



Neutral Citation Number: 2015 EWHC 2917 (QB)

Claim No HQ14D04351

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/11/2015

Before :

The Hon. Mr Justice HADDON-CAVE

Between :

MIR SHAKIL-UR-RAHMAN

Claimant

- and -

1. ARY NETWORK LIMITED
2. FAYAZ GHAFOOR

Defendants

Matthew Nicklin QC and Richard Munden (instructed by **Carter-Ruck Solicitors**) for the
Claimant

Jonathan Barnes (instructed by **Gresham Legal**) for the Defendants

Hearing dates: 1st – 3rd July 2015

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

HADDON-CAVE

Mr Justice Haddon-Cave:

INTRODUCTION

1. The Claimant claims in defamation in respect of 24 television broadcasts in Urdu of a programme called “*Khara Sach*”. The Claimant also claims in respect of a television broadcast in Urdu of a short news piece. The broadcasts were filmed in Karachi and aired by the First Defendant in the UK between 25th October 2013 and 8th October 2014. The external broadcasts are said to have reached 200,000 people in the UK.

The Parties

2. The Claimant is a prominent media mogul in Pakistan. He is the Chief Executive and Chairman of the largest media group in Pakistan, the Jang Group of Companies (“Jang Group”), which includes Jang Publications Limited and GEO TV. He is well known to the Pakistani community in England and Wales, in particular through the *Daily Jang Newspaper*, which has been published here since 1971.
3. The First Defendant is the licensee and operator of *ARY News*, a free-to-air television channel, broadcast throughout the UK on *Sky* (channel 882) and *Virgin Media* (channel 819) and by live on-line streaming on various websites. *ARY News* transmits the news and current affairs programme “*Khara Sach*” (which translates in English as “*Pure Truth*”). The anchorman of the programme is Mr Mubashar Luqman. “*Khara Sach*” is said to be the First Defendant’s ‘flagship’ news and current affairs programme and is alleged to be broadcast to a substantial audience in England and Wales, comprising predominantly members of the British Pakistani community and those with an interest in Pakistani affairs. “*Khara Sach*” is alleged to be broadcast usually four times a week, with each episode being repeated three times a day on the day of broadcast.
4. The Second Defendant is Chief Operating Officer of the First Defendant and is alleged to have control over, *inter alia*, the selection of programmes and episodes broadcast by the First Defendant in England and Wales.

Preliminary issues ordered

5. On 29th April 2015 and 22nd June 2015, Mr Justice Warby ordered that preliminary issues be tried in this first trial of this matter limited to the following:
 - (1) the publication of the words complained of in Urdu;
 - (2) the literal translation of the words complained of into English;
 - (3) the meaning borne by the words complained of, including any innuendo meanings and the facts pleaded to support such innuendo meanings; and
 - (4) whether the words complained of are fact or opinion.

6. Mr Justice Warby specifically ordered that the issue of whether publication of the words complained of caused, or was likely to cause, serious harm within the meaning of s.1 of the Defamation Act 2013 should be excluded from the scope of the Preliminary Issues to be decided at the first trial (see his order of 22nd June 2015 above). Given the large volume of broadcasts which are the subject of complaint, limiting the issues to be dealt in this way is, in my respectful view, clearly sensible and has made this first trial more manageable.
7. As a result of co-operation between the parties, there is no dispute as regards the first two preliminary issues *i.e.* issue (1) publication and issue (2) translation. The Defendants have admitted the broadcasts (save for those *via Cinefun TV* and *YouTube* which are no longer pursued by the Claimant). The Defendants have admitted the Claimant’s translations save for the English translation of the episode of “*Khara Sach*” for 12th May 2014 (referred to as “*C19*”); however, the Claimant eventually agreed the Defendants’ translation and I ruled on 2nd July 2015 that translation *C19* could not be re-visited.
8. The Defendants have denied each of the Claimant’s pleaded meanings and, in any event, contended that the words complained of comprised comment or opinion. Accordingly, the issues for determination at this first trial are (i) the meaning of the words complained of and (ii) whether they are fact or opinion.

Defamatory and other issues

9. The Defendants have not yet filed their substantive defence since the time for filing was postponed pending determination of the Preliminary Issues. The question of whether any of the words complained of are defamatory will be determined at a future trial. The broadcasts will, necessarily, have to be considered in two categories. First, the 13 broadcasts made after 1st January 2014 will be considered under section 1(1) of the Defamation Act 2013 which provides that a statement is not defamatory “unless its publication has caused or is likely to cause serious harm to the reputation of the claimant”. Second, the broadcasts made prior to 1st January 2014 will fall to be considered under the ‘old’ law and the threshold of seriousness explained in *Thornton v. Telegraph Media Group Ltd* [2011] 1 WLR 1985 and *Jameel (Yousef) v. Dow Jones & Co Inc* [2005] QB 946. The Second Defendant has also raised an issue as to his legal responsibility for the broadcasts.
10. For the moment, I am simply determining the preliminary issues as to meaning and fact or opinion and I have put out of my mind all other questions.

THE LAW

General legal principles

11. The natural and ordinary meaning of words for the purposes of a defamation claim is the single meaning that would be conveyed by those words to the ordinary reasonable reader (see *Slim v. Telegraph* [1968] 2 QB 157 at 171-2).

12. The court’s task in the artifice of arriving at a putative actual single meaning may involve an approximate centre-point in the range of possible meanings, or a dominant meaning for each broadcast (*per* Longmore LJ in *Cruddas v. Calvert* [2013] EWCA 748 at [32]).
13. Conventionally, the question of whether words are defamatory is approached in two stages, by first identifying the single meaning which the words would convey to an ordinary reasonable reader (or listener) and then determining whether that meaning is defamatory (*per* Warby J in *Rufus v. Elliot, supra* at [17] and see PD53 4.1).
14. The principles that apply to the determination of that single meaning are well established. I direct myself in accordance with the guidance of Sir Anthony Clarke MR in *Jeynes v. News Magazines Limited* [2008] EWCA Civ 130, [14] (citing authorities such as *Skuse v. Granada Television Limited* [1996] EMLR 278):
 - “(1) The governing principle is reasonableness.
 - (2) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available.
 - (3) Over-elaborate analysis is best avoided.
 - (4) The intention of the publisher is irrelevant.
 - (5) The article must be read as a whole, and any “bane and antidote” taken together.
 - (6) The hypothetical reader is taken to be representative of those who would read the publication in question.
 - (7) In delimiting the range of permissible defamatory meanings, the court should rule out any meaning which, 'can only emerge as the produce of some strained, or forced, or utterly unreasonable interpretation ...'
 - (8) It follows that ‘it is not enough to say that by some person or another the words *might* be understood in a defamatory sense.’
15. There has been some useful elucidation of these principles in other authorities.
16. Principle (2) is descriptive of the hypothetical reasonable reader, rather than as a prescription of how such a reader should attribute meanings to words complained of as defamatory (*per* Tugendhat J in *McAlpine v. Bercow* [2013] EWHC 1342 (QB) paras at

63 to 66, approved by Sharp LJ in *Rufus v. Elliot* [2015] EWCA Civ 121 at [11]). As Tugendhat J explained in *McAlpine v. Bercow* at [66]:

“If there are two possible meanings, one less derogatory than the other, whether it is the more or the less derogatory meaning that the court should adopt is to be determined by reference to what the hypothetical reasonable reader would understand in all the circumstances. It would be unreasonable for a reader to be avid for scandal, and always to adopt a bad meaning where a non-defamatory meaning was available. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.”

17. As regards principle (3), the following statements help unpack the content of this briefly-stated but key principle:

- (1) The exercise is one of impression (*per* Warby J in *Simpson v. MGN Limited* [2015] EWHC 77 (QB). Judges should have regard to the impression the words have made on themselves in considering what impact it would have made on the hypothetical reasonable reader (*per* Eady J in *Gillick v. Brook Advisory Centres* cited by the CA at [2001] EWCA Civ 1263 at [7]).
- (2) The meaning of words is often a matter of subtlety, going well-beyond what they literally say (*per* Warby J in *Rufus v. Elliot* [2015] EWHC 807 (QB) at [21]).
- (3) The defamatory sting of words often lies not so much in what the words themselves say, but also “what the ordinary man will infer from them” (*per* Lord Reid in *Lewis v. Daily Telegraph* [1964] AC 234, 358).
- (4) In putting itself in the shoes of the notional ordinary reader, the court must allow for “a certain amount of loose-thinking” (*per* Lord Reid in *Morgan v. Odhams Press Ltd* [1971] 1 WLR 1239, 1245). Or, as Lord Devlin put it in *Lewis (ibid* at p.257), the court must allow for the fact that a laymen reads in an implication much more freely than a lawyer.
- (5) It is also important to bear in mind that such a person would normally read (or hear) the relevant words once and would therefore get a broad impression of what is said; and that the layman would not engage in the sort of minute analysis (textual or legal) that a lawyer would (*per* Sharp LJ in *Rufus v. Elliott* at [19]). This is *a fortiori* where the words complained of are part of a radio or television broadcast where the ability to re-read the words is unlikely to be available or readily used (see further below).
- (6) The court should avoid a minute linguistic analysis of every phrase or engaging in a protracted exercise in logical positivism (*per* Lord Diplock in *Slim v. Daily Telegraph Ltd* [1968] 2 QB 157 at 171).
- (7) It is difficult to draw the line between pure construction and implication, and the layman's capacity for implication is much greater than the lawyer's (*per* Lord Diplock in *Lewis v. Daily Telegraph Ltd* [1964] AC 234 at 277).

18. Principle (6) requires the court to form a view on how the representative hypothetical reader of the particular publication concerned would be likely to understand the words, bearing in mind where in the publication the words appear; the reader's familiarity with the nature of publication in question; and any expectations created by that familiarity (*per* Warby J in *Simpson v. MGN Limited* [2015]EWHC 77 (QB) at [10] citing Eady J: see *John v. Guardian Newspapers Ltd* [2008]EWHC 3066 (QB), [22]-[23], [32]). The exercise needs to be undertaken with care. The court can take judicial notice of facts which are common knowledge, but facts which are not need, in principle, to be admitted or proved, not assumed. The court should beware of reliance on impressionistic assessments of the characteristics of a newspaper's readership (*per* Warby J in *Simpson v. MGN Limited* [2015]EWHC 77 (QB) at [10])
19. The correct approach was succinctly summarised by Lord Phillips MR in *Gillick v. Brook Advisory Centres* [2001] EWCA Civ 1263 (adopting part of the *nisi prius* judgment of Eady J):-

"[T]he court should give the article the natural and ordinary meaning which it would have conveyed to the ordinary reasonable reader reading the article once. Hypothetical reasonable readers should not be treated as either naive or unduly suspicious. They should be treated as being capable of reading between the lines and engaging in some loose thinking, but not as being avid for scandal. The court should avoid an over-elaborate analysis of the article, because an ordinary reader would not analyse the article as a lawyer or accountant would analyse documents or accounts. Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader. The court should certainly not take a too literal approach to its task."

20. What an ordinary person, not avid for scandal, would read into the words complained of must be a matter of impression. Such a person would not infer guilt merely because an investigation was on foot (*per* Lord Reid in *Lewis v. Daily Telegraph Ltd* *ibid* at p. 260).

Guidance in relation to TV broadcasts

21. In the specific context of words spoken in a television programme, it is important to pay particular regard to the guidance given by Sir Thomas Bingham MR in *Skuse v. Granada Television Limited* [1996] EMLR 278 at 285-7 (which concerned Granada's television programme "World in Action"):

"(1) The court should give to the material complained of the natural and ordinary meaning which it would have conveyed to the ordinary reasonable viewer watching the programme once in 1985.

(2) The hypothetical reasonable reader [or viewer] is not naive but he is not unduly suspicious. He can read between the lines. He can read in an

implication more readily than a lawyer, and may indulge in a certain amount of loose thinking. But he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available (*per* Neill LJ, *Hartt v. Newspaper Publishing PLC*, unreported, 26 October 1989 (Court of Appeal (Civil Division) Transcript No. 1015): our addition in square brackets).

(3) While limiting its attention to what the defendant has actually said or written, the court should be cautious of an over-elaborate analysis of the material in issue. We were reminded of Diplock LJ's cautionary words in *Slim v. Daily Telegraph Ltd [1968] 2 QB 157* at 171 [to avoid a minute linguistic analysis of every phrase and a protracted exercise in logical positivism].

In the present case we must remind ourselves that this was a factual programme, likely to appeal primarily to a seriously minded section of television viewers, but it was a programme which, even if watched continuously, would have been seen only once by viewers many of whom may have switched on for entertainment. Its audience would not have given it the analytical attention of a lawyer to the meaning of a document, an auditor to the interpretation of accounts, or an academic to the content of a learned article. In deciding what impression the material complained of would have been likely to have on the hypothetical reasonable viewer we are entitled (if not bound) to have regard to the impression it made on us.”

22. The overall, subjective impression gleaned from a television programme may be relevant to interpretation. As Eady J said in *Bond v. BBC [2009] EWHC 539 (QB)* at [9]:

“9. It is important to acknowledge that assessing the meaning(s) of an hour long television programme is to a large extent a matter of impression. Yet it is also necessary to remember that the test is objective, so that one must always have in mind how the reasonable viewer would interpret it. Nonetheless, it is recognised in the authorities that the judge can take into account his or her own subjective reaction as part of the process. Beyond that, one must not be over-analytical, in the sense of subjecting the text to a leisurely or legalistic breakdown: ordinary viewers will not have had that opportunity. The overall flavour of a programme may contribute to an interpretation which would not necessarily be found when subjecting the text to piecemeal analysis. There is a risk that such an exercise will focus on the trees and miss the wood.”

Innuendo meaning

23. The same principles apply where the meaning complained of is an innuendo meaning. An innuendo meaning, in the sense the term is used in this case, is one that depends on the reader knowing some fact that is extraneous to the statement complained of, and not common knowledge. The pleading of an innuendo meaning must “identify the extraneous facts”: 53PD 2.3(2). It must also explain how those facts became known to the reader. Often this second task is accomplished by relying on inference from third party media coverage, as in this case.

24. What may not be done, in reliance on an innuendo referring to third party media publication, is to incorporate in the claim some defamatory meaning which is conveyed only by the third party publication (*per* Warby J in *Rufus v. Elliot, supra* at [22]).

Fact or opinion

25. The approach the Court should take when determining whether the words complained of are fact or opinion was usefully summarised by Warby J in *Yeo v. Times Newspapers Ltd* [2015] 1 WLR 971 as follows (at [88] and [89]):
- (1) The statement must be recognisable as comment, as distinct from an imputation of fact (see *Gatley on Libel and Slander*, 12th edition, para 12.7).
 - (2) Comment is “something which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation, etc.” (*Branson v. Bower* [2001] EMLR 15 [26]).
 - (3) The ultimate determinant is how the words would strike the ordinary reasonable reader (*Grech v. Odhams Press* [1958] 2 QB 275, 313). The subject-matter and context of the words may be an important indicator of whether they are fact or comment (*British Chiropractic Association v. Singh* [2011] 1 WLR 133 [26], [31]).
 - (4) Some statements which are by their nature and appearance comment are nevertheless treated as statements of fact where, for instance, a comment implies that a claimant has done something (*i.e.* engaged in dishonourable conduct) but does not indicate what that something is (*Myerson v. Smith’s Weekly Publishing Co. Ltd* (1923) 24 SR (NSW) 20, 26 *per* Ferguson J).
26. The common law has always been fiercely protective of comment and opinion. Strasbourg jurisprudence has reinforced the importance of freedom of political debate in a democratic society. Statements about the motives and intentions of a third party are to be categorised as value judgments rather than factual assertions lending themselves to proof (*Axel Springer AG v. Germany (No.2) (Application No.48311/10)* [2014] ECHR 745 at [63]). Warby J in *Yeo* stated the general approach as follows (at [97]):

“...[T]he court should take as its starting point the general features of the article and the impact these are likely to have on how the words used strike the mind of the ordinary reader. It should bear in mind [1] the positioning within the paper of the article under examination (for instance whether it is in the news section or in an “op ed” piece or magazine); [2] the general nature of the subject matter dealt with in that article (news, political, social, financial or other); [3] who has written the material, if this is apparent (is it for example the paper’s political correspondent or an established commentator?); and [4] the form of expression the reader would be likely to expect from an article on

this subject matter, positioned as it is, and by this or these author(s). It is against that background that the court should consider the particular statements in the article and assess, as far as possible at the same time, what if any defamatory meaning it conveys and the extent to which this is factual or comment. In performing this last task the court should be alert to the importance of giving free rein to comment and wary of interpreting a statement as factual in nature, especially where as here it is made in the context of political issues. In drawing the distinction the court should consider what the words in their context indicate to the reader about the kind of statement the author intends to make.”

Chase Levels

27. Allegations can be published with varying degrees of certainty. These degrees of certainty have been classically analysed at three distinct levels : (i) level 1: the claimant is ‘guilty’ of the conduct alleged; (ii) level 2: there is ‘reason to suspect’ the claimant is guilty of the conduct alleged; and (iii) level 3: there are ‘grounds for investigating whether’ the claimant is guilty of the conduct alleged (see *Chase v. News Group Newspapers* [2002] EWCA Civ 1722). These levels calibrate the degree of proof required by the defendant in a defence of truth (*c.f. e.g. Musa King v. Telegraph Group Ltd* [2003] EWCA 1312 (QB) and [2004] EWCA Civ 613).

Lucas-Box Meanings

28. In determining the meaning of the material complained of the court is “not limited by the meanings which either the plaintiff or the defendant seeks to place upon the words” (*Lucas-Box v. News Group Newspapers Ltd* [1986] 1 WLR 147 at 152H).
29. The Defendants complain that the Claimant has not complied with the practice recommended in *Jameel v. Times Newspapers Limited* [2004] EWCA Civ 983 of pleading alternative levels of pleaded meaning but has only pleaded one meaning which, for the most part, has been pitched at the level of “guilt”. Mr Barnes submitted that the question was a binary one and if the pleaded meaning was not borne out, since there was no pleaded alternative, the claim in that particular respect failed. I reject that submission. In my view, given the volume of complaints in this case, and the myriad shades of potential meaning, it is not unreasonable for the Claimant simply to have pleaded the principal meaning contended for and to leave it to the court to determine whether that, or some other lesser meaning, is the true meaning.

SUBMISSIONS

Claimant’s case

30. The Claimant’s case in these proceedings is that the “*Khara Sach*” broadcasts were seriously defamatory in that they portrayed him as a traitor to Pakistan, consorting with Pakistan’s enemies, doing their bidding and broadcasting subversive and misleading TV programmes which undermined Pakistan. Mr Nicklin QC submitted at this hearing regarding meaning that (i) the meaning of the words used in the context of the

programme as a whole was clear; (ii) Mr Barnes was seeking to construe meaning shorn of context; (iii) the ‘empty chair’ device (see below) was used by Mr Luqman to insinuate the Claimant’s guilt of the accusations that were being levelled against him; and (iv) the imputation of most of the broadcasts was seriously defamatory, namely that the Claimant was guilty of being a “*traitor to*” Pakistan.

