

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No.: CV2018-00947

BETWEEN

INSHAN ISHMAEL

Claimant

AND

RENUKA SINGH

First Defendant

OMATIE LYDER

Second Defendant

TRINIDAD EXPRESS NEWSPAPERS LIMITED

Third Defendant

Before the Honourable Mr. Justice Frank Seepersad

Date of Delivery: 27 April 2022.

Appearances:

1. Mr. R. Armour S.C., Mr. R. Nanga instructed by Ms. E. Araujo Attorneys-at-law for the Claimant.
2. Mr. F. Hosein and Ms. C. Ramjohn-Hosein, Attorneys-at-law for the Defendants.

DECISION

1. Before the Court for its determination is the Claimant's Claim Form filed on 20 March 2018 and Amended Statement of Case filed on 23 July 2018 by virtue of which the Claimant seeks against the Defendants the following reliefs:
 - a. Damages for libel, including exemplary and/or aggravated damages contained in a cover story, of which the headline, "Cops probe businessman's funding to foreign

groups INSHAN ISHMAEL IN TERROR \$\$ LINK? Ishmael: Absolutely false— Story by Renuka Singh on page 3” was prominently published by the Second Defendant and the Third Defendant on Sunday 8 January, 2017, on the front page of the Sunday Express Newspaper together with an article under the heading “Ishmael red-flagged over \$\$ transfers... Attempts made to send funds to alleged terror groups... FIB made several requests” published at page 3 and written by the First Defendant.

- b. Damages for libel, including exemplary and/or aggravated damages contained in a news article under the heading, “Ishmael hits back... Businessman attacks terror link claims” which was prominently published by the Second Defendant and Third Defendant on page 7 of the Trinidad Express Newspaper dated 9 January 2017 and written by the First Defendant.
- c. Damages for libel, including exemplary and/or aggravated damages contained in a news article under the heading “Muslim Aid: We were cleared of all wrongdoing” which was prominently published by the Second Defendant and Third Defendant on page 8 of the Trinidad Express Newspaper dated 10 January 2017 and written by the First Defendant.
- d. Damages for libel, including exemplary and/or aggravated damages contained in a news article under the heading “Red flags over terrorism funding... UK Muslim charity group confirms ‘irregularities probe’” which was prominently published by the Second Defendant and Third Defendant on page 8 of the Sunday Express Newspaper dated 15 January 2017 and written by the First Defendant.
- e. An injunction restraining the Defendants whether by themselves, their servants or agents or otherwise, from writing, publishing or causing to be published the same or similar words defamatory of the Claimant.
- f. An injunction compelling the Third Defendant to forthwith remove from its website the said articles.
- g. Loss of income in the sum of \$1,500,000.00.
- h. Costs.
- i. Such further and/or other Orders as the Honourable Courts may deem just.

The Claimant's Facts:

2. The Claimant is a well known journalist, businessman, political and social activist, as well as a major shareholder in the television station Islamic Broadcasting Network.
3. The First Defendant wrote and the Second and Third Defendants published the following news articles:
 - a. A cover story, of which the headline “Cops probe businessman’s funding to foreign groups INSHAN IN TERROR \$\$ LINK? Ishmael: Absolutely false –Story by Renuka Singh on page 3” was prominently published by the Second Defendant and Third Defendant on Sunday 8th January 2017, on the front page of the Sunday Express Newspaper together with an article under the heading “Ishmael red-flagged over \$\$ transfers... Attempts made to send funds to alleged terror groups... FIB made several requests” published at page 3 and written by the First Defendant (the “First Article”).
 - b. A news article under the heading “Ishmael hits back... Businessman attacks terror link claims” which was prominently published by the Second Defendant and Third Defendant on page 7 of the Trinidad Express Newspaper dated 9 January 2017 and written by the First Defendant (“the Second Article”).
 - c. A news article under the heading “Muslim Aid: We were cleared of all wrongdoing” which was prominently published by the Second Defendant and Third Defendant on page 8 of the Trinidad Express Newspaper dated 10 January 2017 and written by the First Defendant (“the Third Article”).
 - d. A news article under the heading “Red flags over terrorism funding... UK Muslim charity group confirms ‘irregularities’ probe” which was prominently published by the Second Defendant and Third Defendant on page 8 of the Sunday Express

Newspaper dated 15 January 2017 and written by the First Defendant (“the Fourth Article”).

