8] and [42]. In the latter paragraph, the investigators are said to have identified kickbacks and 'commissions' as the source of the funds. Ms Page QC submits that it is clear from the following paragraphs that this is said to involve Mr Sharif's sons, and [45]-[46], she submits, indicate the scale of the money laundering that took place but the Birmingham laundering scheme is dealing with only part of the total picture.
18. Ms Page QC has advanced specific arguments that the part of the Defendant's meaning that expands to include “*close members of [Mr Sharif's] family*” should not be permitted. She has relied on Warby J's decision in *Spicer -v- The Commissioner of Police of the Metropolis* [2019] EWHC 1439 (QB) [15], that:

“... the Court’s function [in a preliminary issue trial as to meaning] ... is to identify what is the natural and ordinary meaning of the Article, as it relates to the Claimant.”

She argues that allowing the meaning to expand beyond Mr Sharif and unidentified members of his family would risk potentially widening the parameters of a defence of truth to permit evidence of wrongdoing by people other than Mr Sharif. The meaning, she contends, should, for the reasons explained by Warby J in *Spicer*, concentrate on the defamatory allegation made in the Article against Mr Sharif personally.

19. Ms Simon-Shore, on behalf of Mr Yousaf, contends that the meaning of the Article as concerns him is *Chase* level 1. Mr Yousaf is introduced in the Article not by name but by description in [15] and then again in [29], as part of the family of Mr Sharif. Specifically, in [48]-[51], which is, trailed in [15], the Article clearly makes a specific allegation of guilt against Mr Yousaf.

20. Ms Simon-Shore did not draft the meaning advanced in the Particulars of Claim and, at the hearing today, she has advanced a revised meaning in the following terms:

“The Claimant is guilty of obtaining huge sums of stolen money by his embezzlement of millions of pounds of public money, all or most of the stolen money being British money in the form of DFID aid, including aid intended for victims of the 2005 earthquake in Pakistan.”

21. Arguably, that revised meaning is a more general meaning than the meaning that was advanced in the Particulars of Claim. Mr Caldecott QC did not object to this, perhaps understandably, given that the Defendant’s pleaded meaning is a form, in part, of a general meaning. It also includes a specific meaning in (3).

22. In his submissions, Mr Caldecott QC contended that it is important for the Court properly to identify the level of the bane that is included in the Article. Here, he submits, it would be clear to the reader that the bane in the Article consisted largely of the conclusions of the investigators. Also, whilst he accepts that the Article clearly tells readers that there has been money laundering, he submits it is less clear who is said to be responsible for it. Also, the Article divides, he submits, into two clear strands. First, there is the evidence of the money laundering and then the attempt to trace the original wrongdoing or source of that money. Mr Caldecott QC highlighted, in particular, [16]-[17], [24]-[25], [47], [55]-[57] and [61]-[62]. These paragraphs, he submitted, highlighted that, throughout the Article, the nature of the ongoing investigation into the original wrongdoing is drawn to the attention of the reader. That is distinct from the money laundering allegation which is very much stated as a fact in the Article. The clearest example of this, he submits, is in [47] which includes the words “moving into” which tell the reader that this part of the investigation is very far from complete. [62] contains the important reference to the ongoing investigation into the sources of money that was laundered. The laundering allegations are dealt with in [29]-[30], [32]-[33], [40]-[46]. [29]-[30] contain very specific allegations about the receipt of the payments, and [40]-[44] consist of part of the narrative concerning the involvement of Aftab Mehmood. Mr Caldecott QC accepts that there are two strong statements from the investigators in [6] and in the online caption to the Graphic which refers to “*how some of the UK’s taxpayers’ cash was laundered by the politician*”.

23. There is also a material antidote contained in the Article which, Mr Caldecott QC argues, the ordinary reasonable reader would not ignore and which s/he would understand as influencing the overall message in the Article. The allegations are said to be a “*political witch hunt*”

against Mr Sharif instigated by a political opponent, Imran Khan, a point that is specifically emphasised in caption E in the online Article. The headline poses a question rather than making a clear allegation and sets the tone for the Article. There is reference to a “*possible extradition*” and the investigation, the reader would conclude, was still at an early stage and that guilt had not yet been established.

24. As to Mr Yousaf, Mr Caldecott’s principal submission in support of his contention that the Court should reject *Chase* level meaning in relation to [48]-[51] is that they do not suggest that Mr Naveed was acting on the authority of Mr Yousaf.