Defendants’ case

31. The Defendants’ case is, in essence, twofold. First, the words complained of do not bear the extravagant meaning pleaded by the Claimant. Second, in any event, the words complained of comprised evaluative comment and/or the expression or statement of opinion. Mr Barnes, submitted that it was important not to conflate the two issues (*c.f. British Chiropractic Association v. Singh* [2010] EWCA Civ 350; [2011] 1 WLR 133).
32. Mr Barnes helpfully set out the Defendants’ case in relation to each of the 25 broadcasts in a detailed schedule. I have read and considered his schedule carefully whilst preparing this judgment. It is not, however, necessary to repeat each of his written submissions in full in this already overly-long judgment.
33. Mr Barnes submitted in essence that “*Khara Sach*” was a daily talk show which sought to ‘tease out’ and debate current affairs in Pakistan; it was not a documentary or factual news vehicle; viewers were to make up their own minds regarding issues and arguments raised; it was put out by a rival station to those owned and controlled by the Claimant.
34. Mr Barnes made a number of general submissions regarding the Claimant’s approach which he submitted (i) had been highly selective and focussed on the very worst interpretations from each of the episodes, (ii) required over-elaborate, over-literal and partisan analysis which was antithetic to the notion of a reasonable viewing; (iii) ignored the presenter’s colourful style and the programme’s format of challenge and questioning, and (iv) relied on the device of an ‘empty chair’ to support the imputation of ‘guilt’, whereas it implicitly suggested that the Claimant could contradict anything said if he considered it mistaken or unfair. Mr Barnes submitted that a reasonable viewer, taking each programme as a whole, would not think that that the Claimant was guilty of being a “*traitor*” to Pakistan or acting “*traitorously*” in having dealings with MOSSAD, RAW or the CIA etc.
35. Mr Barnes made also detailed submissions in relation to each of the 25 broadcasts. A number of common and recurrent themes run through his submissions which may be summarised as follows:
 - (1) The pleaded words “*traitor*”, “*traitorously*” or “*hypocrite*” etc rarely, if ever, appeared in the words complained of in any of the episodes; and if and in so far as the word “*traitor*” was used or a similar imputation made, it was conditional on facts being proved.

- (2) The thrust of the programmes and presentation (and the ‘empty chair’) in each case was simply the putting forward of a ‘case to answer’ which admitted of a response; it was not a blanket condemnation.
- (3) In every case, the extravagant ‘avid for scandal’ pleaded meaning was outside the bounds of the reasonable interpretation that a reasonable viewer would put on the words spoken in their context.
- (4) A reasonable viewer would make allowances for presenter, Mr Luqman’s, sometimes colourful delivery or clumsy remarks or infelicitous expressions and take some of what he and guests said with ‘a pinch of salt’.
- (5) In every case, Mr Luqman and his guests were expressing opinion about the Claimant, not facts.

36. The Defendants admitted the innuendo meanings.

ANALYSIS OF MEANINGS

37. The task with which the Court is faced in this case is substantial and unusual and has to be approached with particular care. The Court is asked to determine the meaning of words spoken in the course of 25 TV programmes. However, because the TV programmes were entirely in Urdu, the Court cannot glean the meaning from simply watching recordings of the broadcasts. The Court is necessarily reliant on studying translations of the transcripts of the broadcasts. To this extent, the Court is having to approach the task twice-removed, *i.e.* through the filter of the transcript and the translation. The Court does not have the benefit of gaining the immediate impression which the words spoken would have had on the hypothetical viewer in the original broadcast. Further, the problem is compounded by the fact that much of the broadcasts amount to a ‘stream of consciousness’ by the presenter, Mr Luqman, in language which is not always syntactically correct or easily comprehensible.
38. In order to address these problems, and guard against literalism and over-reliance on textual analysis at the expense of the immediate impact of the spoken word, the approach I have adopted is as follows:
 - (1) First, I played the DVD of the broadcasts with the transcripts in hand. I did not, of course, watch all 12 hours, because I do not speak Urdu; but I watched enough of each broadcast to get a flavour of the tone and structure of each programme and the style and approach of the presenter, Mr Luqman, and his various guests.
 - (2) Second, I read the full English translations of the entire transcripts of each broadcast and formed my own impression of the meaning of the particular words complained of in each broadcast highlighted in yellow.
 - (3) Third, I considered counsels’ written and oral submissions in relation to each broadcast.

- (4) Fourth, I replayed the DVD with the transcript and my notes to hand in order to confirm or adjust the impression I had formed as to meaning in relation to each broadcast.

Programmes to be considered separately

39. I have taken care to ensure that I have considered each programme quite separately and have not aggregated meaning by looking across several episodes. This is because it cannot be shown that the typical hypothetical viewer would have viewed all 25 programmes. I have arrived at a meaning which a reasonable viewer would have taken from each programme viewing it only once (*c.f.* Bingham MR’s guidance in *Skuse (supra)*).
40. The scale of the task is also considerable. The number of broadcasts (25) and words (12,805) complained of is high.

Chapter 1: 25th October 2013 broadcast

General observations

41. It is worth focussing on Mr Luqman’s opening remarks in the first broadcast on 25th October 2013. His remarks are striking and set the pattern, tone and flavour for several of the 24 “*Khara Sach*” broadcasts of which complaint is made.
42. In the first passage on 25th October 2013 broadcast, Mr Luqman begins his “*special episode*” of “*Khara Sach*” by invoking (i) Allah’s support “*to open up one’s tongue and to grant capacity to people to understand*”, (ii) the teachings of the Koran and the Prophet Muhammad and (iii) the need “*to conduct jihad against wrong things*”, viz.:

“ Mubashar Luqman: I begin this special episode of Khara Such with the pure name of Allah and a blessed prayer. One has to seek Allah's support to open up one's tongue and to grant capacity to people to understand. Allah sent his pure Koran through his beloved Prophet Muhammad and its orders are the most supreme to us and we do not need to listen to anything else from anyone, except these orders. I mentioned this particularly because Allah's beloved Prophet Muhammad told us - and his words shall remain valid until the hereafter-to conduct jihad against wrong things, stand up against the cruel, and if you cannot do it, then speak against them, and if you cannot speak against them, then do it in your heart but jihad will last forever. (16:50)”

43. In the second passage, Mr Luqman highlights the “[d]angers which surround Pakistan today” and “those in the media and newspapers” who “sympathize less with Pakistan and more with foreign countries”, viz.:

“ Mubashar Luqman: Dangers surround Pakistan today. Within Pakistan things are happening, which show that we have those who sympathize less with Pakistan and

more with foreign countries; these people are present in the media, in newspapers - I do not mean all of them; I mean just a few - and these include self-appointed NGOs and many who believe in human rights and work for human rights. Every one of these is throwing stones at Pakistanis and Pakistan. The soldiers and officers of Pakistan Army are sacrificing their lives to save our lives but we are levelling allegations against them. They orphan their children for our sake but we are busy in insulting them. (17:56)”

44. In the third passage, Mr Luqman states that he has “major breaking news” for his audience which will surprise Pakistanis living in Pakistan and abroad, namely that a court in Karachi has issued arrest warrants against him stating that he has insulted or ridiculed the TV programme “Desire for Peace” broadcast by the Claimant’s channels. He goes on to state:

“ Mubashar Luqman: ...I shall continue my crusade against the "Desire for Peace." Whatever I have been saying, Allah has materialized it and revealed that they were true.”

45. As noted above the programme “Khara Sach” translates as “Pure Truth”, i.e. the import being that the viewer is being invited to assume that what he or she is being told is the truth (fact). As will be seen, Mr Luqman embarks on a campaign against the Claimant in the ensuing broadcasts which involve scarcely-veiled attacks on the Claimant which are, at times, polemical, rhetorical and extravagant but purport to be underpinned by evidence. In my view, the fact that Mr Luqman is being polemical, rhetorical and extravagant does not necessarily convert statements of fact into opinion.

Specific complaint

46. The specific words complained of by the Claimant in the first broadcast are the following:

“The internal inquiry conducted by Hindustan Times found that Mir Shakil-ur-Rahman, ... - had many contacts in the Indian intelligence agencies. Upon Mr Shakil's instructions, his brother-in-law Mr Jahangir Siddiqui went to Bombay where he met Indian intelligence agencies' officials and a reporter of Hindustan Times. These intelligence officials forced the reporter to get this story published in such a way as to favour Jang and Geo Group.

I ask Mr Zayd Hamid, what do you understand by this link between Mir Shakil-ur-Rahman, Mr Jahangir Siddiqui, Indian intelligence agencies, and Hindustan Times?

Zayd Hamid: What you have told us, and the events you have described with reference to Mahmud Sham, if it happened as described, it is high treason against Pakistan and it brings to surface the relations of Geo Group with RAW and Indian intelligence. It will be a huge scandal about a Pakistani media group showing how journalism turns into rebellion and how information turns into info-terrorism.

Mubashar Luqman: I gave you breaking news about a Hindustan Times story, which they later repudiated by saying that Indian intelligence agencies' officials had arm-twisted them into publishing this story written by Mir Shakil-ur-Rahman and Mr Jahangir Siddiqui in particular.

Mubashar Luqman: Mr Zayd Hamid, tell me, now that Hindustan Times has retracted its story, it proves that Pakistan is not bad, Pakistan Army and its intelligence agencies are not bad our enemies spread poison against us and defame us in the entire world, as the idiom goes "They hide a knife in their armpit and say Ram, Ram".

Zayd Hamid: The story you told about Hindustan Times internal inquiry, quoting Mahmud Sham, if it is true, an immediate criminal FIR must be lodged against Geo Group and Mir Shakil

Zaid Hamid: An FIR must be lodged in this matter and if Mr. Mahmood Sham confirms that what he has written is true, then it must be investigated.

Mubashar Luqman: He has told me this thing on the phone.

Zaid Hamid: We are saying the same thing. Because there is evidence and witness is available, this is a plain case of treason. If this is forgiven then every war against terrorists should be stopped and every traitor must be forgiven for there is no use passing such laws in Pakistan as cannot be implemented."

47. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) The Claimant is guilty of the criminal offence of high treason, having conspired with Indian intelligence agencies to force the publication of a newspaper story that furthered the interests of India against those of Pakistan.

Particulars of Innuendo

A FIR would have been understood by all or nearly all viewers to be a First Information Report, which is a complaint lodged with the Pakistan police about the commission of a criminal offence.

48. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The Claimant has many contacts in the Indian intelligence agencies. Upon the Claimant’s instructions his brother in law, Jahangir Siddiqui, went to Mumbai (Bombay) where he met Indian intelligence agency officials and a reporter of the Hindustan Times. These intelligence agencies (but not the Claimant) forced the reporter to get this story published so as to favour the Claimant’s companies, Jang and the Geo Group.

Analysis

49. The opening passages of the broadcast suggest that Mr Luqman was intent not merely in debating current events, but in conducting a personal “*crusade*” or “*jihad*” against those supporting “*Desire for Peace*”, whose perfidious actions he was exposing and proving. He also states that what he is saying has been “*materialized*” by Allah and is “*true*”.
50. It is clear that the main object of Mr Luqman’s ire is the chief of the Jang and Geo Group, the Claimant (“*there is no bigger name in Pakistani journalism*”). Mr Luqman places considerable emphasis on the fact that the findings as to the Claimant’s involvement in the *Hindustan Times* story is as a result of the newspaper’s own internal investigation. Mr Luqman also states, without equivocation, that he has personally spoken to someone whom he describes as a “*witness*”, Mahmud Sham, who has “*admitted*” the story regarding the *Hindustan Times*’ internal investigation, in particular (i) the Claimant’s direct involvement in phoning the Indian intelligence agencies, (ii) the Claimant’s brother-in-law Jahangir Siddiqui’s presence at the time, and (iii) the fact that “*high officials*” of Indian intelligence helped him and then “*forced*” the reporters to publish the story “*in such a way as to favour Jang and Geo Group*”. The reason why the *Hindustan Times* story is said to favour the Jang and Geo Group is somewhat convoluted and unclear, but would appear to be connected to the suggestion in the story that the new TV channel to be set up in Pakistan with the collaboration of ISI called “*Bool TV*” would be “*targeting*” the Geo Group which itself had been critical of the Pakistan military. However, this is against the background of the general tenor and thrust of the broadcast which is redolent with references such as “*dangers surround Pakistan today*”, “*...those who sympathize less with Pakistan and more with foreign countries*”, “*...our enemies spread poison against and defame us in the entire world*” etc. The reasonable viewer would be left with the impression that the activities of the Claimant were strongly inimical to the interests of Pakistan and favoured India.
51. Mr Barnes is right to point out that Mr Luqman’s guest Zayd Hamid expresses himself in conditional terms, viz. “*...if it happened as described...*”, “*...if it is true, an immediate criminal FIR must be lodged against...[the Claimant]*”) and “*...if Mr Mahmood Sham confirms that what he has written is true, then it must be investigated*”. However, in the final exchange in the programme set out above, Mr Luqman confirms to Zayd Hamid that “*He [i.e. Mahmud Sham], has told me this thing on the phone*”. Zayd Hamid then replies unequivocally: “*We are saying the same thing. Because there is evidence and witness is available, this is a plain case of treason*”. Thus, the broadcast ultimately resolves itself with Mr Luqman and Zayd Hamid in agreement that “*this is a plain case of treason...*” which cannot be forgiven.
52. Importantly, therefore, the final impression left in the viewer’s mind as to the outcome or *denouement* of the broadcast is clear: the allegations regarding the Claimant’s dealings with Indian intelligence officials and the forced publication of the *Hindustan Times* story against the interests of Pakistan etc. is proved by the evidence and is true and the Claimant should therefore be criminally charged and punished as a traitor. This episode was, in effect, trial by TV

Decision

53. For these reasons, I find that the words complained of bear the meaning contended for by the Claimant namely the following meaning:

The Claimant is guilty of the criminal offence of treason, having conspired with Indian intelligence agencies to force the publication of a newspaper story in the *Hindustan Times* which furthered the interests of India at the expense of Pakistan.

54. The meaning is factual. The words are unequivocal and at *Chase* level 1

Chapter 2: 26th October 2013 broadcast

55. The words complained of by the Claimant in this broadcast are the following:

“Hindustan Times conducted an internal inquiry. We have the report and full investigations of this internal inquiry. These were very frightening. These stated that the driving spirit and owner of Jang and Geo Group, Mir Shakil-ur-Rehman, a very respectable name in Pakistan, Mir Shakil-ur-Rehman, especially his relations that he has with Indian intelligence agencies,

However, according to their internal inquiry they stated that agents of RA or agents of Indian intelligence, upon the saying of Mir Shakil-ur-Rehman and Jahangir Siddiqui, especially had this story planted in Hindustan Times. They had this story published upon their saying so.

stories like the one published by Hindustan Times greatly damage the inflow of investment to Pakistan especially when inward investment is scant and people are trying to shift their money out of Pakistan.

Hindustan Times as an institution [did a great thing and any journalist would accept that when they found that their story was bouncing or they had no evidence to back it up, they] showed good character and decency by [immediately] withdrawing the story ... But this does not end it over here in Pakistan because [when there is evidence] that Pakistan's largest and most powerful media organization, which daily reveals the corrupt practices of others and tells us [who] is right and [who] is wrong, has relationships with enemies of the country - not just relations but very deep relations - so deep that upon its word, they can do anything, and it even used their media,

Also especially joining us from USA is Mr Muhammad AM who is the former chairman of Securities and Exchange Commission of Pakistan: We will show you the letters he wrote to the Prime Minister of Pakistan, Mian Muhammad Nawaz Sharif, stating that Mir Shakil-ur- Rehman threatened to kill him and to get him dismissed from his job, because he had refused to entertain Mian Mansha's IPPs and Mr

Jahangir Siddiqui. And he also states that Mir Shakil-ur- Rehmaan has done many other things of this kind

Mr Dhayddy: ... and I congratulate you for revealing such a huge scandal ... I did not know that they are enemies of the country. I rather suggest that we should now declare a jihad against them. In no case should they be spared now. How can you spare them when they are working against the country?

Mubashar Luqman: How did Mir Shakil develop relations with Indian intelligence agencies?

Mr Dhayddy: ... Now they are against the country which gave them so much, so much respect and honour - they built an empire; they became media tycoons; for what? For this?"

56. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:
- (1) The Claimant threatened to kill Mr Muhammed Ali, former chairman of the Securities and Exchange Commission of Pakistan; and
 - (2) The Claimant is a traitor and an enemy of Pakistan who works against Pakistan and who has very deep relations with Indian intelligence agencies working against Pakistan.

Particulars of Innuendo

RAW is India’s foreign intelligence agency, as all or most Khara Sach viewers would have known.

57. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The Claimant has relations with Indian intelligence agencies. He had a story planted in the Hindustan Times which that newspaper later retracted.

Following threats by the Claimant to damage Mr Ali’s reputation, Mr Ali became the subject of false media allegations made through the Claimant’s broadcast and newspaper companies, Geo and Jang.

Analysis

58. The tenor of the broadcast is that Mr Luqman deals in hard facts, not merely unproven speculation. He opens with the boast, “*I have highly sensational documents ...*”. He himself suggests that he is aiming at the truth, “*The courts will have to see if what I say is true of false*”. He employs rhetorical devices to reinforce the truth of what he is saying, “*If I am wrong, send me to prison...*”.

59. Mr Luqman’s questions presuppose a factual foundation, e.g. “*How did Mr Shakil develop relations with Indian intelligence agencies?*”. There is little or no equivocation on the part of Mr Luqman, e.g. “*Mr Jahangir Siddiqui, the man who did many big things at the behest of Mr Shakil-ur-Rahman*”.
60. Considerable emphasis is again placed on the fact that the *Hindustan Times*’ own internal investigation came up with these “*very frightening*” findings. There can be no doubt that it is the Claimant who is being referred to as the *eminence grise*. He is described as “*the driving spirit and owner of Jang and Geo Group*”, and clearly the figure ‘in the frame’, together with his brother-in-law, Mr Siddiqui, and Mr Ibrahim.
61. The invited guest, Ageel Dhayddy, is in no doubt that Mr Luqman is uncovering hard facts as to reprehensible conduct by the Claimant and others. He congratulates Mr Luqman on revealing “*such a huge scandal*”, candidly explains that “*I did not know that they were enemies of the country*”, and implores “*we should now declare a jihad against them*” and states unequivocally “*In no case should they be spared now*”.
62. The central message which a reasonable viewer would have gleaned from this broadcast is that the Claimant and his companies forged “*deep relations*” with the “*enemies of the country*”. No precise details are given of what conduct comprises “*deep relations*” and the word “*traitor*” is not used. However, the imputation is clear, namely that the Claimant is in bed with the enemies of the country and is, therefore, a *traitor* of Pakistan.
63. I turn to the other significant complaint raised by the Claimant regarding the letter from Muhammad Ali to the Prime Minister of Pakistan. Whilst Mr Luqman initially asserts that the letter written by Muhammad Ali to the Prime Minister states that the Claimant “*threatened to kill him and get him dismissed from his job*”, he puts the letter in more anodyne terms when Mr Ali himself appears as his guest. Muhammed Ali then disavows that he was “*generally threatened*” and simply says that he was threatened that his reputation would be tarnished. I accept Mr Barnes’ submission that Muhammed Ali effectively neutralised Mr Luqman’s more serious assertion that the letter had accused the Claimant of threatening to kill him.

Decision

64. For these reasons, I find that the words complained of bear the following meaning:
- (1) **The Claimant is a traitor and an enemy of Pakistan who works against Pakistan and who has very deep relations with Indian intelligence agencies working against Pakistan.**
 - (2) **Following threats by the Claimant to damage Muhammed Ali’s reputation, Mr Ali became the subject of false media allegations made through the Claimant’s broadcast and newspaper companies, Geo and Jang.**
65. The meaning of (1) and (2) is factual and at *Chase* level 1.

Chapter 3: 28th October 2013 broadcast

66. The words complained of by the Claimant in this broadcast are the following:

“More shocking than this news was the one published in The Hindustan Times ... It found that Mir Shakil-ur-Rehmaan in particular had strong links with the Indian agencies. And today, a Hindustan Times reporter told me that RA, the Indian intelligence service, is putting very strong pressure on The Hindustan Times to retract their story.

Now a third link has appeared. Did Jang Group or Mir Shakil-ur-Rehmaan directly seek funding or obtain funding from the CIA or America? ... Let me be clear that some time back a proposal was submitted to America, to the American government. It was on 30th June 2013, and I have this complete document here with me which was submitted on behalf of Mir Khalil ur Rahman Foundation. And it was stated therein "what we people would do to build the image of the United States, and how we will reduce the animosity among the public against the United States". And in this proposal, it was admitted that Jang and Geo Group had previously pressurised the then Government in 2006, to abolish the Hadood Ordinance and Sharia Law, and The New York Times had mentioned this in one of its articles. I have the New York Times article which I will try to show you on the screen. New York Times admitted that this Group played a major role in blocking the implementation of the Islamic Law and Hadood Ordinance. Four regular programmes provided justification to the Government to amend this law and paved the way

They are working on a project the aim of which is to develop a soft corner for India in the hearts of Pakistani people though, on the other side, India is shelling Pakistani border areas and [martyring] our soldiers ...