4. The Claimant’s claim is premised upon words which identified him by name.
5. The Claimant asserts that the First Defendant wrote and the Second Defendant and Third Defendant published several untrue statements about him in the articles and made several inferences which contained several falsehoods and untruths, which by their plain and ordinary meaning and/or by way of innuendo the words complained of meant and/or were understood to mean that the Claimant:
 - a. Is a terrorist;
 - b. Has been financing terrorism;
 - c. Was not cooperating with an active police investigation and had something to hide;
 - d. Had committed a criminal act by funding terrorism, an offence that could lead to the confiscation of the Claimant’s assets;
 - e. Is a criminal and is prone to breaking the law.
6. The Claimant also asserts that the Defendants would have undoubtedly contemplated that the false and baseless allegations against him would be republished in the electronic media and circulated on the internet.
7. The Claimant pleaded that the Defendants wrote and published the articles without making any adequate checks or attempts to verify the facts with him or with the organisations which were referenced in the publication.
8. With respect to the particulars of malice, the Claimant pleaded that the Defendants failed to properly investigate the contents of the articles and failed to appreciate the nature of the transactions he conducted. As a result of the articles, the organisations referred to in the articles were compelled to set the record straight.

9. The Claimant further pleaded that he provided the First Defendant with sufficient evidence to verify that the named organisations were not involved in funding terrorism. Additionally, he outlined that he specifically told the First Defendant that he was not aware that he was being investigated and had not been contacted by the police.
10. The Claimant stated that since the publication of the articles, he experienced great difficulty in accessing foreign exchange which was required to operate his company and as a result, he incurred a loss of income of approximately \$1,500,000.00.

The Defendant's Facts:

11. The Defendants pleaded that the Claimant failed to identify with sufficient particularity the alleged defamatory words and outlined that the Statement of Case was not in compliance with Part 73.2(a) of the CPR 1998 (as amended). In addition, they pleaded that the words in the articles do not bear any innuendo meaning. They assert that the pleadings were not sufficiently set out in compliance with Part 73.2(b) of the CPR and that the claim in innuendo is wholly unmaintainable and/or misconceived. The Defendants also pleaded that the publication of the articles was covered by qualified privilege.
12. The Defendants averred that prior to the publication of the First Article, the First Defendant received information which she honestly believed to be credible. This information outlined that the Claimant was under investigation by the Financial Investigation Branch (FIB) for attempting to send GBP 10,154.44 to Muslim Aid to provide charitable aid to Somalia.
13. The First Defendant also obtained a letter in which the FIB made a request of the Central Authority of the office of the Attorney General, in or around July 2015, to determine whether the Claimant and/or one of his companies initiated an unsuccessful wire transfer to Muslim Aid. The First Defendant acquired further information relating to wire transfers which the Claimant made to Muslim Aid Foundation and to another organisation known as Human Concern International (HCI).