DECISION

25. I should state at the outset that, as part of reading the Article, at the beginning of this exercise once, as an ordinary reader would, I was not immediately struck that any particular distinction was being made in the Article between the embezzlement, or theft of the money, and then the laundering of it. The headline, for example, refers to, “...*claims that tens of millions were embezzled and laundered in Britain.*” With the benefit of the parties’ submissions, and a careful reconsideration of the Article, I can see that an argument can be raised that there is a difference of emphasis between these two phases of criminal activity and true it is, as Mr Caldecott QC points out that, in [47] particularly, it is said there are two clear phases of the investigation; establishment of the scale of the money laundering and “*where and how the laundered funds were stolen*”. Nevertheless, I did not initially detect that any significant difference was being made as to the level of guilt. Indeed, the fact that the money had been stolen from ERRA was evidenced by the guilty plea of Ikram Naveed in [48]-[51], identified as Mr Yousaf’s ‘right-hand man’. That has particular importance in relation to what the reader would understand was being said about Mr Yousaf’s involvement in criminal activity. Insofar as there were matters that required further investigation, the reader is told, in [55], “*investigators are now examining evidence that other DFID funded schemes were embezzled.*” In other words, the impression is that there is no doubt that the funds were embezzled. The investigation was really now focusing on how much and from where. The avenues of enquiry that were being pursued are then identified in [56]-[57].
26. Mr Caldecott QC argued that there is no necessary connection between those who launder money and those who carry out a criminal activity that gives rise to the need to launder the fund. I accept that, but that is not really a distinction that the reader is likely to find important. As Mr Caldecott QC accepts, the Article is clearly stating that there has been money laundering. There is a question as to precisely what was being laundered, but the victims clearly included UK public grant aid and the corrupt beneficiaries of this money laundering were identified clearly in [6] as Mr Sharif and his family, and Mr Yousaf, in [48]-[51] specifically.
27. On the authorities, my first impression is more likely to be a reliable indicator of the overall message conveyed to the ordinary reasonable reader than one that is produced only after considering skeleton arguments and performing, as I have said, a careful analytical exercise. Although [24] is a memorable paragraph from the Article, and contains the suggestion that investigators start by identifying suspicious financial transaction and then trace the money back to its origin, most readers would consider that money laundering logically follows some form of illegality. The laundering is necessary to cleanse the money of its criminal origin. To that extent, in the minds of ordinary readers, money laundering presupposes some anterior criminal activity. The real question in the Article is not whether the reader would detect that there had been criminal activity prior to the money laundering but whether they would conclude that Mr Sharif and Mr Yousaf had been involved in that criminal activity.

28. The starting point is there can be no doubt that the focus of the Article is upon Mr Sharif. He is the “*poster boy*”, the “*top Pakistani politician*”, who is identified in the very first paragraph of the Article, whose photograph is included to illustrate the Article, and who had been feted at receptions in Downing Street and the High Commission in Lahore. It is an important point that the headline is in the form of a question, but that is not, itself, determinative. Some Articles that start with questions may, in the body of the Article, very definitely steer the reader to the particular answer. Others in their presentation will genuinely leave readers wondering what the answer is. All depends on the terms in which the Article is written and the effect it has as a whole on the ordinary reasonable reader.
29. This is clearly a bane and antidote case. There are significant elements of bane in the Article, particularly [6]-[7], [10], [13], [17], [22], [26]-[29] (particularly “*The report adds that [Mr Sharif] was the principal beneficiary of this money laundering enterprise*”), [40], [42], [45], [47]-[51], and [55]. The Graphic, used to illustrate and explain the Article, is headed “*How the dirty money was laundered*”. The money laundering is presented to the reader as established fact, not something that gave grounds to suspect as Mr Caldecott QC readily accepts.
30. The antidote is limited. It appears first in [8], and then later in [59]-[60]. However, the rebuttal by Mr Sharif’s son, which receives slightly more prominence in the online Article, is very general and unfocused. The references to Guantanamo Bay and apartheid in South Africa are difficult to understand in the context of this denial. There is a clear suggestion that the allegations against Mr Sharif and his family were politically motivated by Imran Khan and were targeting a member of the opposition party, but overall, and measured against the detail of the charges that were contained in the rest of the Article, the denial is unconvincing. It would not be understood by the ordinary reasonable reader as casting any real doubt as to the conclusions of the investigation and the evidence presented in the Article. Perhaps, most importantly, the Article that immediately continues, in [61]-[66], with a firm denial of political motivation, a clear statement of the harm done to Pakistan by organised criminal activity, and a statement expressing the hope that, “*theft and money-laundering of this magnitude will never happen again.*” The effect of this is, at once, to undermine the little by way of antidote or denial that has been included immediately before that in the Article.
31. Turning the specific areas of controversy between the parties, in my judgment, it is clear that the Article was alleging that at least some of the money had been embezzled from foreign aid provided by the UK. Above the byline is a logo “*End the £14bn foreign aid madness*”. [7] includes a statement that investigators are convinced that some of the allegedly stolen money came from DFID funded aid project. The connection with the UK aid is emphasised throughout the Article in [2]-[3], [9]-[10], [15]-[16], [20]-[23], [48], [50]-[57]. It is difficult for the reader to conclude how much UK aid money has been stolen or embezzled but the overall impression is that it is a not an insubstantial sum. The second point in the online sub headlines identified that: “*£500 million of UK foreign aid has been poured into [Mr Sharif’s] province Punjab.*” How much of this sum has been stolen is not really clear, but it is certainly not trivial or *de minimis*. In my judgment, this is a significant element of the Article that ought properly to be reflected in the meaning.
32. By the same token, however, I accept Mr Caldecott’s submission that the Article makes a distinct allegation, which cannot be severed in the reader’s mind, that some of the criminal proceeds of crime that have been laundered were obtained as a result of the payment of kickbacks and commission. The Article is far from clear in explaining the distinction between kickbacks/commission and money embezzled from public funds, and how it was then laundered. The Graphic clearly indicates in (1) that the laundered cash has been “*embezzled from state projects*” but then goes immediately on to refer to the “*bulging sack*” which echoes