Not just this, with reference to changing public opinion, they conducted surveys in which they proved that "terror perception" had dropped by between 75 and 87 per cent. Not just surveys, they used editorials, TV programmes, and news to change the public opinion.

Then it mentions the programme "Zara Sochiye" which was run with the funding of 20 million pounds obtained from the UK.

Their proposal states that: A few things will remain as they are: Violence will remain in Pakistan; Pakistan will continue to be part of the war on terror; political uncertainties, energy crises, balance of payments issue will remain and there will be increased violence from extremist forces. I do not know if this was their analysis or their promise. You are watching on the screen this document which I have got hold of and if what I am saying is not right I respectfully request Mir Shakil-ur-Rehmaan to take this opportunity to come here and tell us that this document is false.

Then they say that I put in planted shows. ... But I've been giving you opportunities to come and explain that all this is wrong and if this is not "planted" then what else can be called "planted?" ... In this proposal, they mention "Pakistan" as "the target

country;" God forbid; God forgive; Pakistan has become a target for them now; I have seen poor people going to great lengths for money but...

[Now] stories [were pouring in, that] GEO television, I am [mentioning names, that it had linkages] with Indian [television. For evidence I am showing you a] copy of Hindustan Times in which they [are saying, first they had given] a story that TV [is coming with the collaboration of] Dawood Ibraheem. [then when there was] a complaint, Hindustan Times retracted [their] story[, an old] editor of [Geo and] Jang, Mahmood Sham a senior [name] they [sent retracted their] story [through him, that] our internal inquiry[, with the collaboration of] Mir Shakeel Ur Rehman, Jahangir Siddiqui [with the collaboration of the] Indian [agency got together and orchestrated. The] Indian [agency has such involvement and had come up with this, if the Indian intelligence have such much involvement and also within the media as well.] Where the Indian [Agency has such extent of involvement and such a big name of our] media [is involved, what will your response be, sorry the question is so long.]

Imran Khan: This is a very serious accusation.

Mubashar Luqman: ... I think there was a mentioned in your programme, I wasn't able to watch the whole of your programme, but I was told about it. Listen this is a very serious issue.

Imran Khan: This is a serious issue, if there is any reality in this it should come, there should be an inquiry into this, this is not a small allegation, it's a big allegation, if such a thing is happening and it involves the country. I mean if such a thing happens within the country, and any TV channel, any such thing...

Mubashar Luqman: If ARY does this, then there should be an inquiry into ARY.

Imran Khan: Any external influence, and especially to be influenced by outside agencies to start a propaganda in this country, it's absolutely wrong and there should be an inquiry held about this."

67. The Claimant contends that the words complained of bear the following "natural and ordinary (and/or innuendo)" meaning:

The Claimant is a traitor who:

- (1) has strong links with Indian intelligence agencies;
- (2) has spread pro-Indian propaganda and sought to promote India's image in Pakistan (even when India was shelling Pakistani land and killing Pakistani soldiers), and
- (3) sought money from the American government in return for promoting the US within Pakistan and recognised that in consequence violence, political uncertainty, energy crises and unrest would continue in Pakistan.

68. The Defendants contend that the words complained of bear the following "realistic, innocent, other or dominant meaning by way of example":

The Claimant has strong links with Indian agencies. The Mir Khalil ur Rahman Foundation “MKRF” may (but it remains to be established) have sought funding from the United States in return for which the Claimant’s Jang and Geo Group companies would promote the United States in Pakistan. The Claimant is invited to take the opportunity to appear on the programme and tell it that this is false. There is a point of view (for example held by Imran Khan) that the overseas influencing of a country’s media is wrong and should be investigated where there is reason to think that that has happened.

Analysis

69. The opening question raised by Mr Luqman, “*Did Jang Group or Mir Shakil-ur-Rahman directly seek funding or obtain funding from the CIA or America?*”, is answered by Mr Luqman with the words, “*Only God knows*”. I agree with Mr Barnes that this exclamation in relation to the “*third link...*” is not obviously rhetorical. This is immediately followed by MKRF being described, or categorised, in unequivocal terms as a “*front*” used to ask for money. Mr Luqman then quotes from the 30th June 2013 document which states in stark terms “*what we people [i.e. MKRF] would do to build the image of the United States...*” and details the activities of the Jang and Geo Group in 2006 pressurising the Pakistan Government to abolish the Haddood Ordinance and Sharia Law etc. This is a powerful and unequivocal statement of fact as to what has been going on. It is quite clear that the reference to MKRF is synonymous with the Claimant.
70. The subsequent statement by Mr Luqman, “*They are working on a project the aim of which is to develop a soft corner for India in the hearts of Pakistani people...*”, is clearly a reference to the promulgation of soft, pro-Indian propaganda by, *inter alios*, the Claimant.
71. Mr Luqman puts the *Hindustan Times* story to his invited guest, the former cricketer and politician Imran Khan, in a slightly muddled and truncated manner and in less definite terms than before, *viz.* “*Now stories were pouring in that GEO television...*”, and seeks his guest’s comments. Imran Khan plays it with a straight bat and simply comments that it is “*a very serious accusation...*” and “*it’s a big allegation, if such a thing is happening...*”.
72. Mr Luqman’s theatrical use of the device of the ‘empty chair’ is to a significant extent a rhetorical device. The reasonable viewer would regard the ‘empty chair’ as representing the Claimant who is, in effect, on trial on TV *in absentia* with Mr Luqman acting as prosecutor. The emphasis is on the absence of the Claimant. The insinuation is that an innocent man would not be absent.
73. The message which the reasonable viewer would glean from this third broadcast is that the Claimant has strong links with the Indian intelligence agencies, has sought funds from the US Government in return for promoting the US within Pakistan and has spread ‘soft’ pro-Indian propaganda in Pakistan. The word “*traitor*” is not actually used in the third broadcast; and, in my view, the nature of the allegations levelled against the Claimant would not lead a reasonable viewer to conclude that it was being

suggested that the Claimant was a “*traitor*” but merely that he was acting in a way which was ‘disloyal’ to Pakistan.

Decision on meaning

74. For these reasons, I find that the words complained of bear the following meaning:

The Claimant, who is disloyal to his country:

- (1) has strong links with Indian intelligence agencies;**
- (2) has spread pro-Indian propoganda and sought to promote India’s image in Pakistan (even when India was shelling Pakistani land and killing Pakistani soldiers), and**
- (3) sought money from the American government in return for promoting the US within Pakistan and recognised that violence, political uncertainty, energy crises and unrest would continue in Pakistan.**

75. The words “who is disloyal to his country” are comment. The meaning of the remaining words is factual and at *Chase* level 1.

Chapter 4: 30th October 2013 broadcast

76. The words complained of by the Claimant in this broadcast are the following:

“The Media commission also came to know that dramas produced by Indian producers are sold in Dubai and from there these programmes are imported into Pakistan. They also provided the example of "Desire for Peace" programme, which is funded by a Norwegian NGO called "Friends without Borders." When we look into the background of this funding, we find that it has connections with Indian sponsors including Indian state-owned TV channel "Door Darshan.”

The biggest question is that if your programmes are foreign funded [– funded by any country or in any category, and these programmes are named [in the same bid] -] and you do not mention them on screen as "paid content" or "advertising," or "advertorial" or "supplement," then you are telling a lie not only to your viewers, readers, to the government and tax payers [but also to the] courts of law and all regulating authorities because you are deliberately concealing this fact across the world.

In any country, any television channel or newspaper cannot run a paid material by calling it "editorial content." This is an established fact and any journalist, senior to me and more talented than me, will tell you the same.

The question is, when you submitted this bid, you mentioned in it the names of your TV programmes. You wrote that you would provide a certain number of episodes of "Zara Sochiye" and a certain number of "Capital Talk" episodes etc. It means that your programmes were there for sale, as you stated in this document.

Today, I was talking to a top level media owner, a very reputable name in Pakistan. I asked him whether our laws or [the] Constitution allow one to receive money from foreigners and run TV programmes in accordance with the funding parties' wishes. For example, if Israel offered a huge sum to ARY in exchange for ARY favouring Israel's foreign policy in its programmes, and people are not told that this is an Israeli advertisement - rather the programmes appear like our editorial policy - then the people who have faith and trust in us will certainly fall victim to it. They will be victims of falsehood and deception.

This document claims that the "Desire for Peace" is a campaign. It does not state that this will bring these two nations closer. It states that the "Desire for Peace" is a campaign for which money has been received. When you receive money, you are destroying Pakistani dramas, theatre, films, singers, musicians and Pakistani record labels because you have taken money to run something which does not arise in any way from our own culture and social values.

What next? Here I see Indian intelligence agencies; here I see CIA; here the name of MI6 surfaces;

I was hurt upon reading this published report of WikiLeaks. Further, they wrote:

[(In English)] Many of the reporters have political agendas and are paid by...

After the above sentence, we find the names of the agencies; there is the name of a party too.

Moreover, since 2010, Geo Group has been working in collaboration with the Indian newspaper The Times of India ... on the "Desire for Peace" Project with an objective to create soft corner for India in the hearts of Pakistanis. On the other side, India is shelling and killing our army men on the borders. Not only this, they conducted surveys to change public opinion. In this regard, their TV programme "Zara Sochiye" has been mentioned, which received 20 million pounds funding from UK. These 20 million pounds were mentioned in the House of Lords document too.

Mr Mir Shakil-ur-Rahman, I will place a chair here for you. Take as much as ten days but please provide your response. I will humbly and silently listen to your reply. Pakistani people should know who is getting money from whom - from India, England, or CIA or from all of these; people should know why he is receiving money and what is he doing to this county."

77. The Claimant contends that the words complained of bear the following "natural and ordinary (and/or innuendo)" meaning:

- (1) The Claimant had traitorously taken money covertly from Indian intelligence agencies and other foreign agencies to broadcast pro-India propaganda, even while India was shelling and killing Pakistanis.
- (2) Innuendo meaning: The Claimant has hypocritically promoted the ‘Aman Ki Asha’ campaign as a genuine and independent peace campaign by media groups, when in fact it is funded and run by a company connected to the Indian government to serve Indian interests, and he has therefore lied to and betrayed the people of Pakistan.

Particulars of Innuendo

Aman Ki Asha, which translates as “Hope for Peace”, is a high profile joint campaign by the Jang Group and the largest media group in India, The Times of India, the objective of which is to contribute to bringing about peace between India and Pakistan, which the Jang Group has publicly proclaimed to be free of any outside or foreign influence or funding, as would be known to all or nearly all viewers.

78. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The programme would welcome the Claimant’s appearance on it, to explain the overseas funding arrangements for ‘Aman Ki Asha’, Jang and the Geo Group.

Analysis

79. Mr Luqman opens the programme by referring to the “*allegations*” that he is presenting to the viewers which have been levelled against the Jang and Geo Group.
80. Mr Luqman’s quotation from the Media Commission report regarding the Norwegian NGO funding of “*Desire for Peace*” is however, without qualification and factual: “*When we look into the background to his funding, we find that it has connections with Indian sponsors...*”(p.2); “[*This document*] states that the “*Desire for Peace*” is a campaign for which money has been received”. Subsequently, references to “*Indian intelligence agencies*”, “*CIA*” and “*MI6*” are thrown in for good measure.
81. The “*biggest*” allegation levelled by Mr Luqman is that to run programmes which are foreign funded without disclosing the fact is “*telling a lie*” to viewers, Government and tax payers. The statement, “*...Geo Group have been working in collaboration with... the Times of India...with an objective to create soft corner for India in the hearts of Pakistanis ...*” is clearly a statement of fact not opinion. There is also an unequivocal statement that the TV programme “*Zara Sochiye*” received £20 million in funding from the UK.
82. It is clear that all of the allegations are levelled against the Claimant personally. Mr Luqman’s theatrical use of the device of the ‘empty chair’ at the very end of this broadcast is rhetorical and sarcastic and conveys the message to the viewer that the

Claimant is not present because he has no answer to the charges levelled, *i.e.* he is guilty.

83. The word “*traitor*” is not used in the broadcast and, in my view, the term “*disloyal*” is more consistent with the tenor of the allegations levelled. A reasonable viewer would, however, think it was being suggested that it was “*hypocritical*” for the Claimant to promote the peace campaign as independent when it was, in fact, being funded by Indian interests.

Decision

84. For these reasons, I find that the words complained of bear the following meaning:

- (1) **The Claimant has disloyally taken money covertly from Indian intelligence agencies and other foreign agencies to broadcast pro-India propaganda, even whilst India was shelling and killing Pakistanis.**
- (2) **The Claimant has hypocritically promoted the ‘Aman Ki Asha’ campaign as a genuine and independent peace campaign by media groups, when in fact it is funded and run by a company connected to the Indian government to serve Indian interests, and he has therefore lied to and betrayed the people of Pakistan.**

85. Save that the words “disloyally” and “hypocritically” and “and betrayed” are comment, the meaning of (1) and (2) is factual and at *Chase* level 1.

Chapter 5: 4th November 2013 broadcast

86. The words complained of by the Claimant in this broadcast are the following:

“You might remember that in the last three days, Islamabad High Court issued an order stating that I should not say anything against the Jang Group or Geo or their officials which may be categorized as defamation.

But let me tell you. They admitted two things. One: Their editorial content was paid for. Money was given for it.

a certain amount of money was received to make programmes.

It means that the Desire for Peace Campaign is also being paid for.

I am saying that a company from Norway is running it and there are proofs and relations behind it that connect it to India.

Mubashar Luqman: Is it a fact that Indians are giving money to run content on our media?

Humayun Gohar: You see, we are all Muslims and we should not make allegations without proof. I do not have the evidence but it is a fact that there are doubts against not just one channel but many channels. When Mr Musharraf allowed freedom to channels, it led to media proliferation without regulations. Media freedom appeared but they got it only by legacy and they started to sell their freedom to foreign and domestic powers.

Sabir Shakir: Mr Mubashar! We have been waiting for the past 8 or 10 years for the Chief Justice or the Supreme Court to take notice in what manner the offices of the President, the Army, and our institutions were being ridiculed - and there is no reduction in this even now - I would say that even Islamic traditions are being ridiculed and insulted; there is no such thing as national dignity or the sanctity of the nation

Mubashar Luqman: ... The question is: Should there be no inquiries in Pakistan when India's ill-famous RAW provides funds to someone in Pakistan, or funds come from Durdarshan, even if it is through an indirect way? Should there be no inquiries and punishments? If it is proved that funds are taken from CIA and Britain and their foreign policy is being implemented here, whether it be the policy about drone or any other aspect, should there be no inquiries held?

Mubashar Luqman: Who are "them?"

Humayun Gohar: Those you are making allegations against.

Mubashar Luqman: You mean Mir Shakil Ur Rahman? I am not making allegations; I have already proved."

87. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) The Claimant has traitorously taken money from foreign powers, including India’s infamous RAW, the CIA and Britain, in order to broadcast programmes favourable to their interests.
- (2) The Claimant has, through the Jang Group, ridiculed and insulted Islamic traditions.
- (3) Innuendo meaning: The Claimant has hypocritically promoted the ‘Aman Ki Asha’ campaign as a genuine and independent peace campaign by media groups, when in fact it is funded and run by a company connected to the Indian government to serve Indian interests, and he has therefore lied to and betrayed the people of Pakistan.

Particulars of Innuendo

Aman Ki Asha, which translates as “Hope for Peace”, is a high profile joint campaign by the Jang Group and the largest media group in India, The Times of India, the objective of which is to contribute to bringing about peace between India and Pakistan, which the Jang Group has publicly proclaimed to be free of

any outside or foreign influence or funding, as would be known to all or nearly all viewers.

88. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

In gagging the presenter Mr Luqman by an order obtained from the Islamabad High Court Jang Group and Geo admitted their editorial and other content is paid for. So far as concerns the Desire for Peace Campaign (‘Aman Ki Asha’), Lord Nazir cannot say whether it is being paid for or not. Instead of silencing Mr Luqman through the courts The Claimant could come on the programme and answer the questions raised of him. He is welcome.

Analysis

89. This broadcast shows Mr Luqman in particularly defiant mood in the face of potential defamation proceedings issued against him by the Jang and Geo Group in the High Court of Islamabad: “*I neither fear anyone nor bow to anyone except Allah*” (p.2). It is also probably the clearest example of Mr Luqman’s vocal insistence that he deals only in proven facts: “*I just talk about facts. I just report. I have reports. I am just presenting these reports.*” (p.1). He appears not to appreciate, however, that repeating a libel without qualification is defamation.
90. Mr Luqman states early on in the broadcast “*But let me tell you. They admitted two things. Their editorial content was paid for. Money was given for it.*” He goes on to promise, “*Today I will prove to you that the money is actually £20 million.*” (p.3). He then states in terms: “*That a certain amount of money was received to make programmes.*”
91. Mr Luqman then puts a number of factual assertions to his guest, Lord Nazir, seeking agreement including “*It means that the Desire for Peace Campaign is also being paid for*” (p.4). Lord Nazir demurs in relation to Mr Luqman’s particular proposition but states in terms that “*a company from Norway*” is running the *Desire for Peace* campaign “*and there are proofs and relations behind it that connect it to India*” (p.4).
92. Mr Luqman then puts a number of factual assertions to his second guest, Humayun Gohar including “*It is a fact that Indians are giving money to run content on our media?*”. Humayun Gohar admonishes Mr Luqman by stating “[*We*] *are all Muslims and we should not make allegations without proof...*” (p.5).
93. Mr Luqman asks rhetorically: “*Should there be no inquiries in Pakistan when India’s ill-famous RAW provides funds to someone in Pakistan...?*”. He follows this with the following apparently conditional statement: “*If it is proved that funds are take from CIA and Britain.... Should there be no inquiries held?*” (p.423). These are assertions of fact not mere allegations. They are directed towards the Claimant. This is made clear by Mr Luqman himself in the following exchange with Humayun Gohar (emphasis added):

“*Mubashar Luqman: Who are “them”?*”

*Humayun Gohar: Those you are making allegations against.
Mubashar Luqman: You mean Mir Shakil Ur Rahman? I am not making
allegations. I have already proved.*

94. Mr Barnes admitted that this latter exchange, taken literally, was difficult for the Defendants' case. Doing his best for his client, however, he ventured to suggest that this was just 'clumsy' use of language by Mr Luqman. I disagree. It is quite clear that Mr Luqman knew what he was saying and intended to say what he did. Indeed, this was a familiar theme or mantra in his broadcasts: he had proof positive of the things he was reporting about the Claimant, *i.e.* he was broadcasting proven facts about the Claimant, not mere allegations.
95. In my judgement, the innuendo meaning is essentially made out. A reasonable viewer would conclude that it was being suggested that the Claimant had disingenuously portrayed "*Desire for Peace*" as an independent peace campaign when, in fact, it was secretly funded by Indian and foreign interests and furthered their policies; and the Claimant had thereby betrayed the people of Pakistan. In my view, the word '*disingenuously*' rather than '*hypocritically*' better describes the behaviour being suggested of the Claimant.
96. The word "*traitor*" or "*traitorously*" is not used in the broadcast. However, in my view, a reasonable viewer would think that it was being insinuated that the Claimant was a 'traitor' to Pakistan by taking from Indian and other foreign security services (*i.e.* the security services of the enemies of Pakistan) in order to broadcast subversive programmes in Pakistan.
97. In my view, however, the passage from the studio guest, Sabir Shakir, suggesting "*even Islamic traditions are being ridiculed*" is insufficiently definite or attributable to the Claimant to justify the meaning claimed.

Decision

98. For these reasons, I find that the words complained of bear the following meaning:

- (1) The Claimant has traitorously taken money from foreign powers, including India's infamous RAW, the CIA and Britain, in order to broadcast programmes favourable to their interests.**
- (2) The Claimant has disingenuously promoted the 'Desire for Peace' campaign as a genuine and independent peace campaign by media groups, when in fact it is funded and run by a company connected to the Indian government to serve Indian interests, and he has therefore lied to and betrayed the people of Pakistan.**

99. Save that the words “traitorously” and “disingenuously” and “and betrayed” are comment, the meaning of the remaining words in (1) and (2) is factual and at *Chase* level 1.