14. Prior to the publication, the First Defendant conducted a telephone interview with the Claimant and his responses were reported in direct quotations in the First Article.
15. The Claimant denied that he attempted to make a \$990,000.00 deposit at a local bank without verifying the source of funds and indicated that he was not to blame for the 2011 unsuccessful attempt to transfer \$3.4 million to Muslim Aid. In addition he cited an article in 2010 on Muslim Aid's website where it was congratulated for its charitable work by Prince Charles.
16. The Defendants pleaded that the First Article was published as it concerned matters which were of public concern and interest and that all references to the Claimant were wholly justified and that he was integral to the reported story.
17. The Defendants stated that the Second Article was published on an occasion of qualified privilege. This article reported, *inter alia*, the facts and matters which were previously reported in the First Article i.e. that the Claimant was under investigation by the FIB for attempts to wire transfer funds to two organisations allegedly linked to terrorism. This article also repeated the Claimant's denial of any wrongdoing and reported the information posted by him on social media which included a press release which purportedly cleared Muslim Aid from wrongdoing. The Second Article further reported the contributions that were made on air by the Claimant's attorney.
18. With respect to the Third Article, the Defendants pleaded that it was also published on an occasion of qualified privilege. This article referenced the email correspondence which the Third Defendant received from Muslim Aid and which stated that the organisation was cleared of all wrongdoing.
19. With respect to the Fourth Article, the Defendants again relied on the doctrine of qualified privilege and the Claimant's denial of wrongdoing was given prominence in this publication.

20. In relation to all four articles, the Defendants contend that they acted in full compliance with the duties and obligations of responsible journalism as they published information in the public interest.

The Issues:

21. The Court is called upon to determine the following issues:

- a. Whether the First Article's front page headline and the Claimant's photograph, when considered in isolation or together conveyed a meaning which was defamatory of the Claimant.
- b. Whether the words complained of in any of the four articles were defamatory of the Claimant.
- c. In the event that the Court holds that any of the complained words were defamatory, whether they were published on an occasion of qualified privilege.
- d. Whether the Claimant is entitled to receive an award for damages and if so under what heads and in what quantum.

The Law:

22. The dicta of Sir Thomas Bingham as outlined in **Skuse v Granada Television (1996) EMLR 278** was adopted by our Court of Appeal in **Civil Appeal No. 118 of 2008 Kayam Mohammed & Others -v- Trinidad Publishing Co.** The Court at paragraph 42 stated:

“A statement should be taken to be defamatory if it would tend to lower the plaintiff in the estimation of right-thinking members of society generally, or be likely to affect a person adversely in the estimation of reasonable people generally.”

23. The Honourable Mendonca J.A. in the case of *Kayam Mohammed* (supra) set out the proper approach which the court ought to adopt in determining whether words alleged are indeed defamatory and at paragraph 10 stated as follows:

“10. There was no dispute as to the proper approach of the Court in determining the meaning of words alleged to be defamatory. The principles were recounted by Lord Nicholls in Bonnick v Morris [2003] 1 A.C. 300 (at para 9):

“Before their Lordships’ Board the issues were reduced to two: meaning and qualified privilege. As to meaning, the approach to be adopted by a court is not in doubt. The principles were conveniently summarized by Sir Thomas Bingham MR in *Skuse v Granada Television Ltd.* [1966] EMLR 278, 285-287. In short, the court should give the article the natural and ordinary meaning it would have conveyed to the ordinary reasonable reader of the “Sunday Gleaner” reading the article once. The ordinary reasonable reader is not naïve; he can read between the lines but he is not unduly suspicious. He is not avid for scandal. He would not select one bad meaning where other, non-defamatory meanings are available. The court must read the article as a whole, and eschew over-elaborate analysis and, also too literal an approach. The intention of the publisher is not relevant. An appellate court should not disturb the trial Judge’s conclusion unless satisfied he was wrong.”

11. The Court should therefore give to the words in any impugned article, the natural and ordinary meaning which they would have conveyed to the notional ordinary reasonable reader who was possessed the traits as mentioned by Lord Nicholls in *Bonnick* (supra). . The natural and ordinary meaning refers not only to the literal meaning of the words but also to any implication or inference that the ordinary reasonable reader would draw from the words.