other similar references in the context of kickbacks and commissions in [42]. I am satisfied that the reader would clearly understand that there were potentially two sources of the criminal money that was being laundered. It would be wrong to exclude the element of kickbacks and commissions from the meaning.

33. As to whether the meaning should include reference to Mr Sharif's family, I prefer Ms Page's submissions. The meaning should concentrate on the defamatory allegation levelled by the Article as it concerns Mr Sharif. I accept that it is quite clear, throughout the Article, that allegations are being levelled against Mr Sharif and his family, but that does not determine the question of the proper form of the defamatory imputation. It may be that a defence of truth might have to explain how the funds were illegally obtained and subsequently laundered, and that that may include allegations of involvement by members of Mr Sharif's family. However, the principled approach is that the meaning sets out the proper parameters of the defence of truth if any is advanced. If the meaning itself includes alleged involvement of others beyond the Claimant, then that potentially opens up arguments - that are best avoided - as to the admissibility and relevance of facts included in a defence of truth that involve people other than the Claimant. Mr Caldecott QC accepted in his submissions that, as a matter of principle, a defence of truth would have to concentrate on the conduct of Mr Sharif. So, this is an argument more of form than of substance. Nevertheless, the principle identified by Ms Page QC is the correct one: the meaning must focus on the Claimant.
34. As to Mr Yousaf, in my judgment, the Article makes a clear allegation of guilt against him as set out in [48]-[51]. I reject Mr Caldecott's submission that it would be material to the impression created in the reader's mind that the Article does not state that Mr Naveed was acting on Mr Yousaf's instructing. It would be clear from the reference to him as being Mr Yousaf's "*right-hand man*", and Mr Yousaf being the immediate beneficiary of £1 million of the embezzled funds, that he was personally involved. On the information provided in the Article, a reader would have to be exceptionally naïve to think that Mr Yousaf had no knowledge of, or involvement in, the embezzlement itself.
35. As to the more general meaning in Mr Yousaf's case, the ordinary reasonable reader would conclude that Mr Yousaf could well be one of the members of the family of Mr Sharif that was being referred to when that generic term is used in the Article. Save in respect of the specific allegation that I have dealt with, this allegation is of a very general nature. The ordinary reasonable reader would have nothing beyond the allegation of that family link.
36. Therefore, this is really like a case in which an individual is subject to an allegation that affects an entire class. If the allegation does identify what, particularly, is being said about the individual member, then the reader cannot reach any real conclusions about the level of culpability of the individual members of the class. The overall effect of the Article is to create suspicion as to the extent to which Mr Yousaf had benefitted as a member of Mr Sharif's family. That is very much the way in which this affects Mr Yousaf in relation to that more general meaning that is captured by Mr Caldecott's meaning, paragraphs (1)-(2).
37. For the reasons I have given therefore, in my judgment, the natural ordinary meaning of the Article as it affects Mr Sharif is as follows:

“Mr Sharif was party to and the principal beneficiary of the money laundering of tens of millions of pounds which represented the proceeds of his embezzlement, whilst he was the Chief Minister of Punjab, of substantial sums public money, including a not insubstantial sum of British public money that had been paid to the province in DFID grant

aid and other corrupt payments received in the form of kickbacks or commission from government run projects.”