Chapter 6: 13th November 2013 broadcast

100. The words complained of by the Claimant in this broadcast are the following:

“...are you saying that money was given to run the Desire for Peace Campaign?”

Lord Nazir: I understand that commercial organisations do not work for free or for the sake of love. If they were doing it out of love, they would not have thrown mud at Pakistani politicians; they would never have criticized the Army and they would not have offered conspiracy theories which they are doing even now. Mr Mubashar, you know well that everything happens for money. Still in this programme, I am not naming that large media network because I live in London and libel cases here are very punitive/strong. I do not name them but I must say that the recipients must examine their conscience.

Mubashar Luqman: ... Can Mir Shakil inform the public why he submitted, through Mir Khalil-ur-Rahman Foundation, a proposal to the United States offering them to air planted programmes on his TV channel in exchange for dollars? Who received this proposal in the United States? You can guess.

Mubashar Luqman: ... Does Pakistan honour you and raise your profile so that you could impose India over it?

Mubashar Luqman: ... Pakistan is ours and it is we who have to save it. From whom? This is a question to ponder.

101. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

Despite being raised and made famous in Pakistan, the Claimant had traitorously and in betrayal of his own country taken money covertly from the USA to promote anti-Pakistan and pro-India propaganda.

102. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Commercial organisations do not work for free or merely for the sake of love. Everything happens for money. It would be welcome if the Claimant were to explain MKRF’s proposal to the US offering to air paid for programmes on C’s TV channel.

Analysis

103. Mr Luqman asks Lord Nazir to comment on the allegation that money was given to run the “*Desire for Peace*” campaign (p.7). Lord Nazir suggests quite clearly that you only do certain things, i.e. “*throw[] mud at Pakistan politicians...*”, “*criticize[] the Army...*” etc., if you are actually being paid money. But Lord Nazir declines to name the media network concerned because he is concerned about the risk of libel (p.7).
104. Mr Luqman also purports to express a fear of defamation but then states, “*But to bring forward a news item with facts is my right*” (p.9).
105. The question posed by Mr Luqman ostensibly to the ‘empty chair’ (“*Can Mir Shakil inform the public why he submitted, through [MKRF], a proposal to the United States offering them to air planted programmes on his TV channel in exchange for dollars?*”(p.11)) is put in terms of “*why*” not “*whether*”, i.e. it assumes as a fact that the Claimant did offer to plant programmes for money. He adds the teaser, “*You can guess*”. Further flavour is derived from the subsequent passages, “*Does Pakistan honour you and raise your profile so that you could impose India over it?*”(p.12) and “*Pakistan is ours and it is we who have to save it. From whom?*” (p.13).
106. There is no actual use of the word “*traitorously*” or the word “*betrayal*” in this broadcast. In my view, the overall sting of this broadcast is less potent than the previous broadcast, in particular because there is no reference to RAW or the CIA as being the source of the foreign funding.

Decision

107. For these reasons, I find that the words complained of bear the following meaning:

The Claimant has disloyally taken money covertly from the United States to broadcast TV programmes which are critical of Pakistan.

108. The word “disloyally” is comment. The meaning of the remaining words is factual and at *Chase* level 1.

Chapter 7: 26th November 2013 broadcast

109. The words complained of by the Claimant in this broadcast are the following:

“...according to the spokesman of Jang and Geo, who is the Administrator of the institution, i.e. Administrator? Who is the main force behind it, who is the Administrator? Mir Shakil-ur-Rahman, Administrator of the institution

Mir Shakil-ur-Rahman is watching this programme sitting in Dubai at this time. Lord Nazir is again with me.

*Who does not speak the truth Lord Nazir, he is a liar who does not speak the truth?
Lord Nazir Ahmed: Look! My name is not “Mir”, my name is “Nazir”. Mir was that... Jafar as well, Mir was that... what was the name of that other?*

Mubashar Luqman: Sadiq

Lord Nazir Ahmed: Mir was Sadiq and Jafar, my name is Nazir. And Thank God that I am a Pakistani, I love Pakistan and also defend Pakistan. Never do I ever want to say anything that could damage Pakistan.”

110. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

Innuendo meaning: The Claimant is a traitor to Pakistan.

Particulars of Innuendo

Mir Sadiq and Mir Jafar are two historical characters held in the highest contempt and reviled as traitors by the Indo-Pakistani community as they betrayed their fellow countrymen by siding with and fighting for the British

Particulars of Reference

Given that:

- (a) the focus of the discussion during the program was about the Claimant, both before and after the words complained of; and
- (b) the Claimant’s title is ‘Mir’;
all or a substantial number of viewers would understand the words complained of to refer to the Claimant.

111. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Jang and Geo have made public claims that may be false (through their newspapers and TV) about their overseas funding. The Claimant could come forward on the programme and answer the questions arising.

Analysis

112. The imputation alleged in this broadcast is that the Claimant is said to be equivalent to the notorious, traitorous characters, Sadiq and Jafar. The key words are spoken by Mr Luqman’s invited guest, Lord Nazir Ahmed, namely, “*Mir was Sadiq and Jafar*” (p. 4). Mr Nicklin QC likened Sadiq and Jafar to the notorious pro-Nazi propagandist Lord Haw-Haw. Mr Barnes suggested that Lord Nazir Ahmed was essentially making a joke and this was no more serious a reference than to Guy Fawkes. He further submitted that, in any event, the context in which this arose was simply ‘who is telling the truth’ and did not support the innuendo meaning contended for.
113. The reference to “*Sadiq and Jafar*” comes out of the blue. Mr Luqman repeatedly accuses the Claimant of lying to the people of Pakistan about funding (p.1) and Jang and Geo News of lying in their newspaper (p.4). Lord Nazir Ahmed’s mistaken belief that Mr Luqman might also be accusing him of lying then provokes him into his outburst “*Mir was Sadiq and Jafar*”. He at pains to distinguish himself from “*Mir*”. In my view, the reasonable viewer would take “*Mir*” as clearly a reference to the Claimant, who is mentioned on numerous occasions before and after this passage. I am

also satisfied that a reasonable viewer would be familiar with the historical figures of Sadiq and Jafar and regard them as notorious traitors of Pakistan. Lord Nazir Ahmed goes on immediately to explain, “*I love Pakistan, and also defend Pakistan. Never do I ever want to say anything that could damage Pakistan.*” This is important context. The impression given is that, whereas Lord Nazir Ahmed loves his country and would not say anything to damage it, the Claimant does not love his country and would damage it like the traitors Sadiq and Jafar. Accordingly, whilst the actual word “*traitor*” is not used in this broadcast, in my view the innuendo meaning is clear.

Decision

114. For these reasons, I find that the words complained of bear the following (innuendo) meaning:

The Claimant is a traitor to Pakistan.

115. The meaning is factual and at *Chase* level 1.

Chapter 8: 3rd December 2013 broadcast

116. The words complained of by the Claimant in this broadcast are the following:

“...what letter PEMRA wrote; PEMRA said: “Where you have permission for only 6 per cent Indian content, only 6 per cent, there you are airing 400 per cent Indian content and Pakistan Idol is being shot under the nose of Asif Raza Mir sahib wherein Indian songs are being sung with a lot of fanfare ... PEMRA responded, “License shall not be granted to any person, funded and sponsored by a foreign government or organization”. I show you this PEMRA's letter which was written to Geo.

Funded by a foreign government or a foreign organization, Pakistan Media Regulating Authority suspects that external governments, that are, are providing you funds for running programmes here.

And now we have evidence about this that you have got such a funding and you didn't get this money from one place. ... Then what they said further, 3 million dollars were sought not only from State Department, with reference to judiciary to influence the judiciary 3 million dollars were sought not only from State Department, to influence the judiciary, also offered to sell its editorial content which means, on one hand, you talk of a planted programme but you have made all your programmes planted. If I believe in this thing, then according to the proposal given to US State Department by Jang, Geo; under PEMRA rules 2009 section 19-G, in fact, you dared change this programme for 3 million American dollars in accordance with America's wishes. Interesting point is that under the banner of MKRF- Mir Khalil ur Rehman Foundation, Relief Foundation, what you offered; which programme you offered: Capital Talk, Very good! Aapas ki Baat, Hum Awam and 50 different TV spots and 50 corresponding press ads, two special episodes of

Great Debate and special transmission and commitment of four documentaries and over 200 news stories to promote the said campaign.”

... We are not the fourth pillar of the state. This we are telling wrongly to the people that we are the fourth pillar of the state. Those are the pillars of the state which are specified by the Constitution of Islamic Republic of Pakistan. Apart from that, anybody who claims to be the pillar of the state is violating this Constitution; this is also the violation of Article-6. Baba Ji, let me tell you what PEMRA has written about you, that about foreign funding, what was that. They wrote: “Breach of S-25D of PEMRA Ordinance 2002 and S-1G Code of Conduct of PEMRA Rules 2009. You got foreign funding and you... spirit of these sections... blah Blah Blah foreign funding. What did they say further: Behind the wheel of Mir Khalil-ur-Rehman Foundation, Geo Group has submitted a campaign, proposal dated June 30, 2013, to the bureau of democracy, human rights and labour United States Department of States...”

These are not my words and you know who is saying it. And that is why you’re publishing news about this that change should be affected immediately. And what is relevant to it, sometimes FIA is being made to chase and sometimes some other similar things are done. This is the same, complete document Mir sahib, the whole document, of MKRF that is with me. This is that tender notice that you filled- and you filled- and you sent to the US State Department. If you tell me whether I am showing a wrong document and if it is, then I will apologise to you before the entire masses. If, however, it is true, and if you have violated the Constitution of Pakistan, in this manner and since this thing has not been declared here; and PEMRA regulations were violated, then why your license should not be cancelled... since, in it, you are not only talking about giving news, or about giving ads, you are talking about selling your editorial content. You are saying that your programme is on sale; you are saying that your programme is on sale. You are saying that your programme, that is, will be dedicated, will be dedicated, neither tilted nor planted, not planted...will be dedicated. These are all your written words, not that of mine.

There is an allegation against you for violating the law, showing 400 percent more Indian and English dubbing content.

you never missed a chance to defame ISI and Pakistan’s armed forces, ... you published write-ups about BOL TV owners with reference of TRG. It is written in your own News, I’m not telling...and you wrote: ‘this business group is involved in fake degrees and pornographic websites and also involved in such practices which are deemed illegal in many foreign countries’.

400% Indian content that you are running extra, for that reason, your license should be cancelled”

117. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) The Claimant has traitorously accepted funding from anti-Pakistan foreign governments covertly to plant programmes for their benefit,

and has made a proposal to the United States offering to act in a similar manner for their benefit, such that his licence to broadcast should be cancelled.

- (2) Innuendo meaning: The Claimant is guilty of high treason.

Particulars of Innuendo

Violation of Article 6 of the Pakistan Constitution is high treason, as all or nearly all viewers would know.

118. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

PEMRA has written to Geo concerning its foreign funding in circumstances of \$3m received from the US State Department, including in this respect a proposal involving Jang, Geo and MKRF. If there has been a breach of PEMRA rules then that would also be unconstitutional and PEMRA should revoke its licence. However the presenter may have misunderstood the true position, which could be explained.

Analysis

119. Mr Luqman opens the broadcast by referring to the Claimant as ‘old man’ (“*Baba Ji*”) and promising that “*I will speak the truth about you*”. Whilst stating that this is not a personal fight, he promises “*I will tell you and prove it to you what the problems actually are in it*” (p.1). He then quotes extensively from the Pakistan Media Regulating Authority (“PEMRA”) letter which accuses the Claimant’s Geo group of airing 400% Indian content when it only has permission to air 6% Indian content, in violation of Geo’s licence. He subsequently suggests that the Claimant should be held accountable and his Group’s licence should be cancelled (p. 6). I am satisfied that a reasonable viewer would regard a foreign funded TV programme schedule with “*400% more Indian and English dubbing content*” as sinister and having an anti-Pakistan bias. Subsequently, Mr Luqman quotes the MKRF tender filed with the US State Department in which he suggests the Claimant is talking about “*selling*” his editorial content.
120. The reference to Article 6 of the Pakistan constitution comes in the somewhat confused passage where Mr Luqman refers repeatedly to “*the fourth pillar of the state*” (p.4). The reasonable viewer would take Mr Luqman as directly accusing the Claimant of a breach of Article 6 since he says as much in terms, viz. “*this is also the violation of Article-6, Baba Ji*”. I have no doubt that the majority of viewers would understand this to be alleging treason.
121. Mr Luqman’s sarcastic challenges to the ‘old man’ and the ‘empty chair’ (“*Respond to that*” and “*If you tell me whether I am showing a wrong document...then I will apologise to you before the entire masses*” (p.4)) tend to reinforce the impression Mr Luqman seeks to give at the beginning of the broadcast, that he is simply “*telling the truth*” about the old man. The PEMRA letter is Mr Luqman’s proof.

Decision

122. For these reasons, I find that the words complained of bear the following meaning:

- (1) **The Claimant has traitorously accepted funding from anti-Pakistan foreign governments covertly to plant programmes for their benefit, and has made a proposal to the United States offering to act in a similar manner for their benefit, and has broadcast 400% Indian content, all in breach of his licence to broadcast which should be cancelled.**
- (2) **The Claimant is guilty of high treason.**

123. Save that the word “traitorously” is comment, the meaning of the remaining words in (1) and (2) is factual and at *Chase* level 1.

Chapter 9: 16th December 2013 broadcast

124. The words complained of by the Claimant in this broadcast are the following:

“Anyways... And, and...that Indian TV channels and print materials are available easily. And the increasing acceptability or interference has weakened the morale of Pakistani nation to such an extent that now it sees India as undefeatable. This news item has been published by The News and Jang newspaper... And this is my fight... this is my fight against these newspapers, against the owners of these newspapers, that they don't let go any opportunity to hit out at the institution of Pakistan Armed Forces, or the institutions of Pakistan which are responsible for the security of Pakistan... they don't miss any opportunity to try to damage them or not to humiliate at international level Pakistan and those institutions which are responsible for a symbol of Pakistan's prestige. Mir Shakil-ur-Rahman Baba Ji, your chair is lying today again, but you are still in Dubai, along with your family. And you don't have courage that you come, and you contest here. And I tell you Baba Ji, how much your news story is wrong. For your kind information that... from where your news story has been generated. When I had...when I had told you that linkages with RAW, Aman ki Asha with India, and money, then you had reacted sharply; you wrote a long article in newspaper that an anchor-person is talking this and that against us. Today also you were in the court against me...your counsel, and he was saying that I am defaming. How am I defaming? Sunday Standard of Indian Express is lying before me. The entire news item you lifted from there and published here with your names. It was published there the day before yesterday, this entire news item of Indian Express ... you lifted it from there word by word, as it is ... they published it there against the Pakistan Army and you published it here. Whose agenda are you forwarding?”

Baba Ji! ... Stop following Hindu... Hindustani media's fake news stories; stop publishing under your names ... Please, learn respecting the Armed Forces of Pakistan and all institutions of Pakistan. Only they can guarantee security of Pakistan. Neither we nor you are going to fight if God forbid anything happens... these are the people who will fight, and you are proving to be a source of their humiliation.

Faisal Raza Abaidi: ... This is my wish that Mir Shakil-ur-Rahman...

Mubashar Luqman: ... Baba Ji won't let any analysis on it. He cannot arouse the ire of America, cannot afford making India angry.

Mubashar Luqman: ... In the guise of Aman ki Asha, if any country comes and pursues the CIA agenda, or Mossad agenda, how come the law will let it go?

Mubashar Luqman: ... corruption of Baba Ji

Mubashar Luqman: ... Baba Ji you have to give questions why you disgrace Pakistan Army why you dishonour security departments of Pakistan and what harm given to you by Pakistan”

125. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant had traitorously and corruptly worked with RAW, the notorious Indian intelligence agency, and India, and either or both of the CIA (the US foreign intelligence agency) and Mossad (the Israeli foreign intelligence agency) in order to promote their agenda, and had disgraced and humiliated the Pakistan army and dishonoured the security departments of Pakistan.

Particulars of Innuendo

- (1) RAW is India's foreign intelligence agency, widely believed to focus its activity on Pakistan, and therefore notorious among Pakistanis, as would be known to all or nearly all viewers.
- (2) The CIA is the United States of America's intelligence agency, as would be known to all or nearly all viewers.
- (3) Mossad is Israel's intelligence agency, as would be known to all or nearly all viewers.
- (4) ‘Aman Ki Asha’ was a high-profile campaign being run, in Pakistan, by the Jang Group, as would be known to all or nearly all viewers.

126. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Instead of coming to the programme the Claimant is content to seek legal relief against the presenter in the courts while sitting in Dubai with his family and publishing newspaper articles against the presenter.

Analysis

127. Mr Luqman makes it quite clear early on in this broadcast that “*this is my fight against ... the owners of these newspapers*” (p. 1). He explains in terms that “*they don’t miss an opportunity to damage [the armed forces and institutions of Pakistan]*” (p.1). He then explains in terms that the news stories have been generated by the “*linkages*” with RAW and India and how “*Baba Ji’s*” newspaper has simply lifted an anti-Pakistan Armed Forces story from the *Indian Express* and reprinted word-for-word. Mr Luqman tells the Claimant in clear terms, “*Stop publishing [Hindustan media’s fake news stories] under your name*” (p.2).
128. I am satisfied that Mr Luqman’s later reference to “*the guise*” of Aman ki Asha being used to pursue “*the CIA agenda and Mossad agenda*” would be understood by the reasonable viewer as suggestions that the Claimant (“*Baba Ji*”) was covertly allowing his TV channels to further their anti-Pakistan agenda. Mr Luqman is also, in effect, saying that the law should not allow the Claimant to get away with this.
129. Mr Luqman rams the point home at the end of the broadcast by referred to the “*corruption*” of “*Baba Ji*” and posing loaded questions to the ‘empty chair’, “*Why do you disgrace Pakistan army, why you dishonour security departments of Pakistan...*” (p.10). The questions are loaded because they assume the Claimant’s guilt of disgracing and dishonouring Pakistani institutions. Mr Luqman’s tone is one of righteous reaffirmation of the correctness of his story.
130. The word “*traitor*” is not specifically used, but RAW and the CIA and their “*agenda*” are. In my view, the condemnatory tone of the language is strong but the reasonable viewer would think that the Claimant was being accused of being “*disloyal*” rather than a “*traitor*” to Pakistan’s interests. I do not agree with Mr Barnes that it requires over-analysis to get to the meaning complained of.

Decision

131. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

The Claimant had covertly and disloyally worked with RAW, the notorious Indian intelligence agency, and India, and either or both of the CIA (the US foreign intelligence agency) and Mossad (the Israeli foreign intelligence agency) in order to promote their agenda, and has disgraced and humiliated the Pakistan army and dishonoured the security departments of Pakistan.

132. Save that the word “*disloyally*” is comment, the meaning of the remaining words is factual and at *Chase* level 1.

Chapter 10: 17th December 2013 broadcast

133. The words complained of by the Claimant in this broadcast are the following:

“Then came forth third story which was reproduced yesterday in order to malign and bring a bad name to ISI and Pakistan Army. Again this was reproduced verbatim by Indian Express. A few days before the story was published in Indian Express, this story was published in the Hindustan Times. This story was nothing but ISI-bashing and totally army-bashing. Baba Ji what do you get in return for publishing these stories? The country that gave you everything, gave you to the extent that they tolerate your every wrong. No government ever asks anything from you. No court asks you anything. No man in the street asks you as to what did the wig cost you. But you are gnawing at the roots of the country and you are destroying this very country. What next? Baba Ji, And many people have asked me why do you call him Baba Ji? Mr. Mir, let me tell you that in your name comes the word Rahman. Rahman is the sacred name of Allah and it is a very beautiful name. I cannot make fun of your name in this way, that my Creator, my God should ... that it might seem so, God forbid that I’ve I can never utter a wrong word with the name that is either Rahman or Rahim or the names it these are attached with. And Baba Ji is worthy of respect, which is what we call our elders. And I cannot call you Uncle, because obviously there is difference in our bloodlines. I am loyal to my country, I am loyal to my country’s army, I am loyal to my country’s institutions. I don’t want to take money from Hindustan ... and I don’t want to take money from CIA. That is why Baba Ji is fine!”

