

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC 311

Originating Claim No 332 of 2022

Between

- (1) M Badiuzzaman
- (2) Nasreen Zaman
- (3) Ehsanuzzaman Rajib
- (4) Najib Zaman
- (5) Tania Zaman

... Claimants

And

- (1) Salma Islam
- (2) Saiful Alam
- (3) Fahim Ahmed
- (4) Shahim Islam

... Defendants

JUDGMENT

[Tort — Defamation — Whether aggravated damages and special damages are warranted]

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M Badiuzzaman and others

v

Salma Islam and others

[2023] SGHC 311

General Division of the High Court — Originating Claim No 332 of 2022
Choo Han Teck J
23 October 2023

30 October 2023

Judgment reserved.

Choo Han Teck J:

1 The claimants are a family originally from Bangladesh but are now Singaporeans and live in Singapore. They have a family business, Tania International Pte Ltd (“Tania International”), a Singapore company. Tania International is part of a group of companies that is informally known as the Tania Group and consists of a varied portfolio of businesses including the trading of precious metals, food and beverage, and real estate in Bangladesh and Singapore. The 1st claimant M Badiuzzaman (“Mr Badiuzzaman”) is the managing director of Tania International. The 2nd claimant Nasreen Zaman (“Mrs Zaman”) is his wife. They have three adult children, the 3rd to 5th claimants. The 3rd claimant Ehsanuzzaman Rajib (“Mr Rajib”) is the deputy managing director of Tania International. The 4th claimant Najib Zaman (“Mr Zaman”) is another deputy managing director of Tania International. The 5th claimant Tania Zaman (“Ms Zaman”) is a non-executive director and

corporate secretary of Tania International, as well as a senior legal counsel at ST Engineering.

2 The claimants sued the defendants for defamation. The defendants published the alleged defamatory remarks in media owned by Jugantor, a Bengali daily newspaper in Bangladesh, that is also in circulation in Singapore. The 1st defendant (“D1”) is Salma Islam, the publisher of the “Jugantor” website. The 2nd defendant (“D2”) is Saiful Alam, the editor of Jugantor. The 3rd defendant (“D3”) is Fahim Ahmed, the CEO and Chief News Editor of Jamuna Television, a related entity of Jugantor that operates a YouTube channel called “Jamuna TV” (the “YouTube Channel”). The 4th defendant (“D4”) Shahim Islam is the managing director of Jamuna Television. Both Jugantor and Jamuna Television are based in Bangladesh and appear to be domiciled there.

3 The first of the alleged defamatory statements are in an article published on Jugantor’s website around 11 September 2020 (“Sep 2020 Defamatory Statements”) titled “(In hiding Badiuzzaman) Statement of Assets demanded from NRB Bank Director and his two wives — Allegations of transfer of Hundreds Crore taka to Singapore”. They say that the Sep 2020 Defamatory Statements defamed Mr Badiuzzaman and Mrs Zaman. According to them, the Sep 2020 Defamatory Statements meant or were understood to mean that Mr Badiuzzaman and Mrs Zaman were guilty of unlawfully dissipating large sums of money and illegal assets to Singapore, that they were guilty of money laundering, illegal activities through Advance Home Private Limited (“AH Pte Ltd”) and Phoenix Limited (“P Ltd”), and that Mr Badiuzzaman is unlawfully evading the authorities by hiding in Singapore.

4 The second was a YouTube video published on 18 December 2020 to the YouTube Channel titled “Director of NRB Bank M Badiuzzaman accused of illegal assets and smuggling” (the “YouTube Defamatory Statements”). The claimants say that the YouTube Defamatory Statements meant or were understood to mean that Mr Badiuzzaman was guilty of illegally acquiring and smuggling assets, money laundering, and earning assets through corruption and smuggling.