In Lewis v Daily Telegraph Ltd. [1964] AC 234, 258 Lord Reid stated:

“What the ordinary man would infer without special knowledge is generally called the natural and ordinary meaning of the words. But that expression is rather misleading in that it conceals the fact that there are two elements in it. Sometimes it is not necessary to go beyond the words themselves, as where the plaintiff has been called a thief or a murderer. But more often the

sting is not so much in the words themselves as in what the ordinary man will infer from them and that is also regarded as part of the natural and ordinary meaning.”

12. Lord Morris in Jones v Skelton [1963] 1 W.L.R 1363, 1370-1371 stated:

“The ordinary and natural meaning of words may be either the literal meaning or it may be implied or inferred or an indirect meaning: any meaning that does not require the support of extrinsic facts passing beyond general knowledge but is a meaning which is capable of being detected in the language used can be a part of the ordinary and natural meaning of words... The ordinary and natural meaning may therefore include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not filtered by any strict legal rules of construction would draw from the words.”

13. It is relevant to note that the questioned words can have only one correct natural and ordinary meaning. In Charleston v News Group Newspapers Ltd. [1995] 2 AC 65 Lord Bridge, after referring to the fact that the natural and ordinary meaning of words may include any implication or inference stated (at p.71):

“The second principle, which is perhaps a corollary of the first, is that, although a combination of words may in fact convey different meanings to the minds of different readers, the jury in a libel action, applying the criterion which the first principle dictates, is required to determine the single meaning which the publication conveyed to the notional reasonable reader and to base its verdict and any award of damages on the assumption that this was the one sense in which all readers would have understood it.”

14. Where, as in this jurisdiction, the Judge sits without a jury, it is his function to find the one correct meaning of the words. Where the Court has to consider the defence of Reynolds privilege, it must have regard to the range of meanings which the words are capable of bearing and the Judge must have regard to the meaning

of the words complained of so as to find the single meaning which they conveyed. That does not mean that where an article levels a number of allegations that it has only one meaning. What it does mean is that where there are possible contradictory meanings, the Court must determine the one correct meaning out of all the possible conflicting or contradictory interpretations.

24. With respect to the defence of Reynolds privilege, the Court in *Kayam Mohammed* (supra) stated at paragraphs 60 and 62 as follows:

“60. The defence of Reynolds privilege is a complete defence and if established denies any remedy to the claimant. It only arises as a live issue where the statement in question is defamatory and untrue. Reynolds privilege therefore protects the publication of untrue and defamatory matter. It does so for two reasons that impact on freedom of expression and freedom of the press; first so as not to deter the publication in question, which might have been true and secondly, so as not to deter future publication of truthful information (see *Loutchansky v Times Newspapers Ltd. (No. 2)* [2002] 1ALL E.R. 652,68 (at para 41)). It protects such matter where the publication is to the public at large or a section of it and where (1) it was in the public interest that the information should be published and (2) where the publisher has acted responsibly - a test usually referred to as “responsible journalism”.

...

62. In Reynolds Lord Nicholls provided a non exhaustive list of certain considerations which may be of relevance in deciding whether the test of responsible journalism is satisfied. These are as follows:

“1) The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true. 2) The nature of the information, and the extent to which the subject matter is a matter of public concern. 3) The source of the information. Some journalists have no direct knowledge of the event. Some have their own axes to grind, or are being paid for their stories. 4) The steps taken to verify the information. 5) The status of the information. The allegation may have been the subject of an investigation which commands respect. 6) The urgency of

the matter. News is often a perishable commodity. 7) Whether comment was sought from the plaintiff. He may have information others do not possess or have not disclosed. An approach to the plaintiff will not always be necessary. 8) Whether the article contained the gist of the plaintiff's side of the story. 9) The tone of the article. A newspaper can raise queries or call for an investigation. It need not adopt allegations as statements of fact. 10) The circumstances of the communication, including the timing.”