134. The Claimant contends that the words complained of bear the following natural and ordinary (or innuendo) meaning:

The Claimant had traitorously accepted payments from India and the CIA, the US foreign intelligence agency, to act against Pakistan’s interests and was destroying the country from its very roots, and pursuant to that aim he published a story that maligned and defamed the Pakistan Security Services and the Pakistan Army;

Particulars of Innuendo

The CIA is the United States of America’s intelligence agency, as would be known to all or nearly all viewers.

The ISI is Pakistan’s principal intelligence agency, as all or nearly all viewers would have known.

135. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

C’s motivation remains unexplained in the context of a legal dispute over the use of the name “Bol” as a trade mark.

Analysis

136. The analysis of this broadcast bears some similarities to previous broadcasts. I repeat the general considerations set out above, and in particular in my analysis in relation to the 9th broadcast (above).
137. The words complained of comprise a fairly straightforward allegation: that the Claimant published stories from Indian newspapers which were critical of the Pakistani army and ISI in return for money from the CIA and Indian interests. Mr Luqman accuses the Claimant in terms of having reproduced *verbatim* Indian newspaper articles "in order to malign and bring a bad name" to ISI and the Pakistan Army. The word "traitor" is not used. The Claimant is, in effect, accused of being 'disloyal' to Pakistan. Whilst emotive phrases such as "gnawing at the roots of the country" are used, in my view, a reasonable viewer would see this as essentially an allegation that the Claimant's actions were aimed at undermining the country.
138. I reject Mr Barnes' submission in relation to the Claimant's motivation remaining 'unexplained' in the context of a legal dispute over the use of the name "Bol". In my view, a reasonable viewer would regard this as irrelevant to meaning.

Decision

139. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

In return for money from CIA and Indian interests, the Claimant has published a story from Indian newspapers which is critical of the Pakistani army and the Pakistan Security Services and has thereby been disloyal to Pakistan and undermined Pakistan.

140. The words "and has thereby been disloyal to Pakistan and undermined Pakistan" are comment. The meaning of the remaining words is factual and at *Chase* level 1.

Chapter 11: 21st December 2013 broadcast

141. The words complained of by the Claimant in this broadcast are the following:

"Baba Ji please come and give your stance and whatever you will say, I promise, I will listen silently. I will ask you only four questions and the questions are about corruption, about getting money from foreign governments, about changing your editorial content ...

Ethically it is very wrong that you keep on taking funds from external powers and here you show the paid content and try to change the ideology of Pakistan according to their wishes and try to manipulate our values, whether they are social or religious values. For me there is only one meaning of Pakistan: "there is no one but Allah",

and, if your campaigns talk about changing it then is it not a point to ponder that this is the worst case of journalism?

Those people who want to become uncles of India, tell them for God's sake do not cause damage to the country for their small financial gains. This country is yours. Quaid-i-Azam gave it to you to make a nation; do not make it a note-making machine;

.. at first I want to ask a question to Baba Ji: Baba Ji, is it true that you tried to change the ideology of Pakistan after taking money from other governments in the "Zara Sochiye" campaign.

Two types of people cannot survive in Pakistan, remember my words: one who is blasphemous of the Prophet Muhammed and is against Islam, and the second who is against the integrity of Pakistan, who reeks of ties to the Indian intelligence agencies and RAW. Pakistanis are very clear on these two issues.

We have received a news that a behind-the-curtain campaign is going on, it's a new campaign of Baba Ji in which every man who has unmasked his disgusting plans after coming on this programme ... whether it is the talk of getting funds from the CIA, whether it is talk about Aman Ki Asha, whether they are stories published in the Hindustan Times or whether they are stories published in the Indian Express, whether they are stories reproduced here or the stories reproduced there in which the linkages are the circumstantial evidence and the evidence of Indian intelligence agencies can be seen in these linkages. Now they are planning to start a campaign against every such person, from Monday to discredit them. Your name is also in that campaign Aqeel Dhedhi Sahib, congratulations to you.

Aqeel Karim Dhedi: No, no, it is a very good thing. Because if they write against us before the enemies of the country, we will be pleased; we have no regret because we know one thing that whatever we say, it will be true, and we say nothing except the truth, and, by the grace of Allah, whatever they will say, it will be a lie, and they will say nothing except lies and this is the biggest point. Mir Sadiq and Mir Jafar, all these roles are for the world to see now and now Mir Shakil Sahib has surfaced and is following in the their footsteps. So, we are pleased that such people are being unmasked before the people and all the credit goes to you that the name which everybody was afraid of citing, today, you see, see the social media and listen to the ordinary people, everybody is talking about him and they are not speaking anything good of him. I think that you have placed him in such a situation that now this programme, I think, has become his only option, as well because he needs to save face, but he has no excuse, this is the difference.

Aqeel Karim Dhedi: ... I think those who are the enemies of the country, this land should be made difficult for them. It is only a request to the, people, for God's sake, to get rid of them and the only way to get rid of them is to at least not read the newspapers that benefit the enemies of the country."

142. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant is an enemy of Pakistan who:

- (1) has traitorously accepted money from Indian intelligence agencies and other foreign countries to change his editorial content to favour their interests and benefit the enemies of Pakistan, and to act against the integrity and ideology of Pakistan; and
- (2) has masterminded a conspiracy together with the Indian intelligence agencies to campaign against and discredit everyone who had come on the Khara Such programme to expose his disgusting plans.

143. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The Claimant has questions to answer, which he could do by appearing on the programme. But instead he is reported to have begun a campaign to discredit through the Hindustan Times, Indian Express etc everyone who has come on the programme (Khara Sach).

Analysis

144. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
145. Mr Luqman begins the broadcast by addressing the Claimant directly in his ‘empty chair’: “...it is a special episode today Baba Ji... a new conspiracy has come to be known...” (p.1). He directly accuses the Claimant of “hatching” a new conspiracy against the ARY owners and himself (p. 7). He follows this up by stating in terms that he wants to ask the Claimant various questions: “...about corruption, about getting money from foreign governments, about changing your editorial content...”. He subsequently puts with a further loaded question: “Baba Ji, it is true that you tried to change the ideology of Pakistan after taking money from foreign governments...”. These questions are all essentially rhetorical in flavour. The programme is very much trial by television.
146. There are two further key passages in this broadcast. The first is where Mr Luqman warns the Claimant that there are “[t]wo types of people [who] cannot survive in Pakistan”, namely the “blasphemous” and one who “reeks of ties with Indian intelligence services...”. The second passage is where Mr Luqman refers to a “behind-the-curtain campaign” by the Claimant to discredit every person who has unmasked “his disgusting plans”. There is, however, no express reference to a conspiracy; but a reasonable viewer would think that it was being suggested that the Claimant was acting in cahoots with the Indian security services in his campaign to discredit.

147. These passages are followed by the invited programme guest, Aqueel Karim Dhedi, using the term “enemies” of the country three times. Contrary to Mr Barnes’ submission, Mr Dhedi is plainly including the Claimant in this characterisation as one of the “enemies” of Pakistan. The word “traitor” is not used but a reasonable viewer would gather the imputation.

Decision

148. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

The Claimant is an enemy of Pakistan who:

- (1) **has traitorously accepted money from Indian intelligence agencies and other foreign countries to change his editorial content to favour their interests and benefit the enemies of Pakistan, and to act against the integrity and ideology of Pakistan; and**
- (2) **has engaged in a campaign to discredit everyone who had come on the Khara Such programme to expose his disgusting plans (i.e. (1) above).**

149. The words “is an enemy of Pakistan who” and “traitorously” and “disgusting” are comment. The meaning of the remaining words is factual and at *Chase* level 1.

Chapter 12: 28th January 2014 broadcast

150. The words complained of by the Claimant in this broadcast are the following:

“Aqeel Karim Dhedi: ... especially whom you call Baba Ji; I won’t call him Baba Ji, because Baba Ji (word) is a very respectable name in my eyes... so, I will, at least, request you also that you don’t call Mir Ja’afar and Mir Sadiq of this country, Baba Ji. Because he is the same guy who has pushed this country to the brink of disaster that nobody can even think of; unfortunately, organizations have been rendered paralyzed at his hands. You have talked of 22-page crime (report)... I swear to God, I don’t tell a lie, the number of crimes they have committed ... Shakil-ur-Rahman Sahib, Mir Sahib and Ja’afar Sadiq Sahib ... It means there is something wrong Baba Ji or Mir Ja’afar or Mir Sadiq get certain things done, using their stick (influence). But I say one thing to them with guarantee that, after this act, their days will also be numbered. All this happiness that they are rejoicing, they (or he) will get pain out of the same happiness because they have caused so much damage to the country. ... I feel sorry for the fact that their team of journalists in Islamabad ... Their job is to be on sale. They will sleep with the person who gives them higher price than yours. Then they call themselves media. I think they are shameful blemishes on the name of media ... And yes, these are the terms of Mir Ja’afar Sahib

and he gets his people saved. It is his power; we acknowledge it. But this race won't last long because of the number of crimes he has committed.

Mubashar Luqman: ... Baba Ji, in this book, there are many questions to you. I tell you there are some questions. ... nor have you told anything about 'Aman Ki Asha''s Indian funding. Aman ki Asha Natasha whatever it is; in this, you mind it and get disheartened. Whenever the name of India is cited and anything is said about India, then Baba Ji's heart-sinking starts suddenly; medicine has to be given to him. And you didn't tell that after taking British funding, why have you been trying to hide it and you also didn't tell that in order to transform the Pakistani judiciary according to the American desire, why did you ask the State Department, American State Department for three million dollars? And how come you protect the Indian interests by publishing the Hindustan Times' story and news against the Pakistan Army? ...

Aqeel Karim Dhedi: I cannot understand one thing that why the entire government is sitting at his feet. What is the reason? That this Mir Shakil, we will only say Mir Ja'afar because in my opinion...

Aqeel Karim Dhedi: ... People are afraid of your Mir Ja'afar and Mir Sadiq. I am ashamed of our people that they are afraid of the traitors of this era, I think.

Aqeel Karim Dhedi: ... Baba Ji or Mir Ja'afar

Mubashar Luqman: ... Baba Ji or your Mir Ja'afar, Mir Sadiq..."

151. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant is a traitor who has

- (1) received funding from India to protect Indian interests, and in a direct attack on the rule of law, solicited three million dollars from the US State Department by offering to corrupt the Pakistan judiciary to deliver pro-American rulings; and
- (2) prostituted his journalists in Pakistan to the highest bidder, including publishing attacks on the Pakistan army.

Particulars of Innuendo

Mir Sadiq and Mir Jafar are two historical characters held in the highest contempt and reviled as traitors by the Indo-Pakistani community as they betrayed their fellow countrymen by siding with and fighting for the British.

Particulars of Reference

Baba Ji would have been understood by all or nearly all viewers to be a reference to the Claimant, given the repeated references to the Claimant by that name in previous episodes and the content of the episode, including references to:

- (i) the Jang Group and the Jang newspaper;
- (ii) the Claimant's brother by name.

152. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Questions have been raised of the Claimant in a book and by previous contributions of Mr Dhedi, but Mr Dhedi has been condemned by Jang, Geo and (The) News as “a very big fraudster”.

Analysis

153. The imputation alleged in this broadcast is similar to a previous broadcast. I repeat *mutatis mutandis* the general considerations set out in my analysis above.
154. Mr Luqman accused the Claimant of “*numerous crimes*” and directly equiparates the Claimant with the traitors, Sadiq and Jafar, but using the transparent device of mixing their names together, *viz.* “*Mir Jafar*” and “*Mir Sadiq*”. I reject Mr Barnes’ submission that a reasonable viewer would merely view this as a clumsy joke. It was clearly intended unequivocally to identify the Claimant in the viewers’ minds with these notorious Pakistani traitors.
155. Mr Luqman subsequently repeats the story of foreign funding and asks “*And how come you protect Indian interests by publishing the Hindustan Time story and news against the Pakistan Army?*”. The question again assumes the facts stated in it. Mr Luqman then expressly uses the word “*traitor*” in a manner which can only mean it is a description of the Claimant. He ends the programme in a sarcastic manner promising the Claimant “*a bigger surprise*” , *i.e.* more facts.

Decision

156. For these reasons, I find that the words complained of bear the following (innuendo) meaning:

The Claimant is a traitor to Pakistan.

157. The meaning of the words is factual and at *Chase* level 1.

Chapter 13: 24th March 2014 broadcast

158. The words complained of by the Claimant in this broadcast are the following:

“Baba Ji, is there anything that has been said about you without a proof... which proofs you have yourself published : have published in your replies. You have admitted yourself in them ... you submitted to CIA for money... what is left now to confess to? ... Is it wrong that you published maligning stories and fabricated stories against Pakistan’s institution, Pakistan Armed Forces, Pakistan’s intelligence agencies? Is it wrong that you (did not) bend backwards to link Ajmal Kasab and Pakistan and ISI, all of them, to please the Indians?

And isn’t it true that you asked the US State Department for many million dollars through CIA and you presented your programmes for sale.

You said this programme, this programme, this programme - we will air these many episodes for you. Isn’t it true that after taking it as paid advertisement you have been showing it on your channel as public service campaign, and you lied to the people,...”

159. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant traitorously:

- (1) published fabricated stories to malign Pakistan’s institutions, armed forces, and intelligence agencies;
- (2) (natural and ordinary, alternatively innuendo meaning) offered to broadcast the American intelligence agency’s choice of television programmes as if they were a public service campaign, in return for payment, thereby deceiving the Pakistani people; and
- (3) (by innuendo) went to great efforts to publicly link notorious terrorist Ajmal Kasab to Pakistan and its security services, thereby damaging Pakistan, in order to promote Indian interests.

Particulars of Innuendo

- (1) The CIA is the United States of America’s intelligence agency, as would be known to all or nearly all viewers.
- (2) Ajmal Kasab is notorious as a member of the group who carried out a string of terrorist attacks in Mumbai in 2008, as all or most Khara Sach viewers would have known. He was the only member of the group caught alive by the Indian authorities, and was found guilty of 86 charges, including the murder of 166 people. He was hanged for his crimes in November 2012.

- (3) The ISI is Pakistan’s principal intelligence agency, as all or nearly all viewers would have known.

Particulars of Reference

Baba Ji would have been understood by all or nearly all viewers to be a reference to the Claimant, given the repeated references to the Claimant by that name in previous episodes and the content of the episode, including references to:

- (i) the News and Jang newspapers; and
- (ii) the Claimant’s brother by name.

160. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

If things have been said about the Claimant without proof then he should speak up and say so.

Analysis

161. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
162. This broadcast took place two months after the previous broadcast on 28th January 2014. The technique used by Mr Luqman in this broadcast is levelling a string of rhetorical questions at the Claimant (“*Baba Ji*”), in particular: (i) “*Is it wrong that you published maligning stories and fabricated stories against Pakistan’s institution, Pakistan Armed Forces, Pakistan’s intelligence agencies?*”; and (ii) “*Is it wrong that you bend backwards to link Ajmal Kasab and Pakistan and ISI, all of them, to please the Indians?*”. The imputation of both questions is clear: the publication by the Claimant of anti-Pakistan stories and the Claimant linking the notorious terrorist Ajmal Kasab to Pakistan and ISI to aid Indian interests.
163. In my view, these questions are intended both to be rhetorical and to imply guilt on the part of the Claimant. This is clear from two matters in particular. First, the loaded question put by Mr Luqman early on in the piece which suggested straight off that everything that had been said about the Claimant had been proved against him or had been admitted by him: “*Babi Ji, is there anything that has been said about you without a proof... which proofs you have yourself published: have published in your replies. You have admitted yourself in them that... you submitted to CIA for money... what is left now to confess to?*”. Second, the formulation and tone of the questions themselves which indicate guilt: viz. “*Is it wrong that...*” and “*Isn’t it true that...*” (e.g. “*... you presented your programmes for sale?*” and “*.....you lied to the people?*”).
164. I reject Mr Barnes’ submission that Mr Luqman is simply defending his right to ‘put the case’ to the Claimant. A reasonable viewer would think that Mr Luqman was suggesting guilt. The word “*traitor*” is not, however, used and in my view the imputation is “*disloyalty*”.

Decision

165. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

The Claimant disloyally:

- (1) **published fabricated stories to malign Pakistan’s institutions, armed forces, and intelligence agencies;**
- (2) **offered to broadcast the American intelligence agency’s choice of television programmes as if they were a public service campaign, in return for payment, thereby deceiving the Pakistani people; and**
- (3) **went to great efforts to publicly link notorious terrorist Ajmal Kasab to Pakistan and its security services, thereby damaging Pakistan, in order to promote Indian interests.**

166. Save that the word “disloyally” is comment, the meaning of (1), (2) and (3) is factual and at *Chase* level 1.

Chapter 14: 21st April 2014 broadcast

167. The words complained of by the Claimant in this broadcast are the following:

“I am saying it, that I suspect that Baba Ji committed treason several times and this too will come in the ambit of treason under the Constitution of Pakistan.

I have boycotted Jang, Geo, News,

I am seeing a very important point in this case and am noticing one that entry was not allowed to be made in the diary (roznamcha); its page is blank; FIR is not being registered on the Geo management’s insistence. The forensic evidence has been washed; the other physical evidence there has been got destroyed; and after that, the driver is not being handed over to police; the gunman is not being handed over to police for statement. What is going on? Who is stopping this?

Salman Ghani: See, the point is that I think that your point is valid that why the FIR has not been lodged so ...

Mubashar Luqman: Salman Ghani Sahib! May I tell you one thing? Injustice is being done to Hamid Mir and his own channel is doing it.

Mubashar Luqman: ... I have boycotted Jang, Geo, News for quite some time now because I cannot tolerate any such organization that speaks evil of the armed forces of Pakistan and the Pakistani military’s auxiliary organizations. I don’t feel any

disgrace in it while saying this. If somebody wants to label me as an agent of someone, let him say so. But at least no one can call me an agent of CIA or RAW, thanks be to God! And I must share one thing while leaving, Baba Ji, there are some moments that force human beings to think. I am showing you something while leaving. You will come to know Pakistan, Pakistani nation is proud of its armed forces and I curse every such person who insults or jeers at the Pakistani armed forces and especially our martyrs.”

168. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) Natural and ordinary, alternatively innuendo meaning: The Claimant has committed treason several times and acts as an agent of the US or Indian intelligence agencies.
- (2) Innuendo meaning: The Claimant was obstructing the police investigation into the attack on Hamid Mir, and was thereby doing an injustice to his own channel’s reporter.

Particulars of Reference

- (1) The references to ‘Baba Ji’ would be understood by all or nearly all viewers to be a reference to the Claimant, given the repeated references to the Claimant by that name in previous episodes, and the content of the episode, including references to:
 - (i)The Claimant’s son by name; and
 - (ii)Jang and Geo.
- (2) The Claimant’s position as the operational head of the Geo television channel was known to all or nearly all viewers such that the reference to “Geo’s management” would have been understood by such viewers to be a reference to the Claimant, or persons acting on his instructions.

Particulars of Innuendo

- (1) The CIA is the United States of America’s intelligence agency, as would be known to all or nearly all viewers.
- (2) RAW is India’s foreign intelligence agency, widely believed to focus its activity on Pakistan, and therefore notorious among Pakistanis, as would be known to all or nearly all viewers.
- (3) Hamid Mir, one of Geo and Pakistan’s best known television presenters, was shot several times while being driven in Karachi on 19 April 2014, as was widely reported and would have been known to all, or nearly all, viewers.

(4) A FIR would have been understood by all or nearly all viewers to be a First Information Report (FIR), a complaint lodged with the Pakistan police about the commission of a criminal offence and a necessary step for a police investigation to commence.

169. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The presenter has boycotted Jang, Geo and News for quite some time. Geo management (Mir Ibrahim Rehman) is insisting that an FIR is not registered. It follows that injustice is being done to Hamid Mir.

Analysis

170. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.

171. Mr Luqman raised a new story regarding the Geo journalist, Hamid Mir, who was shot several times in Karachi in April 2014. The insinuation alleged is that that Claimant was complicit in the incident and obstructed the police investigation into the attack.