38. The natural and ordinary meaning of the Article as it affects Mr Yousaf is as follows:
- “(1) Mr Yousaf had received £1 million which, as he knew, had been embezzled from funds from Pakistan’s Earthquake Relief and Reconstruction Authority, which funds were meant to provide relief to the victims of the 2005 earthquake; and
 - (2) there are strong grounds to suspect that Mr Yousaf was the beneficiary, as part of Mr Sharif’s wider family, of millions of pounds of laundered payments which had been embezzled from Pakistan’s public funding, including by kickbacks and commission, and including funds related to public development and welfare projects, and that Mr Yousaf knew that the monies received by him had been embezzled or stolen at the time of receipt.”
39. By way of further particular explanation for the forms of these meanings as I have captured them:
- a. For the reasons I have given, both contain *Chase* level 1 meanings. The meaning in Mr Sharif’s case is entirely *Chase* level 1 and in respect of Mr Yousaf, the first meaning is *Chase* level 1. For the reasons I have explained, the second part of Mr Yousaf’s meaning is *Chase* level 2. Overall, his meaning is a product of the overall impression of the Article as a whole and the proper application of the repetition rule as it applies to this Article. The allegations made against both Claimants are clear and there is an insufficient antidote to lead the ordinary reasonable reader to conclude that the Article was suggesting against them any grounds or even strong grounds to suspect, save in respect of meaning (2) in respect of Mr Yousaf.
 - b. I have included in the meaning in Mr Sharif’s case elements that capture the important factors that the embezzled funds included a not insubstantial sum of British grant aid and also the separate element, which is clearly present in the Article, of money also obtained through kickbacks and commission.
 - c. In respect of Mr Yousaf, I have made clear in the meaning that the allegation is that Mr Yousaf knew that the funds had been embezzled. If that is not made plain in the meaning, it would leave open a non-defamatory interpretation that he had unwittingly received £1 million. A reader would have to be exceptionally naïve to think that the Article alleged no more than that in respect of Mr Yousaf. The meaning should therefore make that clear. In Mr Yousaf’s case, I have reformulated the meaning in relation to (1) and re-cast it in a form that is, in my view, consistent with the allegation being made in [48]-[51]. Meaning (2) largely reflects the meaning that was advanced by the Defendant.
40. I should finally record, to repeat a point that as is practically common ground between the parties, that these meanings are defamatory of the respective Claimant at common law.

L A T E R

41. I have now to decide the issue of costs. Ms Page QC submits that the Court should make an order in favour of Mr Sharif and direct that the Defendant should pay the costs. She submits that, looked at in broad terms, the Claimant has been largely successful in the sense that a larger number of elements of his meaning have been found in the Court's meaning. She says that this justifies the Court recognising that Mr Sharif is the 'winner' and that the starting point is that the costs should follow the event. She submits that if the Court makes an order that costs should be in the case then that in some way encourages parties to take points on meaning and to require the Court unnecessarily to adjudicate on meaning. If parties thought that they were at risk of an adverse costs order, that would lead to more realistic positions being taken by parties on the issue of meaning.
42. The Court obviously starts from the position that if there is a clear winner then usually costs follow the event. In many applications, it is a relatively straightforward exercise to decide whether a party has been wholly or largely successful. Often that will lead the Court to decide that, in justice, s/he should be awarded the costs (or a significant part of them).
43. Meaning applications are somewhat different. Firstly, they are a preliminary issue trial. That means that determination of the issue is being advanced. Ordinarily, meaning would be determined as one of several issues to be resolved at the final trial. Modern defamation practice has now recognised that there are very good reasons why meaning should be resolved as a preliminary issue early in the proceedings: see e.g. *Morgan -v- Associated Newspapers Ltd* [2018] EWHC 1850 (QB) [9]-[10]; and *Bokova -v- Associated Newspapers Ltd* [2019] QB 861 [3]-[10]. I have to say that my experience, both as a Judge and at the Bar, has been that the instances where parties are agreed about the natural and ordinary meaning in a defamation claim are so vanishingly few as to be statistically insignificant. The reality, in most defamation claims, is that there will be a genuine dispute about meaning between the parties that requires resolution by the court. It is desirable for that dispute to be resolved quickly and economically.
44. It has to be remembered that, where the Court has accelerated the determination of meaning as a preliminary issue, that is to remove it from being determined at the final trial. Where meaning is resolved at the final trial, unless there is justification for making an issue-based costs order (unlikely in most disputes about meaning), the costs of meaning would simply be swept up in the costs of the action. That means that a claimant could be wholly successful on the issue of meaning, yet ultimately lose the action if the court found for the defendant on a substantive defence. Absent some unusual feature, the Court would not, in that instance, make an order that the costs of meaning should nevertheless be paid by the defendant.
45. I do not know ultimately who is going to be successful in this litigation at any trial. Even if it were possible to detect a clear 'winner' on the issue of meaning in this case, there is still a potential unfairness by making what is, in effect, an issue-based costs order at this stage. Although that party might have 'lost' the meaning issue, the party may yet ultimately 'win' at trial. In the ordinary course, therefore, the costs of determination of the preliminary issue of meaning should follow the ultimate event; the result of the action.
46. The circumstances in which, in my judgment, a Court is likely to be sympathetic to an application for costs following a preliminary issue trial of meaning is where the Court is satisfied that a party has adopted an unreasonable stance on the issue of meaning and that has caused unnecessary costs to be expended. One example might be a case in which a defendant advanced an argument that the meaning of the publication could not be *Chase* level 1 because