Resolution of issues:

Issue 1:

25. In **Charleston v News Group Newspaper Ltd (1995)2 AC.65**, the House of Lord's considered the issue as to whether a claim for libel could be premised on a headline or a photograph either by way of innuendo or when ascribed their natural or ordinary meaning. The Court ruled that the headline and photograph could not be viewed in isolation from the related text and stated that what has to be considered was the singular meaning conveyed to the notional reasonable reader who read the entire publication.
26. The approach outlined in *Charleston* (supra) is sound and should be followed in this jurisdiction.
27. The Claimant at paragraph 8 of his Statement of Case outlined his view as to the natural and ordinary meaning of the photograph and the front page headline. Essentially, his complaint is centred around the assertion that there would have been a limited group of persons who would have seen the photograph and the headline but would not have read the First Article. They, he asserts, would have formed a defamatory view (either by way of innuendo or ordinary meaning) of him.

28. This manner of reasoning was rejected in *Charleston* (supra) and the natural and ordinary meaning can only be ascertained when the headline words and the photograph are collectively considered in the context of the publication as a whole.
29. The Court noted that the Claimant failed to adduce any evidence so as to establish that any reader who saw the photograph and read the headline without reading the accompanying and related text, by way of innuendo or otherwise, ascribed the defamatory meaning as outlined in his statement of case.
30. Consequently, this Court holds the view that the Claimant's assertion that the headline and photograph bore a defamatory meaning is devoid of merit.

Issue 2:

31. When a court has to determine the meaning of words which are alleged to be defamatory, the Court has to consider not only the literal meaning of the words complained of but also any inference or implication that the ordinary reasonable reader would have drawn from the said words. Ultimately, the Court must determine, as a question of fact, the meaning which the words conveyed to the ordinary reasonable reader.
32. In the discharge of its mandate to determine the single meaning that an ordinary reasonable reader would have ascribed to the words complained of, the Court should also have regard to the context in which the words were used and the article must be read in its entirety and not dissected.
33. With respect to the First Article, the Claimant complained about paragraphs 1, 3, 4, 5, 11 and 12 and contends that the natural, ordinary and/or innuendo meanings of the words used conveyed that he was/is a terrorist who financed terrorism and that his actions ran afoul of

the law. In addition, he says, the words suggested that he did not cooperate with the police and his assets could be confiscated.

34. Having read the First Article as a whole it is evident that same was framed against the backdrop of the red flagging of the certain transactions effected by the Claimant with foreign organisations who were suspected of having a terrorism link.

35. It is expected that upon reading the headline, the reasonable ordinary reader would have read the article to ascertain the matters to which the headline related. A reader who was not unduly suspicious or drawn by scandal, upon reading the article in its entirety would have gleaned, *inter alia*, the following:

- a. The Claimant was red flagged as a result of attempts to wire transfer \$3.4 million in 2011 to the Muslim Aid Foundation an organisation which was allegedly linked to terrorism.
- b. Documents revealed that the FIB was investigating the Claimant with respect to an attempt to send money to the Muslim Aid Foundation to provide charitable aid to Somalia in 2014.
- c. This transfer was red flagged by the routing department of Royal Bank of Canada (RBC) because the Muslim Aid Foundation was characterised as a terrorist organization by the Israeli Ministry of Defence and this information was listed in the World Check database.
- d. RBC's local senior communications manager declined to comment.
- e. The Third Defendant had possession of a letter which the FIB sent to the Central Authority and it requested assistance under the Mutual Assistance treaty provisions so as to determine whether the Claimant and/or his companies initiated successful wire transfers to the Muslim Aid Foundation and in particular whether the sum of GBP 14,285.71 was successfully sent.
- f. The Muslim Aid Foundation contributed to an organization called Al-Ihsan in the UAE and the said organization was sanctioned for alleged terrorist financing.