172. Mr Luqman highlights a number of points about the investigation, *viz.* the FIR not being registered, the evidence being “*washed*”, other evidence being “*destroyed*”, the driver not being handed over to the police, *etc.* However, the problem is these supposed actions are not directly laid at the door of the Claimant. Rather, they are attributed to the Geo channel, *viz.* the FIR not being registered is said to be “*on the Geo management’s insistence*” and an injustice is being done to Hamid Mir “*and his own channel are doing it*” (p.8). Mr Luqman re-enforces his fire against Geo by stating that he is boycotting the channel. Unlike *e.g.* the 2nd broadcast (see above), there are no explicit references to the Claimant being the driving force controlling the channel. Further, there is no explicit suggestion that the Claimant himself was complicit in the incident or any cover up. For these reasons, I agree with Mr Barnes that the imputation against the Claimant personally in relation to the Hamid Mir story is not made good.

173. Mr Luqman does, however, state in terms that “*I suspect that Baba Ji has committed treason several times*” and cites the Constitution of Pakistan. In this broadcast, however, Mr Luqman gives the viewer no detail or evidence of treason to support his assertion of treason on the part of the Claimant (in contrast to earlier broadcasts). Accordingly, in my view, a reasonable viewer would not simply take his statement of treason by the Claimant in this broadcast as mere opinion (*C.f. Myerson v. Smith (Supra)*).

Decision

174. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

**The Claimant is suspected of having committed treason several times
contrary to the constitution of Pakistan.**

175. The meaning is factual and at *Chase* level 2.

Chapter 15: 22nd April 2014 broadcast

176. The words complained of by the Claimant in this broadcast are the following:

“I tell you that I have filed a petition with the Lahore High Court this morning. I myself have submitted it, not through the counsel that the licence of Geo and the declaration of Jang and News should be cancelled. Because I am clear and have been talking about this on TV that the enemies and traitors of Pakistan have no right to live in the country, they should not get the benefit from the country. We will not let succeed the person and institution that violates Pakistan, Pakistan's institutions and constitution at any cost here. I always say two words to my friends that two kinds of people cannot develop in the country. God forbid the blasphemers of the Prophet has neither place nor respect here and the other is the blasphemer of Pakistan. We will not tolerate the insult or venom spitting against all the institutions which are linked to the solidarity of the country and with which Pakistan's past, present and future is attached. It was the content of the petition that I submitted today. I tell you a development, but two developments. The FIR of the attack on Hamid Mir Sahib could not be registered so far. The owners of Geo TV are stopping the FIR. Yesterday I told you that Hamid Mir was called to Karachi against his will. The Geo vehicle was not sent for transmission, the vehicle of Hertz Company was sent. Who is the owner of this company? This is the matter that requires a lot of thinking. This company is owned by Jahangir Siddiqui, the 'Samdhi' of Mir Shakil-ur-Rahman. This company's vehicle was sent. Today you might have listened to the self-declared interview after four days, if you are among the people who watch Geo. I do not watch. I have been told. Alhamdulillah! I appeal to all my friends that they should boycott every newspaper or channel that commits any act or spits venom against the values of Pakistan.

I come to a small question which I want to ask from the nation before I take a break that forensic evidence is tempered with, police was not asked regarding it, car was washed immediately and was not allowed to be taken into police custody, because they got evidences from it and what they said after it that gunman and driver were not being given in custody, evidence of blood specimen etc were not allowed to be taken, if something happened to Hamid Mir, then whether Mir Shakil-ur-Rahman was not the beneficiary in the world, and could it be possible that Mir Shakil-ur-Rahman was involved in it.

I have short time and before leaving I will tell you again that who is enemy of the Pakistan Army is an actually traitor of the country and I have no doubt in it and for this reason today I have filed a petition in a Lahore High Court. ... this face of Baba Ji without wig, yes without wig, that Baba Ji, no one can be allowed to become Mir Jafar and Mir Sadiq in the country and ... From today you promise to boycott, boycott, boycott Jang, News and Geo... ”

177. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) The Claimant is a traitor, an enemy of Pakistan, someone who had violated the constitution and the country and its institutions and, as a result, he should have no right to live in the country and his company should be stripped of its broadcasting licence.
- (2) Natural and ordinary, alternatively innuendo meaning: The Claimant was reasonably to be suspected of involvement in the attack on Hamid Mir, and was guilty of obstructing and/or impeding the police investigation into the attack.

Particulars of Reference

The Claimant’s position and status within the Jang Group would have been known to all, or nearly all, viewers, such that the reference to “the owners of Geo” would have been understood to be a reference to the Claimant.

Particulars of Innuendo

- (1) Hamid Mir, one of Geo and Pakistan’s best known television presenters, was shot several times while being driven in Karachi on 19 April 2014, as was widely reported and would have been known to all, or nearly all, viewers.
- (2) A FIR would have been understood by all or nearly all viewers to be a First Information Report (FIR), a complaint lodged with the Pakistan police about the commission of a criminal offence and a necessary step for a police investigation to commence.

178. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The presenter has petitioned the Lahore High Court and submitted that the licences of Geo, Jang and News should be cancelled. However Geo are preventing the registration of an FIR concerning the attack on Hamid Mir

Analysis

179. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.

180. Mr Luqman returns to the story regarding the Geo journalist, Hamid Mir. The incident is said to have had some unexplained curiosities. It was said that Hamid Mir was sent to Karachi despite threats to his life, where he was only given a Herz hire car and not the usual bullet-proof car. During the attack by gunmen, it was said that Hamid Mir’s

bodyguards fired no shots. The insinuation is again that that Claimant was complicit in the incident and obstructed the police investigation into the attack.

181. Unlike the previous broadcast, however, Mr Luqman clearly points the finger at the Claimant as regards his involvement with the incident and the obstruction of the police investigation by *e.g.* referring to the role of the Claimant’s brother-in-law, Jahangir Siddiqui, and the Claimant’s ownership of Geo. He also cheekily and rhetorically asks “...*could it be possible that Mir Shakil-ur-Rahman was involved in it?*”. The reasonable viewer is effectively being invited to conclude, ‘yes, of course’ the Claimant benefitted and was involved.
182. Mr Luqman clearly feels emboldened in this broadcast. It incorporates most of the ingredients which feature in previous broadcasts. Mr Luqman explicitly uses the words “*traitor*” and “*enemy of Pakistan*” and refers to the notorious Pakistani traitors Sadiq and Jafar. He states in terms: “*I will tell you again that who is the enemy of the Pakistan army is actually a traitor of this country*”. In my view, all these references would clearly be understood by a reasonable viewer as insinuations about the Claimant. The Claimants’ meaning is borne out in full.

Decision

183. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:
- (1) The Claimant is a traitor, an enemy of Pakistan, someone who had violated the constitution and the country and its institutions and, as a result, he should have no right to live in the country and his company should be stripped of its broadcasting licence.**
 - (2) The Claimant was reasonably to be suspected of involvement in the attack on Hamid Mir, and was guilty of obstructing and/or impeding the police investigation into the attack.**
184. Save that the words “and as a result, he should have no right to live in this country and his company should be stripped of its broadcasting licence” are comment, the meaning of (1) and (2) is factual and at *Chase* level 1 (save for the first part of (2) “The Claimant was reasonably to be suspected of involvement in the attack on Hamid Mir”, which is at *Chase* level 2).

Chapter 16: 23rd April 2014 broadcast

185. The words complained of by the Claimant in this broadcast are the following:

“And today’s topic is the same again: Baba Ji’s somersaults. Previously, Baba Ji tried his best that Pakistan’s national and security institutions could be defamed.”

But after that when he realized that people of Pakistan were not paying any heed to his baseless, crude and offensive allegations rather were showing reaction to it, then he immediately took a somersault. ... Let me tell you that very frightful things are coming before us during the past four days. Let me refresh your memory that the Sindh police-the Karachi police- are under severe pressure currently- under severe pressure- because some of Baba Ji's employees have occupied a particular police station in Karachi, are ensconced there continuously; (they) are also taking tea, also having meals... where an FIR should have been registered, so far no clear-cut FIR about that incident could be registered. And the main reason for it is that the driving spirit of Geo and Jang Group has kept it blocked. Not now, when he will want so, it will be registered. Within two hours, he got washed the vehicle that had been attacked... it was sent to car wash, and did not give it in police custody. Rather the forensic evidence, if there was that was destroyed entirely from (within) the crime scene. And he is the same Baba Ji, and I am talking of the crime scene, about which he had told us a lot at the time of martyrdom (Shahadat) of Benazir Bhutto... you talk (you said) that how big a sin that was of General Pervez Musharraf i.e getting the crime scene washed. ... And after that, the driver and the gunman have not been given in the police custody. Their statements were not permitted to be recorded. And then, I think, the name of Hamid Mir Sahib who is a genuine victim and who got injured there has been used wrongly. I have lots of sympathy for him and his family. Firstly, it was learnt that Hamid Mir did not want to go to Karachi. He had severe security concerns. ... Then a car was called from the company of Jehangir Siddiqui, who is Baba Ji's Samdhi (father-in-law of Baba Ji's child). A new driver was called out, there was a gunman also. Nobody knew... Only a few people of the same organization... four to five people knew that Hamid Mir Sahib would come there. What time he would come out of the airport, where he would be, what would be his route... ... And it is regretted that the prime minister managed to visit Hamid Mir Sahib to enquire after him sparing some time out of his busy schedule. He did it well, he did it well that he visited him rather he should have defused the situation also. But who did not turn up to see Hamid Sahib. Baba ji did not come. Baba ji is controlling the television by sitting behind. Last night the transmission that was on air was being monitored by him from Dubai and he was directing " bring his picture now, conduct such and such person's interview; edit this one, now tell him to ask this question and now tell him to give this reply". He was monitoring this all. He did not visit his most trustworthy and blue-eyed anchor to enquire after him. Neither did he come, nor did his son and nor any other family member visited him so far as I have the information and, Asad Kharal, it is saddening.

I will tell you today one thing after which it would be revealed how big sin Baba Ji had committed.

I, Babar Awan Sahib, tell you another thing. Wait a minute. I am starting a series of wrong news that I said that they have committed blasphemy. I have not levelled any minor allegation, I am levelling a major allegation. To me, it is blasphemy that you, in any capacity, in any manner, quote any verse of Quran, wrongly or if you tell anything, any event that is not a part of Quran or its detail is not there. And you remain adamant when you are told that you've done a wrong, a wrong has been

committed, please correct it (but) you remain adamant and you don't correct that mistake, then you can be taken for a blasphemer.

If I write anything by design or if any unlucky person intentionally writes such sentences which are in the Ahadith but attributes them to Holy Quran to substantiate his arguments "that I'm highly rational", then has he committed blasphemy?

Mufti Abdul Qavi: Look, it is a saying of the Holy Prophet Peace Be Upon Him said, "whichever unfortunate person attributes any wrong thing to me he will face disgrace in this world and the Hell is his abode in the life hereafter". And Quran is such a holy book that not only religious scholars of Islam, but the intellectuals of the entire world say that Quran is such an innocent Book that Allah Almighty Himself has been keeping it safe for 1,500 years and Quran itself says, if anything is attributed to Holy Quran in this manner with reference to translation or comprehensive interpretation and it is then presented so that the Quran is saying this, then we all Islamic scholars are unanimous on this point that such a person goes out of the ambit of Islam because addition in Holy Quran, reduction in Holy Quran and intentionally done mistakes in Quran's translation are such sins that take the humans out of the ambit of Islam and place them in paganism.

Mubashar Luqman: ... Ansar Abbasi Sahib, you had written this column and Mir Shakil-ur-Rahman you published it. Both of you were reminded repeatedly that you please correct it; you refused and you have heard the fatwa of the religious scholars as to what Quran itself says about you. Take a break.

Mubashar Luqman: ... I had told you, Baba Ji, and I'm telling you for the last several days- four days- that what we consider our armed forces, how much we keep them in our heart and near our heart. May you have a patriotic heart and that you should know that you are taking money from outside to hollow the roots of the country that gave you everything, ... I will prove that you took money from outside and you did not declare it over here, Baba Ji, just to let you know how much I hold the forces, the armed forces of Pakistan in gratitude because these are their martyrdoms that have given us tranquility and peace, given us this country and kept this country safe and sound. Watch this and eat your heart out."

186. The Claimant contends that the words complained of bear the following "natural and ordinary (and/or innuendo)" meaning:

- (1) The Claimant was guilty of blasphemy.
- (2) The Claimant is a traitor who has secretly taken money from foreign powers, which he has not declared, in order to act against the interests of Pakistan.
- (3) The Claimant was guilty of destroying or attempting to destroy evidence at the crime scene of the attack on Hamid Mir.

- (4) The Claimant was guilty of obstructing the police investigation into the serious attack on Hamid Mir.

Particulars of Reference

The references to ‘Baba Ji’ would be understood by all or nearly all viewers to be a reference to the Claimant, given the repeated references to the Claimant by that name in previous episodes, and the content of the episode, including references to:

- (i) The Claimant by name during other parts of the episode; and
(ii) Jang and Geo.

Particulars of Innuendo

- (1) Hamid Mir, one of Geo and Pakistan’s best known television presenters, was shot several times while being driven in Karachi on 19 April 2014, as was widely reported and would have been known to all, or nearly all, viewers.
- (2) A FIR would have been understood by all or nearly all viewers to be a First Information Report (FIR), a complaint lodged with the Pakistan police about the commission of a criminal offence and a necessary step for a police investigation to commence.

187. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

An account of the attack on Hamid Mir and the police investigation. A report of the Prime Minister’s visit to Hamid Mir. Then a consideration of some Geo/Jang output with reference to the teachings of the Qu’ran.

Analysis

188. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
189. Mr Luqman returns again to the story regarding the Geo journalist, Hamid Mir, and provides further specific detail. Mr Luqman again points the finger at the Claimant and the reasonable viewer would have no difficulty in inferring that the Claimant was involved in the incident and the cover up. He refers to the Claimant as “... *The driving spirit of Geo...*” who “... *kept it blocked*” and insinuated that everything at Geo is being directed by the Claimant.
190. Mr Luqman invites a religious scholar, Mufti Abdul Qavi, onto the programme to confirm his view that the Claimant has committed blasphemy by misrepresenting the Quran and refusing to correct the mistake even when pointed out by a religious scholar. Mufti Abdul Qavi appears to endorse his view (p. 5).

191. In my view, the final words complained of, which refer to the Claimant taking money from outside and not declaring it, are too vague and lacking in detail to bear the meaning contended for by Mr Nicklin QC.

Decision

192. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

(1) The Claimant was guilty of destroying or attempting to destroy evidence at the crime scene of the attack on Hamid Mir and obstructing the police investigation into the attack.

(2) The Claimant was guilty of blasphemy.

(3) The Claimant has money from abroad and has not declared it.

193. The meaning of (1), (2) and (3) is factual and at *Chase* level 1.

Chapter 17: 24th April 2014 broadcast

194. The words complained of by the Claimant in this broadcast are the following:

“You see Baba Ji, how bad are these things i.e telling so much lies. Mr (Janab) Sabir Sahib, his lies are not going to end. Now, he is trying to hoodwink again and taking a new turn. Why don’t you say it straight away that “we have committed a mistake; we have received money from abroad, brother; from foreign countries. You also have proofs of the receipt of that money; please forgive us and award us appropriate punishment and we start anew, after that.”

Sabir Shakir: I think when money is involved, then national interest, the country and all these things go to the backburner.

Mubashar Luqman: Do you know Baba Ji has sacrificed eight goats this morning

...

Sabir Shakir: Were the goats bought with dollars or rupees?

Mubashar Luqman: Again foreign aid. Be ashamed, Baba Ji. How much money will you receive from enemies of Pakistan?

Mubashar Luqman: ... Thirdly, the Geo and Jang administration deliberately got the forensic evidence destroyed, got the vehicle washed and kept the gunman and guard in their own custody. It did not let the case registered with the police. The entry remained blank in the daily report for five days. As a lawyer, you can tell the Pakistani people that how big is this crime.

Sabir Shakir: ... as soon as this incident took place the demand that came immediately thereafter from Geo was that the DG ISI should resign. This was pre-planned. Now, it should be given some thought that why the demand came immediately thereafter. Now the DG ISI should inquire that who wants to bring about the change.

Mubashar Luqman: They are working on an agenda from whom they are taking money.

Mubashar Luqman: ... Geo Television does not want to call enemy of Pakistan as enemy.

Mubashar Luqman: ... Baba Ji, Baba Ji, Sarabjit Singh had martyred 14 Pakistani citizens and if you feel frightened calling him a terrorist then you should be ashamed. You are what you are because of this country and me too and I tell you who is traitor of Pakistan is a traitor and who is a friend of RAW, he is also traitor. Today we all Pakistanis have to decide whether we have to move for the protection of Pakistan and Pakistan's institutions or we have to follow cheap and hidden tactics of those people who are creating anarchy in this country after taking money from various forces. You have to decide.”

195. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

- (1) The Claimant is a traitor who has taken money from the enemies of Pakistan to create anarchy within Pakistan.
- (2) The Claimant is guilty of destroying evidence and obstructing the police investigation into the serious attack on Hamid Mir.

Particulars of Innuendo

RAW is India's foreign intelligence agency, as all or most Khara Sach viewers would have known.

Particulars of Reference

The references to ‘Baba Ji’ would be understood by all or nearly all viewers to be a reference to the Claimant, given the repeated references to the Claimant by that name in previous episodes, and the content of the episode, including references to:

- (i) The Jang group; and
- (ii) Jehangir Siddiqui as the father-in-law of his daughter.

The Claimant's position as the operational head of the Geo television channel was known to all or nearly all viewers such that the reference to “Geo's management” would have been understood by such viewers to be a reference to the Claimant, or persons acting on his instructions.

196. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The Geo and Jang administration (in Karachi) got the evidence destroyed. Today all Pakistanis have to decide whether to move for the protection of Pakistan and its institutions or to follow those people who are creating anarchy. You, the viewer, has to decide.

Analysis

197. The analysis of this broadcast bears similarities to some of the previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
198. Mr Luqman begins the broadcast by asserting that he had given “*such a large number of proofs against Baba Ji*” and his company (p.1). He starts the first passage complained of with a similar assertion as regards “*proofs of the receipt*” of the money. In my view, Mr Luqman’s approach in this broadcast is a *cri de coeur* that he is unfairly being subjected to legal proceedings by the Claimant merely for presenting the facts as to the Claimant’s wrongdoing, which the Claimant is not disputing. He expressly accuses the Claimant of telling “*so much lies*” (p.3). Mr Luqman is not asking whether money has been received from abroad to subvert the national interest; he is telling the viewers that this has happened and the Claimant should be ashamed, come clean and apologise.
199. Mr Luqman returns to the story regarding the Geo journalist, Hamid Mir (see above). However, as with the 15th broadcast, Mr Luqman does not suggest that the Claimant, as opposed to Geo, was complicit. In my view, being faithful to the precept that each broadcast should be treated separately, there is insufficient in this broadcast to tie this allegation to the Claimant in this broadcast.
200. The final passage complained of chastises the Claimant for not having spoken out against the terrorist Sarabjit Singh who martyred 14 Pakistan citizens. It is, however, in my view, too amorphous and lacking in detail to support a meaning that the Claimant is himself a traitor for having links with RAW.

Decision

201. For these reasons, I find that the words complained of bear the following meaning:

- (1) **Geo and Jang were involved in destroying evidence and obstructing the police investigation into the attack on Hamid Mir.**
- (2) **Pakistanis have to decide whether to move for the protection of Pakistan and its institutions or to follow those people who are creating anarchy.**

202. The meaning of (1) is factual and at *Chase* level 1. The meaning of (2) is comment.

Chapter 18: 5th May 2014 broadcast

203. The words complained of by the Claimant in this broadcast are the following:

“If you have been watching Khara Sach and ARY regularly over a period of time during the last 4-5 months.... In it, as we witnessed, we exposed the involvement of Indian and American agenda in Pakistan and in the elections, especially due to Baba Jee – Mir Shakil-ur-Rahman- who is the leading light of the Jang and Geo Group. To personally make money, first of all, he not only put the culture, history and religious values at stake but also put the political future of Pakistan at stake now and it were the Pakistani people who were deceived, not anyone else- neither any political party nor a candidate. But this fraud was committed with the Pakistani people that they were deprived of their due opinion (vote).