it was simply repeating the allegations of somebody else. If the Court rejected that argument as hopeless, then it might find that the party's reliance on it was unreasonable. Cases like that are unusual, and this is not one of them, but that is by way of example of sort of circumstances in which the Court might be sympathetic to a submission that the Court ought to reflect that unreasonable behaviour by making an order for costs against the unsuccessful party.

47. In my judgment, this case is a fairly typical example of litigants who have genuinely been unable to reach agreement about the meaning of an article. There is no clear winner, and no party has taken an unreasonable stance on the issue of meaning. In those circumstances, there is nothing to take this case out of the ordinary. There is no justification for departing from an order that costs of the preliminary issue should be costs in the case. Ultimately, the party that loses overall will pay the costs of determining meaning as a preliminary issue in these cases.

APPENDIX

Print Article

[A] END THE £14bn FOREIGN AID ‘MADNESS’

He’s the top Pakistani politician who’s been feted in No.10, met THREE aid Ministers and hosted Boris. Now, amid claims that tens of millions were embezzled and laundered in Britain, DAVID ROSE asks...

Did the family of UK’s foreign aid poster boy steal taxpayers’ cash meant for earthquake victims?

From **DAVID ROSE**
IN LAHORE

- [1] Meet Shahbaz Sharif. He’s the leader of Pakistan’s main opposition party and, before losing power last year, spent ten years as chief minister of the country’s biggest province, Punjab – home to 110 million people.
- [2] For years he was feted as a Third World poster boy by Britain’s Department for International Development, which poured more than £500 million of UK taxpayers’ money into his province in the form of aid.
- [3] Last year the head of DFID’s Pakistan office Joanna Rowley lauded his ‘dedication’, while her colleague Richard Montgomery gushed that under Shahbaz, Punjab was ‘reforming at a pace rarely seen’.
- [4] Shahbaz visited Downing Street when David Cameron was Prime Minister, has held talks with successive international development secretaries – Andrew Mitchell, Justine Greening and Penny Mordaunt – and hosted Boris Johnson when he was Foreign Secretary.
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- [6] Yet, say investigators, all the time that DFID was heaping him and his government with praise and taxpayers’ cash, Shahbaz and his family were embezzling tens of millions of pounds of public money and laundering it in Britain.
- [7] They are convinced that some of the allegedly stolen money came from DFID-funded aid projects.
- [8] Last night, Shahbaz’s son Suleman denied the allegations against him and his family, saying they were the product of a ‘political witch-hunt’ ordered by Pakistan’s new prime minister, the former cricketer Imran Khan. ‘No allegation has been proven. There is no evidence of kickbacks,’ he said.
- [9] According to the watchdog Transparency International, Pakistan comes just 117th in the world integrity index and ‘corruption is a major obstacle’ there. DFID admits it is ‘well aware’ that Pakistan is a ‘corrupt environment’. However, since 2014, DFID has given more aid to Pakistan than any other country – up to £463 million a year.

- [10] Last week, The Mail on Sunday – which has campaigned against Britain’s policy of spending 0.7 per cent of national income, currently about £14 billion a year, on foreign aid – was given exclusive access to some of the results of a high-level probe ordered by Khan, who won elections last year. We were also able to interview key witnesses held on remand in jail, including a UK citizen Aftab Mehmood.
- [11] He claims he laundered millions on behalf of Shahbaz’s family from a nondescript office in Birmingham – without attracting suspicion from Britain’s financial regulators, who inspected his books regularly.
- [12] Last year, this newspaper disclosed the case against Pakistan’s former prime minister, Shahbaz’s brother Nawaz Sharif, who had built up a London property empire worth £32 million.
- [13] Convicted of corruption, he is now serving a seven-year jail sentence. But according to Pakistani investigators, the wealth accrued by Shahbaz and his family is still greater.
- [14] The Mail on Sunday can reveal:
- [15] ● Legal documents allege that Shahbaz’s son-in-law received about £1 million from a fund established to rebuild the lives of earthquake victims – to which DFID gave £54 million from UK taxpayers;
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- [22] ‘We spend millions on anti-corruption initiatives and yet it seems clear that Britain is still a money-launderers’ paradise.
- [23] ‘It’s vital we now co-operate with the Pakistani investigation, to ensure those allegedly responsible come up against the full force of the law.’