5 The third was in an article published on Jugantor’s website on 14 January 2021 titled “Wealth worth Taka 700 crores — ACC Investigation against NRB Bank’s Badiuzzaman and his family” (“Jan 2021 Defamatory Statements”). The claimants says that the Jan 2021 Defamatory Statements defamed all of them. According to them, the Jan statements meant or were understood to mean that the claimants were all guilty of accumulating illegal assets and money laundering. The statements also meant that Mr Badiuzzaman was guilty of tax evasion and corruption.

6 Counsel for the claimants, Mr Elias Benyamin Arun (“Mr Arun”) submits that the above publications and their meanings sufficiently make out the claim of defamation against the defendants. Mr Arun argues that the defendants, procured or participated in the publication of the defamatory statements, and are jointly and severally liable for the damage suffered by the claimants. Mr Arun submits that where the publications refer to each of the claimants by name, each of the parties are thereby defamed. He submits that the three publications unambiguously accused the claimants of criminal activities.

7 Mr Arun submits that the three publications were published to third parties. The claimants called Mr S M Siragul Islam (“Mr Islam”) and Mr M A

Rahim (“Mr Rahim”) to prove the publication of the defamatory statements. Mr Islam operates a restaurant, at Desker Road, popular with the Bangladeshi community in Singapore. He gave evidence that many of his customers had read and downloaded the three publications. Mr Rahim, a former professor, is the managing director of Raseul Trade International Singapore Pte Ltd, and the president of the Bangladesh Business Chamber of Singapore from September 2019 to May 2022. He testified that he read the Sep 2020 Defamatory Statements and the YouTube Defamatory Statements, and he understood them as accusing Mr Badiuzzaman and Mrs Zaman of criminal activity. He further recalled discussing these publications with a friend.

8 Mr Arun submits that there was no justification for the defamatory statements, the publications were not fair comment, and the defamatory statements do not fall within the common law exceptions of qualified privilege. The defendants did not enter appearance in these proceedings. They were served process personally in Bangladesh by lawyers there. The claimant’s solicitors here sent letters to the defendants updating them of the present proceedings.

9 I am satisfied that the claimants have proved their case against the defendants. First, the Sep 2020 Defamatory Statements clearly refer to Mr Badiuzzaman and Mrs Zaman, the YouTube Defamatory Statements refer to Mr Badiuzzaman, and the Jan 2021 Defamatory Statements refer to all the claimants. Mr Badiuzzaman is named in the articles, and so are his wife and his children. The claimants themselves gave evidence that they were named in the publications. There is no reason not to accept their evidence.

10 Secondly, I am satisfied that the statements are defamatory in nature. Looking at the English translation of the Bengali text, it is clear to me that the

publications accuse the claimants of being involved in various criminal, illegal and suspect activities. The common theme underpinning all three publications is that the claimants were a family that had made money through unlawful means and were under investigation by the authorities for such activities. For instance, the Jan 2021 Defamatory Statements included an allegation that the authorities have “started investigation into accumulating illegal assets and money laundering against NRB Bank Limited director M Badiuzzaman, his two wives and three children”. If not shown to be justified in the circumstances, such allegations of criminality and impropriety on the part of the claimants is defamatory.

11 Thirdly, I am satisfied that the statements have been published. The Sep 2020 Defamatory Statements and the Jan 2021 Defamatory Statements were made on Jugantor’s website, and the YouTube Defamatory Statements were made on YouTube. These are materials which are easily accessible via the internet, and accessible to an indeterminate number of internet users. Notwithstanding this, the claimants have brought two witnesses to testify that the publications were communicated to them, and that they were aware of others (many customers in the case of Mr Islam) whom the publications were also communicated too.

12 Although the 1st defendant responded to the claimant’s solicitors’ letters of demand and denied defamation by Jugantor because the “articles are the follow up reports of the allegations brought by the Anti-Corruption Commission”, there is no evidence of reports supporting the allegations raised by the 1st defendant. On the contrary, it was Mr Badiuzzaman who has adduced as evidence a letter (dated 1 February 2021) that an investigation was commenced against him and Mrs Zaman by the Anti-Corruption Commission

of Bangladesh (“ACC”). Materially, the only allegation made against Mr Badiuzzaman in this letter was that of “amassing wealth beyond known sources”. This is substantially different from the myriad of allegations raised by the defendants in the three publications. This letter also post-dates the allegations made in the defamatory statements. These facts contradict the 1st defendant’s explanation in her response letter that there was no defamation because the statements were justified.