*Jang and Geo ... they also have funding from foreign countries.
If you look at the funding of Geo, it has come from abroad. It has come from the State Department.*

Imran Khan: ... Now your funding has come from abroad. From where the funding has come, their stance with the government is that Pakistan should ‘Do More’ and fight. ... they are saying fight the war and Do More and they are calling me Taliban Khan because I talk about the dialogue. My objection is that you are setting the agenda of a country; you are setting the narrative of the country and you are getting the funding from abroad. The funding is coming from the place which has vested interest that Pakistan should remain engaged on the western border and continue to fight... ... funding should come from abroad and then narrative should also be theirs.

Imran Khan: ... If you criticize Jang, Geo which is a due criticism. Tell me in any world that foreign fund- imagine you are sitting in America and your media house is running some media house in America after funding from Russia. Will they allow?”

204. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant was a traitorous mercenary who has, through his paid promotion of the Indian and American agenda in Pakistan, put Pakistani culture, history and religious values in jeopardy, and has defrauded and deceived the Pakistani people.

205. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Jang and Geo have funding from foreign countries, including the US State Department. Imran Khan questions whether this is a correct situation.

Analysis

206. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
207. Mr Luqman uses the language of *exposée* and trumpets in terms his exposure in previous programmes of the Claimant’s mercenary dealings with Indian and American agencies which have put Pakistan “*culture, history and religious values*” and its political future at stake and “*deceived*” the Pakistani people. Imran Khan again is invited on to the programme to reinforce this central message of the programme. Imran Khan obliges. He explains his objection to funding from abroad by those with a “*vested interest*” that Pakistan should continue to fight on its western border. The word “*traitor*” is not used and, in my view, the imputation cannot be made in this broadcast. The impression given is that the Claimant’s sole motive is money.

Decision

208. For these reasons, I find that the words complained of bear the following (natural and ordinary and/or innuendo) meaning:

The Claimant is paid to promote the Indian and American agenda in Pakistan, and has put Pakistani culture, history and religious values in jeopardy, and deceived the Pakistani people.

209. The words “and has put Pakistani culture, history and religious values in jeopardy” are comment. The meaning of the remaining words is factual and at *Chase* level 1.

Chapter 19: 12th May 2014 broadcast

210. The words complained of by the Claimant in this broadcast are the following:

“Your relations with RAW, the notorious Indian intelligence agency, and their Intelligence Bureau IB and similarity between style and language of Indian media news and Jang and Geo news, their sentences and their statements, and an internal inquiry report of Hindustan Times, and please explain it today Baba Ji, that how much money did you get for false propaganda against the national integrity and solidarity, be it Ajmal Kasab, be it integrity of Pakistan Army. Please tell us how much you got and why; because we will not let traitors live peacefully in this country; we will follow the traitors. ... And above all, you talk about peace with India (Aman ki Asha), you got funding for it; and how did you get overseas ID card. Baba Ji, I have a lot of questions and a lot of proofs,

the friend of “RAW” is a traitor. He who gets money from abroad ... plays advertisement as editorial in the way of ‘Please Think’ (Zara Sochiye) , he is a criminal, his license should be cancelled, his declaration should be cancelled. ... You wanted your name, Mir Khalil-ur-Rahman, Mir Shakil-ur-Rahman, Mir this, this,

this, and Mir that, that, that. But, in history, there are some Mirs in the history, they are remembered, and you are remembered in your life like those.

And if you think I am saying something wrong, I will show you a document, US State Department's leaked document about MKRF, what they say about Mir Khalil-ur-Rahman Foundation, they say ... due to shortage of judges, Pakistan is in the grip of crimes, and this campaign is launched on the wishes of America and to fulfil its designs with the American funding, with the American funding. Not only this, but in the proposal it is suggested that Geo will promote this campaign in its flagship programmes and TV programmes will be used to change public opinion. And in this proposal it was acknowledged that in year 2006, Jang Geo Group pressurized the government to repeal Islamic Shariat laws, and New York Times wrote in one of its articles the four programs on Hudood Ordinance Geo provided justification to the government to change these laws. Not only Hudood Ordinance, Geo group, with the collaboration of Indian newspaper Times of India, is running project "Aman ki Asha" from the year 2010, to create soft corner in the hearts of Pakistanis, whereas on the Pakistani borders, soldiers are killed by Indian shelling. Not only this, fake surveys were conducted to prove that "Terror Perception" about India, has fallen to between 75 per cent and 87 per cent. And "Zara Sochiye, Zara Sochiye" (Just Think) is also included in it.

Sania Kamran: ... We have been watching that since a long time, a media house Geo, Jang, 'I should say the name', Mr Mir Shakil-ur-Rahman, yours ...

Mubashar Luqman: Baba Ji, Baba Ji.

Sania Kamran: Baba Ji, I will be grateful if you push his chair farther, because now his photograph is becoming unbearable, because from his photograph comes out the stench of a traitor. I want to tell you that we have been watching since long that there is openly running a negative campaign against the army, armed forces and ISI on channels, on Geo and Jang. And now they have started character assassination of my leader Imran Khan. They have launched a proper smear campaign since he was named and called a traitor. I want to say that he should be arraigned under Article six when he launches campaign against our ISI, our army and our respectable political leaders and try to impose their opinion on common man. So I believe he is a traitor because he takes undue advantage of his powers, ... sets agenda against Pakistan, takes money from "RAW", ...

Mubashar Luqman: Imran Khan is a leader of very high stature and Shakil-ur-Rahman is a dwarf in front of him, there is no two opinions in this regard.

Sania Kamran: they should not dare, they should not dare!

Mubashar Luqman: no. but traitor is paid for that. And what else they can do except that Pakistani leadership, Pakistan

Sania Kamran: how much money they want?

Mubashar Luqman: first they were minting money along with Iftikhar Chaudhry, now, I don't know, in whose connivance they are minting money?

Sania Kamran: No, how much money they want? They should be afraid of Allah, there is a limit, there is a limit of lust for money, and their lust seems to be unending.

Mubashar Luqman: This money is!!!!

Sania Kamran: It looks like they are bent upon selling Pakistan!!

Mubashar Luqman: ... this is an adequate proof that money has been paid, and it is not reflected here, I mean, from Mir Shakil-ur-ahman, from Baba Ji, that he has got the money, he launched campaigns on some one's instance, like 'Zara Sochiye'. He also made an unholy attempt to change the slogan of Pakistan that "What is the meaning of Pakistan, noting but Allah" ... This is an insult to Pakistan

Muabshir Luqman: ... Let me tell you, when you have taken money, you are giving justification before your masters and that is against the solidarity of Pakistan, Sania. Sania Kamran: I just want to say that Mir Shakil-ur-Rahman should understand that masses are not fool. He will run any agenda on TV and Sadaqah will be paid on it and will be accepted.

Mubashar Luqman: they have got money for it, they will run it?

Sania Kamran: They should not do it, they have no right. I believe that action should be taken ...

Mubashar Luqman: ... Baba Ji, you said that prove a single allegation, I am telling you about Indian media assault and the concern for army on different channels, those news that you published and Hindustan Times published, and then credit to Hindustan Times who apologized for publishing wrong story, but you published that again, and instead of seeking apology, you tried to belittle Pakistan. And if I am not wrong, you have sworn to belittle Pakistan."

211. The Claimant contends that the words complained of bear the following "natural and ordinary (and/or innuendo)" meaning:

The Claimant is a traitor who should be prosecuted for treason and never be allowed to rest peacefully because he:

- (1) is complicit with and has taken money from RAW, the notorious Indian intelligence agency and their intelligence bureau IB, to publish false propaganda damaging to Pakistan's national integrity and solidarity;
- (2) has sworn to belittle Pakistan;
- (3) broadcast foreign government's advertisements as editorial on Geo's "Zara Sochiye" ("Just Think") programme and was therefore a criminal and his company's television licence should be revoked; and
- (4) is willing to accept money to promote any agenda no matter the harm it causes to his native Pakistan.

212. The Defendants contend that the words complained of bear the following "realistic, innocent, other or dominant meaning by way of example":

The Claimant is urged to explain the overseas funding of Geo and Jang with reference to the inquiry report of the Hindustan Times, and also the funding for

‘Aman Ki Asha’, and all of this with reference to MKRF’s proposal for funding to the US State Department and the latter’s leaked document on the subject

Analysis

213. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
214. Mr Luqman’s language in this broadcast is unvarnished and uncompromising. He returns to a familiar theme: the receipt by the Claimant of foreign funding in order to undermine Pakistan. He asks the Claimant (“*Baba Ji*”) directly “...*how much money did you get for false propaganda against the national integrity and solidarity...*”. Mr Luqman refers to the Claimant as a “*friend of RAW*” and brands him a “*traitor*” and a “*criminal*”.
215. He is joined in this characterisation later by his studio guest, Sania Kamran, a supporter of Imran Khan. She asks that the ‘empty chair’ be pushed further away because of the “*stench of a traitor*”. She states that the Claimant should be arraigned (for treason) under Article 6 of the Constitution. She expresses the belief that he is a traitor because “*he takes undue advantage of his powers [...] sets agenda against Pakistan, takes money from RAW...*”

Decision

216. For these reasons, I find that the words complained of bear the following meaning:

The Claimant is a traitor who should be prosecuted for treason and not allowed to rest in peace because he:

- (1) is complicit with and has taken money from RAW, the notorious Indian intelligence agency and their intelligence bureau IB, to publish false propaganda damaging to Pakistan’s national integrity and solidarity;**
 - (2) has sworn to belittle Pakistan;**
 - (3) broadcast foreign government’s advertisements as editorial on Geo’s “Zara Sochiye” (“Just Think”) programme and was therefore a criminal and his company’s television licence should be revoked; and**
 - (4) is willing to accept money to promote any agenda no matter the harm it causes to his native Pakistan.**
217. Save that the words “who should be prosecuted for treason and not allowed to rest in peace” are comment, the meaning of the remaining words is factual and at *Chase* level 1.

Chapter 20: 13th May 2014 broadcast

218. The words complained of by the Claimant in this broadcast are the following:

“According to Media Commission report, they got foreign funding, ... Baba Ji, ... He wrote to State Department of America that we will change our programmes , and we already ran campaigns for money, that included ‘Aman ki Asha’ and Hudood Ordinance, and that we run campaigns for you. After that the proposal of MKRF, Mir Khalil-ur-Rahman’s, then you Baba Ji, you used cheap tactics for character assassination, for example, I tell you that you leveled grave allegations against Pakistan Army, baseless allegations, that you have been doing this for a long time, this is not the first time that you did it. ... but when Mr Mir Shakil-ur-Rahman say that that allegations are leveled against him, he is telling lies. There are not only allegations, but here we presented their proofs, and above all, I have all the proofs, I have emails, I have record of the phone calls. ... it can be said that the government, along with Baba Ji, is trying to dishonour Pakistan army and security institutions of Pakistan. ... I challenge false and baseless things, from this forum of ARY, a poll which was conducted by your institution, Baba Ji, and given to your Hindu masters or friends to appease them, that without resolving Kashmir and water dispute with India, are friendly ties with India possible

today eighteen core people reply to you that here, in this country, no foreign agenda will be implemented, in Pakistan only Pakistan’s agenda will be enforced. ... When you show results of false polls, you are not only giving a news, but also putting in danger solidarity of Pakistan. My war with Baba Ji is this that for his lust of money, for his greed, he has put at stake culture of my country, traditions of my country, economy of my country, peasants of my country, businessmen of my country, politicians of my country intelligentsia of my country and everything of Pakistan. And in the international community tagged every negative thing to Pakistan and caused its disrepute, be it Ajmal Kasab, be it Mumbai episode, be it brutality of Indian forces in Kashmir.

I have received a message from Saif Ullah Butt from Lahore, and the words he has used about Baba Ji, I cannot repeat them on TV, but almost same words were said in 1971 about Baba Ji’s Baba (father) Mir Khalil-ur-Rahman by a journalist. I show them on your screen and they were published in a write-up in Karachi’s weekly Al-Fatah on January 14, 1971, and its title was Bazar-e-Sahafat ki Tawaif (Prostitute of Journalism Bazar). ... I gave you the title of prostitute of journalism ...

Farrukh Habib: ... I think Mir Shakil-ur-Rahman is Mir Jafar and Mir Sadiq. ... But, you, Mir Shakil, you are a traitor, you have committed treachery with nation. You tried to defame ISI, first in the name of Bol TV, and then in the name of Hamid Mir you defamed ISI, you have to answer for this. ... Mir Shakil-ur-Rahman, Mir Shakil-ur-Rahman, you and your institution Geo has caused immense damage to the country, damaged our ideology, and you talk of ‘Aman ki Asha’, on the one hand you talk of war on the western borders, and on the other you talk of ‘Aman ki Asha’. We want good relations with India, but on equal terms. We cannot bargain our honour, our courage), our self-respect. Nawaz Sharif, be happy in the shameless life,

but Tehrik-e-Insaaf and the people of Pakistan want to live with honour with our army and ISI.

Sabir Shakir: ... they have admitted that we have got money from Hindus, from Jews, from Christians, from non-Muslims (KAFIR) also.

Mubashar Luqman: they will get from everyone.

Farrukh Habib: I believe Mr Mubashar, this has been the practice of Mir Shaikl-ur-Rahman and his ally Mian Nawaz Sharif, and he always believed that government can be formed and brought down by using, power, intimidation, corruption, plunder, theft. This book of yours, which has so much evidence that Mir Shakil-ur-Rahman, if you think that you are a Pakistani, come and face courts, talk about it and answer to it, but you have no answers, because four, five months have passed since this book was made public and it contained evidence that you got money from India, America, Britain.

Mubashar Luqman: from Norway also.

Farrukh Habib: ... I want to tell journalists also that they should raise voice black sheep among them, hold them accountable who have been watching their own interests in the name of journalism. In this country politician can be held accountable, and here eight hours long discussions can be held on generals and ISI, then why not discussion on Mir Shakil? Is Mir Shakil a sacred cow? If Imran Khan has boycotted Geo and Jang, why do you have trouble. I urge the youth of Pakistan, people of Pakistan to continue boycott of Geo and Jang till clean people in media start promoting our ideology, Pakistan's ideology. It is true that it is media's job to show mirror, but this is not media's job to undermine Pakistan's ideological base."

219. The Claimant contends that the words complained of bear the following "natural and ordinary (and/or innuendo)" meaning:

The Claimant is a traitor and a grasping mercenary who, in return for money from various countries was prepared through power, intimidation, corruption, plunder, and theft, cravenly to advance Indian interests by treacherously and deceitfully:

- (1) (natural and ordinary alternatively innuendo meaning) running campaigns, which through character assassination and baseless allegations against the Pakistan army, dishonoured the Pakistani army and security institutions of Pakistan;
- (2) being prepared to put in jeopardy the culture, economy, people, businesses, politicians and everything that mattered to Pakistan; and
- (3) casting Pakistan into disrepute notwithstanding the atrocities committed by the Indian forces against Pakistan.

Particulars of Innuendo

The ISI is Pakistan’s principal intelligence agency, as all or nearly all viewers would have known.

220. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

According to the Media Commission Report they got overseas funding in return for running domestic campaigns.

Analysis

221. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
222. In this broadcast, Mr Luqman returns to his central theme regarding the Claimant taking foreign funding for broadcasting anti-Pakistan programmes, but does so with even more intent. He is at pains to state emphatically that he is not simply making allegations: “*I have all the proofs, I have emails, I have record of the phone calls.*” The following passage summarises Mr Luqman’s theme: “*My war with Baba Ji is this that for his lust of money, for his greed, he has put at stake culture..., traditions..., economy..., peasants..., businessmen..., politicians..., intelligentsia of my country and everything of Pakistan.*” Again, Mr Luqman is backed up by his invited studio guest, Farrukh Habib, who states expressly: “*... you, Mir Shakil, you are a traitor, you have committed treachery with nation. You tried to defame ISI... you and your institution Geo has caused immense damage to the country, damaged our ideology...*”.

Decision

223. For these reasons, I find that the words complained of bear the following meaning:

The Claimant is a greedy traitor who, in return for money from various countries, was prepared to advance Indian interests by treacherously and deceitfully:

- (1) **running media campaigns, which dishonoured the Pakistani army and security institutions of Pakistan;**
- (2) **putting in jeopardy the culture, economy, people, businesses, politicians and everything that matters in Pakistan; and**
- (3) **casting Pakistan into disrepute notwithstanding the atrocities committed by the Indian forces against Pakistan.**

224. The meaning of the words is factual and at *Chase* level 1.

Chapter 21: 14th May 2014 broadcast

225. The words complained of by the Claimant in this broadcast are the following:

“Do you think that Geo and Jang , under the guidance of Mir Shakil-ur-Rahman, especially in Pakistan, have put the Pakistaniat and Islam at stake and to earn money, he is fanning sectarianism here or that he promoted it or has done more things like that.

Abbas Kumaili: yes, I think so and I’m not thinking so from today; realizing since long that he has always fanned sectarianism and published such material by way of which sectarianism should spread.

Hamid Raza Khan: ... Islamic teachings are being openly ridiculed and I’m sorry for Pemra which does not realize that when our new generation, the raw minds-children- will see these types of programmes then what kind of Muslims they will become in future, then we intentionally....Thanks be to God!, look, I am a moderate type of a Muslim. I opine that every person has the right to lead his life according to his sect, but if you come up with this kind of Islamic facade and if you promote it in a special way

Mubashar Luqman: ... Abbas Kumaili Sahib, the thing is that you are also a senator and since you are a member of legislature, I want to ask you that shouldn’t there be a criminal case registered under Section 289 A of Pakistan Penal Code against Geo’s morning show organizers and host, including owners Mir Shakil-ur-Rahman and Mir Mir Ibrahim-ur-Rahman.

Mubashar Luqman: what is the fault of the programme; they are sitting above it who are further pulling the strings of puppets.

Hamid Raza Khan: look Mubashar Sahib excuse is worse than sin; after all they are also involved in this to some extent; if someone says that the conviction of your faith so Mubashar Sahib, it did wake up so you also called me, also called Allama Abbas Kumaili Sahib; you expressed the conviction of your faith, you showed love and devotion for Maula Ali and BiBi Fatimatuz Zahra, so where this disrespect was going on, where that un-Islamic act was being committed, there that man or woman could refuse that “Sir, this is like ridiculing Islamic teachings , we cannot do the show on such a sensitive issue.” So you see unless it is all crystal clear, I think along with owners, people who participated in the show, the people who were present there, they are equally guilty. As regards their testimony whether they had any such intention or not, this issue will be taken up in the court, and we will Insha Allah completely fulfil our religious and Pakistani duty and the obligation of faith , this is my promise to you Mubashar Luqman Sahib.

Mubashar Luqman: ... Here, under the garb of journalism, Pakistan’s solidarity is being attacked. Here people are being told that we journalists or journalism is the ‘fourth pillar of the state’. There are three pillars of the state and they are defined in the Constitution of Pakistan. Baba Ji and his cronies ... earning money is his first choice and wish. Baba Ji, for the sake of solidarity of Pakistan, survival of Islam and glory of Islam we will raze to ground your power, your money, this hubris.”

226. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant

- (1) is a traitor who, for the basest of motives of obtaining money for himself, has put Pakistan, the future of its children and Islam at risk, by promoting sectarianism; and
- (2) has used his media empire to promote blasphemy and openly to ridicule Islamic teachings;

and consequently deserves, along with all those involved, to be punished to the fullest extent of the law.

227. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Rhetorically speaking, have Geo and Jang put Pakistan and Islam at stake to earn money?