- [24] According to Duncan Hames, policy director of Transparency International, corruption often first comes to light through evidence of money- laundering: 'First you identify suspicious transactions in the banking system and then you follow the money trail back to discover where they came from.'
- [25] Indeed, this is how the investigation into Shahbaz and his family began. After winning election on a pledge to combat corruption, Imran Khan set up a special team to deal with it, the Asset Recovery Unit, headed by a UK-educated barrister. They have examined a series of suspicious transactions running to many millions and shown that Shahbaz's family's assets grew enormously during the years he was in power.
- [26] A confidential investigation report, seen by this newspaper, says the family was worth just £150,000 in 2003 but by 2018 their total assets had grown to about £200 million. Among other properties, Shahbaz owns a 53,000 sq ft palace in Lahore, which has its own large security force.
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- [28] The money, the report says, was channelled from abroad – via several elaborate money-laundering schemes, in which Britain played a central role.
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- [30] One of the most audacious schemes was said to be focused on Birmingham. The report lists 202 'personal remittances' from the UK and the United Arab Emirates into the bank accounts of Shahbaz's wife, two sons and two daughters.
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- [32] Samples – signed by Shahbaz's family – have been seen by this newspaper. But investigators claim the reality was different.
- [33] 'We noticed that someone called Manzoor Ahmed had sent a series of 13 payments from Birmingham worth £1.2 million to Shahbaz's wife Nusrat and his sons Hamza and Suleman,' said one investigator, who asked not to be named. 'But who was he?'
- [34] He was traced through his identity card, whose number was on the forms. In the words of the report, he turned out to be 'a small home-based tuck shop owner' in a remote village, who scraped a living selling poppadoms. Needless to say, he had never had £1.2 million, nor travelled to England.
- [35] Another man who was said to have sent about £850,000 to Shahbaz's family from Birmingham via HSBC was Mehboob Ali, a Lahore 'street hawker', who lived from taking tiny commissions from collecting old banknotes and changing them into new ones.

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- [37] ‘Now I try to live by selling glasses of lime juice and it’s hard to feed my family.’
- [38] Sending the money to Shahbaz’s family apparently from these and other poverty-stricken ‘investors’ was Briton Aftab Mehmood, the proprietor of Usman International, a money-changing firm in the Sparkbrook area of Birmingham.
- [39] Arrested during a visit to Pakistan in April, he agreed to meet me in a hot, airless room at Lahore’s city jail.
- [40] He explained how the money-laundering worked. ‘I would just receive a fax from Pakistan with the names of the people I was to wire money to. I knew who they were: they were famous. It wasn’t my business to ask where the money came from. I simply transferred it, and I did it through the proper channels.
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- [42] So where had this money come from? In fact, say investigators, it had been taken as kickbacks and ‘commissions’ from government-run projects and delivered by ‘cash boys’ in bulging sacks to the office of Mehmood’s Lahore contact, Shahed Rafiq. In jail, Rafiq confirmed this, adding: ‘I don’t know where the cash came from. It was just business.’
- [43] The last part of the scheme was ingenious. How did Rafiq ensure that when Mehmood wired money to the accounts in Pakistan, he was not out of pocket? The answer is that Mehmood’s company in Birmingham also did legitimate money transfers and had thousands of clients who wanted to send money to relatives in Pakistan.
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- [46] They say they have traced a further £9.1 million from ‘ghost’ investors who do not exist, and fake loans and investments in family companies. Their value, they claim, amounts to a further £160 million.
- [47] Having established the scale of the money-laundering, the investigation is now moving into phase two – finding out where and how the laundered funds were stolen.
- [48] One case has already come to court – a guilty plea by Ikram Naveed, the former finance director of ERRA, Pakistan’s Earthquake Relief and Reconstruction Authority, set up after the devastating quake of 2005, which received £54 million from DFID between then and 2012, both for immediate relief and long-term schemes to rebuild victims’ lives.