- g. The Trinidad and Tobago Police Service (TTPS) refused to comment.
 - h. The Claimant did not condone terrorism and denied that he provided any funding to any terrorist organizations. He insisted that all funds were cautiously and transparently raised and that the Muslim Aid Foundation was a credible charity which had been congratulated by The Prince of Wales and the former British Prime Minister.
 - i. The Claimant was not aware that any transfer was blocked in Canada.
36. Having read the First Article, the Court formed the view that same was balanced and accurately quoted information which was supported by documentation. The article fairly recounted the Claimant's denials, detailed his rejection of terrorism and his robust denial was not tucked away in the publication but formed a substantial part of the article.
37. The Court considered the Claimant's complaint in relation to the Defendants' failure to access the hyperlink information which he provided with respect to the Muslim Aid Foundation but formed the view that the failure to consider the link did not materially impact upon the reliability of the information which was referenced in the First Article. The decision not to pursue same was one which fell entirely within the First Defendant's journalistic discretion and the First Defendant had to decide whether such an enquiry would have provided clarity with respect to the position as outlined in the FIB letter which, inter alia, identified the Claimant as the target of an investigation.
38. On reading the First Article as a whole, the ordinary reasonable reader would not have formed the view that the natural and ordinary meaning of the words used was defamatory of the Claimant and no reasonable reader would have ascribed to the article the meanings pleaded at paragraph 14 of the Amended Statement of Case. Consequently, the Claimant's claims in relation to the First Article are devoid of merit.
39. In relation to the Second Article, the Claimant's complaint centres around paragraphs 7, 8, 9, 10, 11, 15, 16 and 28. Paragraphs 7 to 11, 15 and 16 refer substantially to the same words

which were complained about in the First Article and the analysis hereinbefore outlined in relation to the First Article will apply in equal measure to these paragraphs. The Court therefore holds the view that the references to same in the Second Article, placed the Claimant's responses into context.

40. Significant complaint has however been made about paragraph 28 of the Second Article which stated as follows:

“At no point during his hour-long live programme did Ishmael respond to questions raised by the police investigations”.

41. A thorough reading of the Second Article would have conveyed to the ordinary reasonable reader, the single and unequivocal position that the Claimant vehemently disputed that RBC had a serious concern, red flagged his transfers to foreign Islamic charities or that the TTPS was engaged in its own investigations so as to ascertain whether any local laws were breached.

42. The First Defendant failed to report that the Claimant had indicated that he was unaware of any police investigation and that the police had not made any requests from him. The Court noted that evidence established that subsequent to the publication of the First Article, the Claimant had a television appearance and sought to, “rubbish the investigation.” Consequently, this information was placed in the public domain.

43. Notwithstanding the fact that the Second Article failed to outline the Claimant's position that he was unaware of the police investigation, his denial of any wrongdoing or impropriety was prominently and pellucidly featured in over half of the article.

44. The complaint in relation to paragraph 28 was effectively neutralized by the detailed and comprehensive inclusion of the Claimant's responses and when read as a whole, the

defamatory meanings which the Claimant attributes to the Second Article, would not have resonated in the mind of the ordinary and reasonable reader.

45. Consequently, the Court holds the view that the complaints in relation to the Second Article are also devoid of merit.
46. In relation to the Third Article, the complaint is centred around paragraphs 3, 4, 13-16, 20 and 21. This article commenced with a detailed report of an email correspondence sent by Sally Morad on behalf of the Muslim Aid Foundation in which it was stated that Muslim Aid was cleared, in 2010, of any alleged wrongdoing by the Charity Commission for England and Wales.
47. At paragraph 3, the article reported that the email was issued in response to the information published in the Sunday Express which outlined that the local police in 2015 wrote to the Central Authority and requested assistance in relation to a probe into the Claimant's contributions to Muslim Aid Foundation and HCI. Paragraph 4 outlined that these charities were red flagged for having possible terrorism links.
48. The complaints in relation to paragraphs 13-16, touch and concern the identical matters which were outlined at paragraphs 7-10 of the Second Article. Paragraphs 20 and 21 quoted from a FIB letter which was issued to the Central Authority wherein it was outlined that in 2009, the Claimant transferred CAN \$594,865.52 to HCI, a body which had alleged links to Al-Qaeda. The letter further outlined that a deposit of \$990,000.00 TTD was made into a local bank account but no source of funds was provided.
49. When the Third Article was read as a whole, the ordinary reasonable reader would have understood that the Muslim Aid Foundation declared that it was exonerated from wrongdoing.