Analysis

228. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
229. In this broadcast, Mr Luqman again returns to his central theme regarding the Claimant taking foreign funding for broadcasting anti-Pakistan programmes. However, there is far less detail and ‘proof’ provided than in the previous broadcast. Indeed, the few assertions made are shorn of previous detail and supporting context.
230. The discussion flows from Mr Luqman’s initial question to his studio guest, Hamid Raza Khan, “*Do you think that Geo and Jang, under the guidance of Mir Shakil-ur-Rahman, especially in Pakistan, have put the Pakistani and Islam at stake and to earn money, he is fanning sectarianism here...?*”. Hamid Raza Khan answers, “*Yes, I think so...*”. He later quotes Indira Gandhi: “*To destroy Pakistan, we will not need to wage a war, we will destroy this country with cultural invasion...*” (p.3). He then states that “*...Islamic teachings are being openly ridiculed*”.
231. Mr Luqman also poses the question whether the Claimant should be subject to criminal proceedings under section 289 of the Pakistan penal code. Hamid Raza Khan does not answer directly but simply says, “*There are no laws for the bigwigs...*”.
232. There is, however, little more content to the words complained of than the above. The word “*traitor*” does not appear, and a reasonable viewer would not regard there as being any such imputation. In my view, the Claimant’s suggested meaning suffers from being cut-and-paste from his complaints in relation to other broadcasts and is somewhat extravagant.

Decision

233. For these reasons, I find that the words complained of bear the following meaning:

The Claimant

- (1) is fanning sectarianism and putting Pakistan at risk in order to earn money; and**
- (2) has through his media empire ridiculed Islamic teachings, but thinks he is above the law.**

234. Save that the words “but thinks he is above the law are comment”, the meaning of remaining words in (1) and (2) is factual and at *Chase* level 1.

Chapter 22: 21st May 2014 broadcast

235. The words complained of by the Claimant in this broadcast are the following:

“Mir Shakil-ur-Rahman is playing a key role, Baba Ji who never comes to us, even after calling him several times, and sitting behind the scene he raises hollow slogans and continue to challenge us, but this ‘fact’ has been proved that he has been getting foreign aid and he has been getting money from abroad and that he used that in Pakistan to present from different angles to appease their masters who give him money and they have their agendas, especially to create unrest in Pakistan, internally and externally, to make state institutions confront each other so that it should not be ‘stable’ ...

... we have complaints against the people at the helm who, may God never happen, not only tried to ridicule teachings of Islam, our religious beliefs in their plays, in their talks, in their features, but also challenged solidarity of Pakistan, and state institutions of Pakistan, defense institutions, they adopted disgraceful attitude towards them and remained adamant, now the question arises that for the last a few days, a big ‘campaign’ was going on, Pakistan’s various religious organizations, especially leaders from various schools of thought and various sect

we have ‘ascertained’ about Geo and Jang that they were getting funds from abroad, there are certain agendas

the question is this, on what agenda basically is Baba Ji working on, Pakistan army, Islamic traditions, meaning Islamic teachings, family of the prophet, his companions, his wives and those Islamic commandments that are binding and no deviation from them, ridiculing them in your plays and showing them, what is this, what is his agenda?

Mir Shakil is ‘certified’ a man who has hurt the feelings of crores of Muslims, tried to ridicule the teachings of Islam, he should be punished, why is he going to be given a hearing so quickly and giving him punishment, what is this going on, ‘do you agree with’?

I have been saying this for many months that Mir Shakil-ur-Rahman Baba Ji has got money against this country and admitted it, he ran campaigns against the ideology of this country even ‘Zara Sochiye’ campaign, he changed LA ILLAH ILALLAH and no Muslim has the right to change the slogan “Pakistan Ka Matlab Kia, La Ilaha Ilallah”, this was the meaning of Pakistan and this should remain its meaning ... everybody is infuriated, or angry, or sad and there is no doubt about that, every Muslim will be sad”

236. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant

- (1) is a traitor and mercenary who accepted money from abroad to promote foreign agendas to destabilise Pakistan and cause unrest and confrontation;
- (2) had tried to ridicule the teachings of Islam; and
- (3) had challenged the solidarity of the nation of Pakistan, its ideology and its institutions; and

consequently deserved to be punished for the hurt and offence that he had caused to many millions of Muslims.

237. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Although the Claimant has been asked on the programme several times he never comes to answer about his receipt of funding from overseas, including in particular those funds received by Geo and Jang. He does however challenge the programme behind the scenes, raising hollow slogans, but his agenda is unclear..

Analysis

238. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
239. In this broadcast, Mr Luqman again returns to his central theme regarding the Claimant taking foreign funding for broadcasting anti-Pakistan programmes. The key passages come at the very beginning of the broadcast. Mr Luqman states at the outset: “*Mir Shakil-ur-Rahman is playing a key role... this ‘fact’ has been proved that he has been getting... money from abroad and that he used that in Pakistan... to appease their masters who give him money and they have their agendas, especially to create unrest in*

Pakistan, internally and externally”. Mr Luqman then states: *“I am going to give you my opinion.... It is a fact that... journalists... in Jang and Geo... have no say... but we have complaints against the people at the helm who... not only tried to ridicule teachings of Islam... but also challenged solidarity of Pakistan and state institutions of Pakistan, defence institutions, they adopted disgraceful attitude towards them...”.*

240. Mr Barnes submits that these passages comprise ‘mere introduction’ by Mr Luqman who gets his language ‘a bit mixed up’. In my view, a reasonable viewer would take Mr Luqman clearly to be saying two things. First, he was telling the viewers hard fact as to the Claimant getting money from abroad to undermine Pakistani institutions *etc.* Second, he was giving the viewers his opinion that the journalists do not have control, rather the people at the helm have control, *i.e.* the Claimant. Mr Luqman then returns to the main theme of foreign funding when questioning *“...[W]hat agenda basically is Baba Ji working on...?”*. His studio guest, Faisal Raza Abdil, provides the context by accusing Geo and Jan of *“five years backstabbing Pakistan army”* (p.3).

Decision

241. For these reasons, I find that the words complained of bear the following meaning:

The Claimant

- (1) has accepted money from abroad to promote foreign agendas to create unrest in Pakistan;**
- (2) had tried to ridicule the teachings of Islam; and**
- (3) had challenged the solidarity of Pakistan, its ideology and its institutions; and**

consequently deserved to be punished for the hurt and offence that he had caused to many Muslims.

242. The words “consequently deserved to be punished for the hurt and offence that he had caused to many Muslims” are comment. The remaining words are factual and at *Chase* level 1.

Chapter 23: 12th June 2014 broadcast

243. The words complained of by the Claimant in this broadcast are the following:

“...he himself utilized money by taking it from India in their name.

Today, I am challenging Mir Shakil-ur-Rahman in front of whole Pakistan to appear in the court. ... I shall prove that he betrayed the country and I shall come to the court with proofs, with evidence.

Arif Hameed Bhatti: Well, Sabir I shall want to interrupt you here. Sabir, on this occasion I shall want to say one thing. You did court reporting for a long period. I also know some judges. You made a reference to the Jamaat-e-Islami. Many religious, pious people are there. They understand the difference between the justice and feud; they also understand the difference between the justice and vengeance. We leave it. You tell that the defence minister says two, three/four days earlier that Mir Shakil-ur-Rahman/Geo resorted to anti-state acts. Is there any penalty in the law for anti-state acts? What law is such, had any flaw remained in the constitution of 1973.

Sabir Shakir: Bhatti Sahib I am turning towards the same. Bhatti Sahib I am turning towards the same that in the same petition, Mir Shakil-ur-Rahman, whom the Ministry of Defence is declaring enemy of the country

Sabir Shakir: ... They summon people to Dubai from here; pay huge expenses; sit abroad and work on agenda of foreign countries.

Lawyer Aftab: It is abetment, treason.

Arif Bhatti: Traitor. Do you mean Mir Shakil-ur-Rahman has committed treason?

Lawyer Aftab: He is an accused; it is treason. I am saying on air that the person who will push the interests of this country to a war.

Arif Hameed Bhatti: Well, the defence minister is also saying this. You are also calling traitor so the rest of their...

Lawyer Aftab: Bhatti Sahib listen to me. Shall malign the army of this country. Listen my request Bhatti Sahib, who is a traitor, the one who destroys the country; who is traitor, the one who maligns the armed forces of Pakistan, which is an institution for security of the country; who is a traitor, the one who puts the interests of the country at stake; the same is traitor, the one like Mir Jafar and Mir Sadiq.

Arif Hameed Bhatti: Well, the time of our programme has ended. We are unable to understand anything. You are saying that he committed treason.

Lawyer Aftab: Sir let me prove as to who I am calling a traitor.

Arif Bhatti: ... Are there such courts in Pakistan that will take action against enemies of Pakistan; is there any legal institution that will take action? Will the same happen that every knowledgeable person, every powerful person commits treason against Pakistan and provides material to enemy country against Pakistan and no action is taken against him?"

244. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant was a traitor who plotted with other countries against Pakistan from outside its borders, who sought to destroy the country and put its interests at risk, and in consequence was an enemy of the state.

245. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The usual presenter has been banned by court order from presenting the programme and he is walking out of TV in protest. Separately, lawyer Aftab expresses the view that the airing of a statement by Aamir Mir on Geo and flashing a picture of Pakistan’s ISI director general for eight hours like an accused ought to lead to a prosecution for treason.

Analysis

246. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.
247. This is an unusual broadcast because it is presented by a new presenter, Arif Hameed Bhatti. Mr Bhatti explains that he is presenting the programme rather than Mr Luqman because Mr Luqman has been the subject of a court order prohibiting him from hosting the programme. However, Mr Bhatti has invited Mr Luqman onto the programme as a guest in order to explain why he has been ‘gagged’. Mr Luqman appears stung by the court order because he immediately throws down the gauntlet to the Claimant. Having informed viewers that a warrant of arrest has been issued for the Claimant, his son and son-in-law, for “*criminal defamation*”, Mr Luqman states, “*Today I am challenging Mir Shakil-ur-Rahman in front of whole of Pakistan to appear in the court [...] I shall prove that he betrayed the country and I shall come to the court with proofs, with evidence.*”
248. Mr Bhatti contributes by reporting that the Pakistan defence minister has stated that the Claimant resorted to “*anti-state acts*” and questions what the penalty is for this. The other invited studio guests then contribute. Sabir Shakir, states that the Ministry of Defence has declared the Claimant “*an enemy of the country*” and intimates that the Claimant and his group further “*the agenda of foreign countries*”. Aftab Virk is asked directly by Mr Bhatti: “*Do you mean Mir Shakil-ur-Rahman has committed treason?*”. Aftab Virk answers: “*He is an accused; it is treason. I am saying on air that the person who will push the interests of this country to a war.*” He then states in the following important passage:

“*Listen my request Bhatti Sahib, who is a traitor, the one who destroys the country; who is traitor, the one who maligns the armed forces of Pakistan, which is an institution for security of the country; who is a traitor, the one who puts the interests of the country at stake; the same is traitor, the one like Mir Jafar and Mir Sadiq.*”

249. Mr Barnes submits that these passages comprise the commentators ‘putting the case’. I disagree. In my view, a reasonable viewer would be left in no doubt that it was being asserted unequivocally that the Claimant was a traitor, like Messrs Jafar and Sadiq.

Decision

250. For these reasons, I find that the words complained of bear the following meaning:

The Claimant was a traitor and enemy of the state who had betrayed his country by plotting with other countries to further their agendas against Pakistan, by maligning the armed forces of Pakistan, by putting the interests of Pakistan at stake.

251. The meaning of the words is factual at *Chase* level 1.

Chapter 24: 8th October 2014 broadcast

252. The words complained of by the Claimant in this broadcast are the following:

“The sixth family has come; in how many courts it is wanted in how many cases and so much so that police have no realization that this person is wanted for blasphemy of the kin of the Prophet; this person is wanted for desecration of the Holy Quran i.e. this person is wanted in desecration of Islamic penalties and you are not laying hand on this person. You too have to respond to Allah. Policemen, Allah will also question you.

Baba Ji, you are in Pakistan. I had offered you a ticket and hotel stay. You are in Pakistan so please come, sit on the chair and please we sort out things. Give up the rounds of courts and we should find together as to what is milk; what is water and what is acid and I tell you how you received funds from the international courts to work against Pakistan and you prove me wrong. I shall prove that I am right but when we come back after a break, the other stories. Take a break.

We have not placed this here for dates; it is placed as a reminder so that we remember as to what is behind the Aman Ki Asha; what is behind DFID; what is behind the funds of the CIA and State Department. All this has been placed to remember because when new Pakistan is going to come into being, there should be no room for enemies of Pakistan in it whichever profession they are associated with, even if they are journalists or anyone of the ancestors of journalists.”

253. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant is:

- (1) guilty of blasphemy and desecration of the Qu’ran; and
- (2) a treacherous mercenary and enemy of Pakistan.

254. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

The Claimant is in Pakistan. The presenter offered him a ticket and a hotel stay. The Claimant is begged to come on the programme to prove the presenter wrong in everything that he has been saying.

Analysis

255. The themes in this broadcast bear some similarities with previous broadcasts. I repeat *mutatis mutandis* the general considerations set out in my analyses above.

256. Mr Luqman has resumed his position as presenter of the programme. There are a number of separate issues which require consideration. The first arises in the first passage complained which relates to blasphemy and desecration of the Holy Quran etc.(p.5):

“The sixth family come in; in how many courts it is wanted in how many cases and so much so that police have no realization that this person is wanted for blasphemy of the kin of the Prophet; this person is wanted for desecration of the Holy Quran i.e. this person is wanted in desecration of Islamic penalties and you are not laying hand on this person. You too have to respond to Allah. Policemen, Allah will also question you.”

257. Mr Barnes submits that there is nothing to link the Claimant with this passage. I disagree. The passage must be viewed in the context of the broadcast as whole. Earlier in the broadcast, Mr Luqman welcomes his two studio guests, Hameed Bhatti and Sabir Shakir, and announces (p. 3):

“I have again symbolically placed here a picture of Baba Ji and have placed a chair. Its reason is that you watch and Baba Ji also watches. Don’t think that I am deviating from my story. I am coming to my story but first I have to say another thing. It is very necessary. This is the system of our country that this person, Baba Ji or Mir Shakil-ur-Rahman son of Mir Khalil-ur-Rahman is an accused; many courts have made him a culprit of this country. He is roaming around Pakistan. ...[H]e is not being arrested. ... He is a culprit of this country...”

258. Mr Luqman refers to “Baba Ji” several times during the broadcast and concludes with the peroration, “Baba Ji did not join us. God willing. God will bring you too to justice very soon” (p.11). The particular link in the reasonable viewer’s mind with the accusations of regarding blasphemy are the repeated references to “*arrest*”, “*courts*” and “*justice*”. In my view, a reasonable viewer would regard the Claimant - personified by the ‘empty chair’ and his picture - as the main object of Mr Luqman’s accusations, including the above accusations regarding blasphemy.

259. The second and third passages complained of relate to the familiar issue regarding foreign funding to broadcast anti-Pakistan material. Mr Luqman states in clearly accusatory terms, “*Baba Ji... I tell you how you received funds from the international courts to work against Pakistan and you prove me wrong. I shall prove that I am right...*”. The reference to “*international courts*” is puzzling but, in my view, in the

light of the subsequent references to the CIA, the State Department and DfID, this is likely to be understood by a reasonable viewer as a reference to international agencies.

260. The uncompromising nature of the case being made against the Claimant by Mr Luqman is apparent when one views this allegation against the tone of the broadcast as a whole, and Mr Luqman’s repeated insistence that the Claimant be ‘brought to justice’. Mr Barnes submits, however, that Mr Luqman is merely laying down a challenge to the Claimant but does not supply proof of guilt. On balance, I agree. This broadcast contains much less firm detail and evidence than earlier broadcasts.

Decision

261. For these reasons, I find that the words complained of bear the following meaning:

- (1) **The Claimant is guilty of blasphemy and desecration of the Qu’ran; and**
- (2) **The Claimant should come and explain whether he has received funds from international agencies to work against Pakistan.**

262. The meaning of the words in (1) is factual and at *Chase* level 1. The words in (2) are opinion and at *Chase* level 2.

Chapter 25: 12th November 2013 (news report)

263. The Claimant also complains regarding the following words in a news report broadcast by *ARY News* on 12th November 2013:

“News Anchor: Khara Sach host Mubashar Luqman has submitted an application to the Lahore High Court against Mir Shakil-ur-Rahman for threatening to kill him. Report: The host of Khara Sach programme of ARY, Mubashar Luqman, has submitted an application to the Lahore High Court against Mir Shakil-ur-Rahman wherein the IG Police Punjab, DIG Operations Lahore, SP Lahore Cantt, SHO DHA

Lahore Police Station and Mir Shakil-ur-Rahman have been made respondents. In his application, the host of Khara Sach has stated that he is receiving phone from unknown mobile numbers for pinpointing alleged irregularities of the Geo Group and Mir Shakil-ur-Rahman. The callers are threatening to kill Mubashar Luqman and his family. According to the host of Khara Sach, he approached DHA Lahore Police Station for the registration of a criminal case against Mir Shakil-ur-Rahman but the police did not take any action. Mubashar Luqman has prayed to the court that police be ordered to register an FIR against Mir Shakil-ur-Rahman for harassing Mubashar Luqman and his family.

Mubashar Luqman: The truth is that first Mir Shakil-ur-Rahman and his company attempted to restrict our freedom of journalism when they requested a gagging order against me and they got it from the Islamabad High Court. Well, the court order is welcome so we shall obey whatever they will say but the world should come to know

that there is a dual law and double standard here. Now Mir Shakil-ur-Rahman is threatening to kill me and is acting like a mafia don but no action against him is being taken here; is he not a citizen of this land.

Report: The host of Khara Sach had submitted a written application to the SHO of DHA Lahore Police Station stating that he is receiving serious threats on mobile phone to kill him which are prima facie and certainly being received from Mir Shakil-ur-Rahman.

Lawyer: The opposition (rivals) are directly threatening to Mubashar Luqman and his family through phone calls. All sorts of harassment are being used. We submitted an application to the Defence A Police Station on Thursday wherein we requested the police for the registration of an FIR and sought legal protection. No action has so far been taken by police on this application despite passage of four days because of we have been compelled to file a writ today and in this writ, besides seeking an order for the registration of an FIR against Mir Shakil-ur-Rahman, we have also requested for the provision of legal protection to my client and his family against the harassment by them, which does not fall in the jurisdiction of the justice of peace and can be provided to us only by the High Court under Article 199. And in this writ, we have requested the same. As an ultimate result of this writ, an order shall be issued for the registration of an FIR against Mir Shakil-ur-Rahman. Secondly, my client and his family will get proper legal protection on the order of the justice of the Honorable Lahore High Court that they be provided security, protection because the opposition (rivals) are a potential, is using all tactics to threaten, harass my client and to press him for refrain from putting the truth before the country and the nation.”

264. The Claimant contends that the words complained of bear the following “natural and ordinary (and/or innuendo)” meaning:

The Claimant had threatened to kill Mubashar Luqman and his family.

265. The Defendants contend that the words complained of bear the following “realistic, innocent, other or dominant meaning by way of example”:

Mr Luqman is receiving anonymous death threats. His attempts to invoke the civil and criminal laws against the Claimant in respect of them have failed.

Analysis

266. This final broadcast complained of is a news report which took place on the 12th November 2013, *i.e.* between the dates of Chapters 5 and 6 above, but which I deal with it separately here for convenience.
267. Mr Barnes submitted that a reasonable viewer of this news report would conclude that Mr Luqman had received anonymous threats and had assumed these came from the Claimant but this did not mean that it was being alleged that the Claimant had, in fact, made threats to kill Mr Luqman.

268. I disagree. The words used by Mr Luqman are clear and unequivocal: “*Mir Shakil-ur-Rahman is threatening to kill me and acting like a mafia don but no action is being taken here; is he not a citizen of this land*”. The imputation is clear: the Claimant has made threats to kill Mr Luqman and his family but no action is taken because the Claimant is a very powerful media person.

Decision

269. For these reasons, I find that the words complained of bear the following meaning:

The Claimant had threatened to kill Mubashar Luqman and his family.

270. The meaning of the words is factual and at *Chase* level 1.

CONCLUSION

271. In conclusion, therefore, the meanings of the words complained of in the 25 broadcasts are those set out in bold above. The meanings contended for by the Claimant are, in the main, borne out. A recurrent theme of many of the broadcasts is that the Claimant is a traitor to Pakistan.