- [49] Naveed is described in Pakistan as the ‘right hand man’ of Ali Imran – Shahbaz’s son-in-law who is married to his daughter Rabia.
- [50] Naveed pleaded guilty and confessed last November to embezzling about £1.5 million from ERRRA during the period DFID was funding it, of which he passed on almost £1 million to Ali Imran.
- [51] Naveed said half of this was transferred directly from ERRRA’s accounts – a claim confirmed by banking records. Ali Imran has been summoned to answer questions from investigators, but has failed to appear – because he is in London, and refuses to speak to them. He did not respond to a request for comment from the MoS. Other family members, who documents suggest received laundered millions, have also sought refuge in Britain, including Shahbaz’s son, Suleman.
- [52] An internal DFID report, drawn up in 2008, warned that ERRRA ‘had yet to develop effective and transparent accountability systems’. Nevertheless, DFID continued pumping millions into ERRRA. The report stated that DFID aid to ERRRA was not ‘earmarked’, but paid into its general budget.
- [53] Yesterday, a DFID spokesman said: ‘The UK’s financial support to ERRRA over this period was for payment by results – which means we only gave money once the agreed work, which was primarily focused on building schools, was completed, and the work audited and verified.
- [54] ‘The UK taxpayer got exactly what it paid for and helped the vulnerable victims of a devastating earthquake. We are confident our robust systems protected UK taxpayers from fraud.’
- [55] The investigators are now examining evidence that other DFID-funded schemes were embezzled.
- [56] One is the Pakistan National Cash Transfers programme, for which DFID has provided nearly £300 million since 2012, giving payments of £100 a month to mothers in poor families. Before Imran Khan became prime minister, inquiries had begun into payments to ‘ghost’ claimants which were being siphoned off – but the investigation was shut down while Shahbaz’s party was in power. It has now been reopened, and investigators are conducting a fresh survey of how the money was spent, and whether women who got the stipend actually exist.
- [57] A further investigation is under way into alleged thefts from maternal and child health programmes.
- [58] Meanwhile, Shahbaz has already been summoned numerous times to answer investigators’ questions, while his son, Hamza, is being held for questioning in custody.
- [59] Shahbaz’s son, Suleman, told the MoS: ‘This is a witch-hunt against my family. It is similar to what happened at Guantanamo Bay, and under apartheid in South Africa. There is a clique around Imran Khan which is trying to shut out the opposition and they are picking out my family members in order to harass them.’
- [60] Asked about the payments he allegedly received from the poppadom seller and other questionable sources, he said: ‘The law allows foreign remittances and each and every penny I received came through proper banking channels, cleared by the State Bank of Pakistan. [The investigators] are just releasing funny stories in the media. I deny their version. I have done everything according to the law.’

- [61] Imran Khan's Asset Recovery Unit chief Shahzad Akbar said yesterday: 'Our investigations have already uncovered evidence of money-laundering on a vast scale, much of it conducted via the UK.'
- [62] 'The international community needs to get much more serious about this: despite concern expressed by world leaders, money can still be plundered from developing countries such as Pakistan and washed in the global banking system with only minimal checks. Our investigations into the sources of the money which was laundered are ongoing, but it already appears that some of it – perhaps very large sums – may have been stolen from aid and development projects financed by British taxpayers.'
- [63] 'There have been claims that the current government is doing all this for political reasons.'
- [64] 'Nothing could be further from the truth.'
- [65] 'The people of Pakistan have suffered from organised criminal activity on a colossal scale and this has damaged the country's economy. If we did not pursue these investigations, we would be negligent in our duty.'
- [66] 'We are working closely with the National Crime Agency and the Home Office. We are grateful for this assistance and we hope it will ensure that theft and money-laundering of this magnitude will never happen again.'

[The Print Article included the Graphic and the following images, captions:]

[A photograph of Mr Sharif sitting with Boris Johnson with the caption]

[B] **LAUDED BY WESTMINSTER:** Shahbaz Sharif hosted then Foreign Secretary Boris Johnson in Pakistan in 2016

[A photograph of Mr Sharif with the caption]

[C] **GUEST OF HONOUR:** Shahbaz toasting the Queen with mango juice last year

Online Article

Did the family of Pakistani politician who has become the poster boy for British overseas aid STEAL funds meant for earthquake victims, asks DAVID ROSE

- **Shahbaz Sharif leads Pakistan's main opposition party and was a chief minister**
- **Up to £500million of UK foreign aid has been poured into his province, Punjab**
- **But, investigators claim, his family was laundering some of the money in Britain**