50. The article categorically outlined the charity's denial of any involvement in terrorist funding or activity against the backdrop of the earlier local publications and comprehensively addressed the position referenced in the FIB letter.
51. Having read the entirety of the Third Article, the ordinary reader would have understood the ordinary and natural meaning of the words complained of as conveying that Sally Morad of the Muslim Aid Foundation provided a robust denial of any connection to terrorism or terrorist financing which were the allegations that were allegedly being investigated by the TTPS.
52. The Third Article prominently and fairly referenced Sara Morad's denial against the backdrop of the published information which caused concern and noted that the response was issued so as to refute any suggestion of impropriety.
53. Consequently, the Court also finds that the Claimant's complaints in relation to the Third Article are devoid of merit.
54. In relation to the Fourth Article, the Claimant complained of the headline "Red flags over terrorism funding" as well as paragraphs 13, 14 and 18. The Fourth Article, referenced the responses received from the Information and Public Affairs Officer at Muslim Aid, Sara Morad and reported that in 2010, the organisation was cleared of any impropriety by the UK Charity Commission.
55. Paragraph 13 stated that Muslim Aid was categorised as a terrorist organisation by the Israeli Ministry of Defence. Paragraph 14 stated that the police letter stated that the Claimant's \$3.4 million wire transfer to Muslim Aid was blocked by the Toronto routing department of RBC and paragraph 18 referenced the FIB letter about the 2009 transaction where the Claimant attempted to transfer Canadian \$594,862.52 to HCI.
56. The ordinary reasonable reader who read the Fourth Article would have understood that the First Defendant was following up on the issue relating to the FIB letter and the request

for assistance from the Central Authority, since the publication of the First Article. It is evident that 14 of the paragraphs outlined the Claimant's position on these issues and provided a clear denial of any link to the financing of terrorism.

57. Having read the entirety of the Fourth Article the ordinary reasonable reader would have concluded that the "Red Flags over terrorism funding" was a follow up story which outlined that the action by the UK Charity Commission in 2010 was connected to "irregularities" and that in 2016 there was the appointment of an interim manager to "rectify governance issues".
58. The First Defendant prominently reported at paragraph 11, the Claimant's denial of any connection to terrorism financing which was an issue that was supposedly the subject of the TTPS investigation. In addition, the First Defendant sought out comment from the acting head of the Central Authority and this was reported.
59. After reading the Fourth Article, the ordinary reasonable reader would have concluded that same was a follow up piece which, in balanced and measured way, outlined the concerns as well as the clarification provided by the Muslim Aid Foundation in relation to the allegations that it had terrorist links. The article also conveyed that Canadian authorities had some concern in relation to HCI's activities and clearly reiterated the Claimant's position that he was not involved in terrorism or terrorist financing.
60. Consequently, the Court holds the view that the complaints in relation to the Fourth Article are unsustainable and further holds the view that the words complained of conveyed no meaning which was defamatory of the Claimant.
61. Based on the manner in which the Court has resolved the first and second issues there is no need for an in-depth determination of the third and fourth outlined issues.