13 Therefore, the claimants have made out their claim of defamation against the defendants on the basis of the Sep 2020 Defamatory Statements, the YouTube Defamatory Statements, and the Jan 2021 Defamatory Statements. The claimants seek the following amounts of damages from the defendants:

Claimant	General Damages		Aggravated Damages		Special Damages
	D1 and D2	D3 and D4	D1 and D2	D3 and D4	
1st claimant	\$100,000	\$50,000	\$40,000	\$10,000	\$579,941.77
2nd claimant	\$40,000	-	\$10,000	-	-
3rd claimant	\$15,000	-	\$5,000	-	-
4th claimant	\$15,000	-	\$5,000	-	-
5th claimant	\$15,000	-	\$5,000	-	-

14 Additionally, the claimants seek a permanent injunction against the 1st and 2nd defendants restraining them from further communicating words defamatory of the claimants.

15 Mr Arun submits that the general damages awarded are in part a consolation to the claimants for the distress suffered. They must be an amount which represents a sum commensurate with the damage the claimants have suffered to their reputation and standing, as well as to sufficiently vindicate their reputation. Counsel argues that the defamatory statements are grave and severe. This is especially so given the claimants' prominence in the Bangladeshi community in Singapore, and the wide reach as well as reputable status of the Jugantor. Moreover, Mr Arun emphasises that Mr Badiuzzaman had previously chaired NRB Bank Limited, a major and established bank in Bangladesh (from 2015 to 2020), previously managed Tania Foreign Exchange, a renowned money exchange and remittance service provider in Singapore, and is presently the managing director of Tania International. Counsel submits that considering the relative standing of each claimant, they should be awarded general damages in the quantum reflected in the table above (at [13]).

16 Counsel further submits that aggravated damages should be awarded in the present case because the 1st defendant had responded in an aggressive and unapologetic manner to the claimants' letters. He argues that there was no basis for the defamatory statements made by the 1st defendant and this indicated malice on her part. Counsel also argues that no attempt was made by the defendants to mitigate the situation and apologise, and that the 2nd to 4th defendants were silent throughout.

17 Counsel submits that special damages should be awarded in the present case too because the defamatory statements had led to the Bank of Singapore ("BOS") cancelling a mortgage facility (on 11 January 2022) of MBZ Global Holdings Limited ("MBZ Global"), an entity owned by Mr Badiuzzaman. Subsequently, Mr Badiuzzaman had no choice but to borrow money from a

private lender VM Credit Pte Ltd (“VM”) at a substantially higher interest rate of 6.4%, compared to the previous rate of 1.9% from BOS. As such, counsel argues that special damages calculated as the difference between the higher interest rate paid to VM, and the earlier lower interest rate paid to BOS, from 8 February 2022, should be awarded.

18 Finally, counsel says that a permanent injunction should be granted against the defendants to restrain them from further defaming the claimants because their behaviour thus far shows that it is likely they will continue making further defamatory statements if left unrestrained.

19 I am satisfied that general damages should be awarded to the plaintiffs, adjusted according to the defamatory remarks and the relative prominence of each plaintiff. I accept that Mr Badiuzzaman is a man of some prominence in the Bangladeshi community in Singapore. Mr Badiuzzaman was defamed in all three publications, unlike the other claimants. In the publications themselves, Mr Badiuzzaman was also the main target of defamation, while the other claimants were painted as his accomplices. I award him \$30,000 against the 1st and 2nd defendants, and \$20,000 against the 3rd and 4th defendants.