By DAVID ROSE IN LAHORE FOR THE MAIL ON SUNDAY

PUBLISHED: 01:20, 14 July 2019

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- [A] **The leader of Pakistan's main opposition party Shahbaz Sharif pictured with then UK foreign secretary Boris Johnson, in November 2016. Investigators say the politician, who was also chief minister of the Punjab, has embezzled tens of millions of pounds of UK public money and laundered it in Britain**
- [6] Yet, say investigators, all the time that DFID was heaping him and his government with praise and taxpayers' cash, Shahbaz and his family were embezzling tens of millions of pounds of public money and laundering it in Britain.
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[The Graphic with the caption:]

[B] A flow diagram showing how some of the UK taxpayers' cash was laundered by the politician. As much as £500million of the UK foreign aid fund was poured into his former province, Punjab, by Britain's foreign aid budget

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[A photograph of the claimant raising a glass in a toast with the caption:]

[C] **British high commissioner Thomas Drew and chief guest Shahbaz Sharif toast to the Queen's birthday in Lahore**

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- [49] Naveed is described in Pakistan as the 'right hand man' of Ali Imran – Shahbaz's son-in-law who is married to his daughter Rabia.
- [50] Naveed pleaded guilty and confessed last November to embezzling about £1.5 million from ERRA during the period DFID was funding it, of which he passed on almost £1 million to Ali Imran.
- [51] Naveed said half of this was transferred directly from ERRA's accounts – a claim confirmed by banking records. Ali Imran has been summoned to answer questions from investigators, but has failed to appear – because he is in London, and refuses to speak to them. He did not respond to a request for comment from the MoS. Other family members, who documents suggest received laundered millions, have also sought refuge in Britain, including Shahbaz's son, Suleman.
- [52] An internal DFID report, drawn up in 2008, warned that ERRA 'had yet to develop effective and transparent accountability systems'. Nevertheless, DFID continued pumping millions into ERRA. The report stated that DFID aid to ERRA was not 'earmarked', but paid into its general budget.
- [53] Yesterday, a DFID spokesman said: 'The UK's financial support to ERRA over this period was for payment by results – which means we only gave money once the agreed work, which was primarily focused on building schools, was completed, and the work audited and verified.'

- [54] ‘The UK taxpayer got exactly what it paid for and helped the vulnerable victims of a devastating earthquake. We are confident our robust systems protected UK taxpayers from fraud.’
- [55] The investigators are now examining evidence that other DFID-funded schemes were embezzled.
- [56] One is the Pakistan National Cash Transfers programme, for which DFID has provided nearly £300 million since 2012, giving payments of £100 a month to mothers in poor families. Before Imran Khan became prime minister, inquiries had begun into payments to ‘ghost’ claimants which were being siphoned off – but the investigation was shut down while Shahbaz’s party was in power. It has now been reopened, and investigators are conducting a fresh survey of how the money was spent, and whether women who got the stipend actually exist.
- [57] A further investigation is under way into alleged thefts from maternal and child health programmes.
- [58] Meanwhile, Shahbaz has already been summoned numerous times to answer investigators’ questions, while his son, Hamza, is being held for questioning in custody.
- [59] Shahbaz’s son, Suleman, told the MoS: ‘This is a witch-hunt against my family. It is similar to what happened at Guantanamo Bay, and under apartheid in South Africa. There is a clique around Imran Khan which is trying to shut out the opposition and they are picking out my family members in order to harass them.’
- [60] Asked about the payments he allegedly received from the poppadom seller and other questionable sources, he said: ‘The law allows foreign remittances and each and every penny I received came through proper banking channels, cleared by the State Bank of Pakistan. [The investigators] are just releasing funny stories in the media. I deny their version. I have done everything according to the law.’
- [61] Imran Khan’s Asset Recovery Unit chief Shahzad Akbar said yesterday: ‘Our investigations have already uncovered evidence of money-laundering on a vast scale, much of it conducted via the UK.’
- [62] ‘The international community needs to get much more serious about this: despite concern expressed by world leaders, money can still be plundered from developing countries such as Pakistan and washed in the global banking system with only minimal checks. Our investigations into the sources of the money which was laundered are ongoing, but it already appears that some of it – perhaps very large sums – may have been stolen from aid and development projects financed by British taxpayers.’
- [63] ‘There have been claims that the current government is doing all this for political reasons.’
- [64] ‘Nothing could be further from the truth.’
- [65] ‘The people of Pakistan have suffered from organised criminal activity on a colossal scale and this has damaged the country’s economy. If we did not pursue these investigations, we would be negligent in our duty.’

[66] 'We are working closely with the National Crime Agency and the Home Office. We are grateful for this assistance and we hope it will ensure that theft and money-laundering of this magnitude will never happen again.'