62. In the event that the Court is incorrect with respect to its findings that the words complained of in the four articles bore no defamatory meaning, it briefly considered the issue as to whether the Defendants could avail themselves of the Defence of Reynolds privilege.
63. **Issues attendant to terrorist financing cannot be dismissed and the enforcement of laws to apprehend and prosecute persons engaged in terrorist funding/financing is a matter of significant importance. The FIB letter dealt with two 2014 transactions, signalled that there was an ongoing investigation and that assistance was sought from the Central Authority. Although the First Article was published 17 months after the FIB request for assistance there was no information, at the time, to suggest that the investigation was at an end. The First Article referenced that enquires were made of the police but as the article outlined, the First Defendant was told that the police did not comment on investigations into alleged terrorism. It was subsequently reported in the Fourth Article that a source from the Attorney General's office informed that the file was closed. The publication of this position demonstrated that the First Defendant was not driven by any malicious intent and the information which was published referenced matters of public interest.**
64. **The Court also addressed its mind to the issue as to whether the publication of each of the four articles was justifiable. The Court remained mindful that the manner in which material presented is premised upon editorial judgement and it formed the view that there was the factual reporting of the matters contained in the FIB letter as well as the Claimant's robust denial of wrongdoing. Having read the articles the Court formed the view that neither the First Article nor any of the other articles were offensive. In fact there was a logical, measured and progressive development of the various aspects of the story. Consequently, this Court holds the view that the material which was published, making due allowances for editorial judgement, was justifiable.**
65. The Court next considered the issue as to whether the publication met the standard of responsible journalism and gave weight, in a broad and practical way, to the ordinary standards of responsible journalism.

66. Throughout the trial the Defendants characterised the four articles as being the products of investigative reporting/journalism, this, regrettably, is an assertion which the Court does not accept.
67. Investigative journalism plays a paramount role in a functional democracy. It can expose corruption, promote accountability, unmask abuses of power, illuminate dysfunction and highlight wrongdoing. When proactively pursued the unearthed information can provide invaluable information about conduct, practices or procedures which are inconsistent with the law or which violate the principles of good governance. This brand of journalism operates as an informal check on the manner in which power and influence are exercised and provides scrutiny over the effectiveness and efficacy of actions purportedly undertaken in the fulfilment of the public good. Information and not sensationalisation should be the guiding premise behind any investigative publication.
68. It is the view of this Court that the articles were not the product of investigative reporting as there was neither an unearthing of information which was hidden in the dark nor was there the exposing of conduct which required review, rejection or action. In essence, information contained in leaked communication was published but the published information did concern matters which were clothed with a public interest element. Ultimately an editorial discretion had to be exercised to determine whether the publication of the information had the potential to thwart the progress of any ongoing investigation mindful that persons who are being investigated should not be forewarned by the press as the press should always ensure that it acts responsibly.
69. All four articles were hinged to the information contained in the FIB letter and the contents of same revealed a scenario which raised legitimate concerns with regard to the enforcement of laws, the compliance with treaty obligations, the consequences for the banking sector and the stain upon the Republic's reputation if the financing of

terrorism was established. There was however no information which suggested that the investigation had been suppressed, stymied or swept under a rug especially given the fact that there was an established vacancy at the helm of the Central Authority and this vacancy may have contributed to the 17 month delay. Consequently, as a matter of editorial discretion, a reasonable view was taken that the information should be published so as to inform the citizenry including persons who intended to donate towards international charitable causes of the fact of an ongoing investigation and to obtain clarity as to the status of the investigation.

70. Given the significant passage of time which elapsed since the FIB letter was issued, the reporting of the fact of the ongoing investigation could not have significantly jeopardized or negatively impacted upon the progress of same.

71. The four articles were fair, measured and balanced. The requisite comments were sourced, they contained the Claimant's denials as well as his distancing himself from any terrorist involvement. Consequently, the Court holds the view that the articles, though not the product of investigative journalism, were the product of responsible journalism and they were not defamatory of the Claimant.

72. For the reasons which have been outlined, the Claimant's assertions as to the defamatory nature of the photograph, headline and the four articles are devoid of merit and his claim must be and is hereby dismissed.

73. The parties shall be heard on the issue of costs.

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FRANK SEEPERSAD

JUDGE