20 Mrs Zaman was defamed in two publications, unlike the 3rd to 5th claimants who were only defamed in the Jan 2021 Defamation Statements. She does not appear to hold any key business appointment within Tania International as well. This necessitates a substantial reduction in general damages (as compared to Mr Badiuzzaman) awarded to her. However, in my view, she should still be awarded a higher quantum of general damages as compared to the 3rd to 5th claimants. This is especially so since she is a figure of some prominence as well, being the wife of Mr Badiuzzaman, and being the

mother of the other claimants. I award her \$20,000 as general damages against the 1st and 2nd defendants. The 3rd to 5th claimants have, rightly, in my view, asked for lower general damages than their parents. I award the 3rd to 5th claimants \$10,000 each against the 1st and 2nd defendants.

21 As for an award of aggravated damages, it is well established that the circumstances warranting aggravated damages are as follows (*Koh Sin Chong Freddie v Chan Cheng Wah Bernad and others and another appeal* [2013] 4 SLR 629 at [51]; *Arul Chandran v Chew Chin Aik Victor* [2001] 1 SLR(R) 86 at [55]):

- (a) A failure to make any or any sufficient apology and withdrawal;
- (b) a repetition of the libel;
- (c) conduct calculated to deter the plaintiff from proceeding;
- (d) persistence by way of a prolonged or hostile cross-examination of the plaintiff;
- (e) a plea of justification which is bound to fail;
- (f) the general conduct of the proceedings; and
- (g) persecution of the plaintiff by other means.

22 On the facts of this case, I am not satisfied that an award for aggravated damages is warranted. Outside of the three publications during the end of 2020 and start of 2021, there was no further repetition of the libel, nor was there any sort of conduct on the part of the defendants to place pressure on the claimants to prevent them from proceeding with the present suit. The defendants did not persecute their allegations against the claimants through other means, nor did

they conduct themselves egregiously. For the most part, they simply ignored the claimants. This is different from a situation where a defendant continues to publish or add fresh defamatory material after being told to desist.

23 Moreover, the letters of demand from the claimants' lawyers appear to be sent only in 2022 (18 February 2022 to the 1st and 2nd defendants, 28 July 2022 to the 3rd and 4th defendants), more than a year after the defamatory publications were released. During the interim period before the claimants' letters of demand were received, the defendants did not continually publish more defamatory material about the claimants. As such, this indicates to me that there was no malice in the defendants' actions.

24 In my view, the only factors that can be counted against the defendants here is their failure to make sufficient apology and to withdraw their defamatory remarks, as well as their lack of reply to the claimants. In the circumstances, an award of aggravated damages is not justified.

25 Lastly, although special damages for defamation can be awarded in an action for defamation, they are generally not awarded. Special damages in defamation must flow from losses referable to the damage to reputation (*Low Tuck Kwong v Sukanto Sia* [2014] 1 SLR 639 at [94], [96]; *Continental Steel Pte Ltd v Nippon Steel & Sumitomo Metal Southeast Asia Pte Ltd and another* [2022] SGHC 292 at [233]-[234]). In the present case, I am not satisfied that special damages should be awarded to Mr Badiuzzaman. There is insufficient evidence to show that the cancellation of the loan facility by BOS for MBZ Global was due to the damage done to Mr Badiuzzaman's reputation. In its letter to Mr Badiuzzaman, BOS did not specify the reasons for the cancellation. It does not necessarily follow that the defamatory statements and subsequent

damage to Mr Badiuzzaman's reputation caused BOS to cancel the loan facility. Without BOS stating its reasons for this cancellation, any attempt to link this to the reputational effects suffered by Mr Badiuzzaman would be pure speculation. In any case, BOS's cancellation of the loan facility took place almost a year after the last defamatory statement was published (the Jan 2021 Defamatory Statements). This makes it even harder to connect the loan cancellation to the negative impact of the defamatory statements on Mr Badiuzzaman's reputation.

26 I will hear counsel on costs at a later date.

- Sgd -
Choo Han Teck
Judge of the High Court

Chong Yee Leong, Elias Benyamin Arun, Justin William Jeremiah
and Liew Pei Jun Annette (Allen & Gledhill LLP) for the claimants;
Defendants unrepresented, absent.
