



Neutral Citation Number: [2023] EWHC 427 (KB)

Case No: QB-2020-001139

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/03/2023

Before :

THE HON. MRS JUSTICE STEYN DBE

Between :

SAYED ZULFIKAR ABBAS BUKHARI

Claimant

- and -

SYED TAUQEER BUKHARI

Defendant

Claire Overman (instructed by Stone White Solicitors) for the Claimant
The Defendant appeared in person and was not represented

Hearing dates: 23 January 2023

Approved Judgment

This judgment was handed down remotely at 10.30am on 1 March 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HON. MRS JUSTICE STEYN DBE

Mrs Justice Steyn DBE :

A. Introduction

1. The claimant and the defendant are cousins. The claimant is a dual British and Pakistani national, currently based in Pakistan where he was formerly an adviser to the Prime Minister of Pakistan, Imran Khan. He is also a very well known businessman in the United Kingdom. The defendant lives in England. This judgment follows a hearing of the claimant's application for an order striking out the defendant's defence, or alternatively entering summary judgment for the claimant, on his claim for libel and harassment.

B. History of the proceedings

2. The claim was issued and served on 20 March 2020, together with Particulars of Claim. The two causes of action relied on were libel and harassment. In respect of the harassment claim, the claimant relied on 249 tweets published by the defendant on Twitter in the period from early September 2019 to 20 March 2020, and 21 videos published during the same period. The claimant relied on a subset of these publications in respect of the libel claim.
3. The defendant filed an acknowledgment of service on 20 March 2020. On 19 May 2020, the parties signed a draft consent order, which was approved by Master Gidden on 29 May 2020, giving directions for the determination of certain matters as preliminary issues, including the meaning of the statements complained of. The consent order extended the time for service of a defence until 28 days after the court's determination of the preliminary issues. However, before that order was sealed (on 20 June 2020) a conflicting order was made by Nicol J on 12 June 2020 (who appears not to have been made aware of Master Gidden's order) directing a case management hearing.
4. On 28 July 2020, Soole J set aside the consent order with a view to the matter being considered at a case management hearing in accordance with Nicol J's order. On 21 December 2020, following a case management hearing on 30 October 2020, Julian Knowles J gave directions for a trial of preliminary issues in respect of the libel claim, as to (i) the natural and ordinary meaning of each statement complained of, (ii) whether that meaning is defamatory at common law; and (iii) whether the statement is a statement of fact or opinion. His judgment sets out more fully the procedural history up to December 2020: [2020] EWHC 3469 (QB), [11]-[30]. When the matter was considered by Julian Knowles J, the claimant made clear that in the libel claim only 58 tweets and 13 videos were complained of as defamatory. The defendant was ordered to pay costs of £6,820 as no good reason for his change of position had been advanced.
5. At the hearing before Julian Knowles J, the defendant had been represented by specialist counsel. On 12 January 2021 he dismissed his legal representatives and has since been acting in person in respect of this claim.
6. The trial of those preliminary issues was heard by Murray J on 14 June 2021. He gave judgment on 1 February 2022: [2022] EWHC 173 (QB). In the circumstances described by Murray J at [16], "*in the interests of proportionality*", the claimant reduced the number of tweets and videos relied on in the libel claim to 32 and 8, respectively. By

an order dated 1 February 2022, Murray J determined that the statements complained of bore the following meanings:

Tweet/Video No.	Natural and ordinary meaning
T16, T171, T172, T180, T206 and V15 (embedded in T210)	The claimant is corrupt
T18, T185, T201 and V17 (embedded in T218)	The claimant is dishonest
T75	The claimant is a criminal
T125	The claimant is a thief
T166, V13 (embedded in T165, T166, T187, T193)	The claimant is guilty of fraud
T212	The claimant is corrupt; the claimant is dishonest
V14 (embedded in T194, T195, T198, T216)	The claimant is corrupt; the claimant is a thief
T193	The claimant is corrupt; the claimant is guilty of fraud
T103, V5 (embedded in T84, T85, T101)	The claimant is dishonest; the claimant is guilty of fraud
T99	The claimant is dishonest; the claimant stole the defendant's assets
T67	The claimant stole from the defendant's father
T98	The claimant stole the defendant's assets
T50, V2 (embedded in T50, T201, T228)	The claimant has committed a fraud against, and stolen land and valuables from the defendant's father
T53, T142, T228	The claimant has stolen land and valuables from the defendant's father
T9, T63, T74	The claimant dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity.
T100	The claimant's source of income is from human trafficking
T177	The claimant manages illegal activities for Pakistan Prime Minister Imran Khan
T117, V10 (embedded in T117)	The claimant has been guilty of threatening the defendant
T119, V12 (embedded in T119)	The claimant has used thugs to threaten the defendant
T163	After the defendant exposed his corruption, the claimant was responsible for an attack on the defendant and for the defendant's aged parents being threatened by gangsters

T191	After the defendant exposed his corruption, the claimant staged an attack on the defendant's home in London
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7. Murray J found that two of the statements complained of in the libel action (T198 and T216) were statements of opinion and not defamatory at common law. The remaining statements complained of, the meanings of which are referred to above, were all found to be statements of fact and defamatory at common law. By an order dated 8 February 2022, Murray J ordered the defendant to pay £21,500 costs as the defendant had not taken a realistic approach to the trial, resulting in a large portion of the costs of the trial that would otherwise have been avoided, and the claimant was overwhelmingly the successful party.
8. On 14 February 2022, in the light of Murray J's determinations, the claimant filed Amended Particulars of Claim ('AmPoC').
9. In accordance with the time limit imposed in Murray J's order of 1 February 2022, the defendant filed a defence on 7 March 2022. The claimant initially asked the defendant to agree an extension of time for his reply, on the basis that the defendant had served a 54 page 'purported defence' which would take time to consider. As the defendant did not respond to letters of 11 and 15 March 2022, the claimant issued an application on 16 March 2022. On 17 March 2022, the defendant declined to agree an extension of time. Master Gidden made an order on 18 March 2022 extending time for the claimant to file and serve his reply to 14 April 2022, and ordering the defendant to pay costs of £3,750.
10. On 24 March 2022, the claimant's solicitors wrote to the defendant:

“We have now had an opportunity to review your Defence in detail. It is clear to us from this review that your Defence is non-compliant with numerous important rules and pleading requirements, As a result of this non-compliance, it is not presently possible for a Reply to be pleaded in response to your Defence. Nor, in any event, would it be appropriate or proportionate to do so given the extent of the defects in your Defence as currently pleaded.

The purpose of this letter is to put you on notice of the ways in which your Defence is currently non-compliant, and to afford you an opportunity to remedy these.”
11. The letter outlined the requirements of CPR 16.5, Practice Direction 16, para 10.2, Practice Direction 53B, paras 2.1, 4.3-4.5 and 10.4, and referred to guidance given by the courts in *Foley v Lord Ashcroft* [2012] EMLR 25, *Bokova v Associated Newspapers Ltd* [2018] EWHC 2032 (QB), *Riley v Murray* [2021] EWHC 3437 (QB) and *Hijazi v Yaxley-Lennon* [2021] EMLR 7. It then identified what the claimant described as the key issues rendering the Defence non-compliant, before inviting the defendant to remedy the defects by providing a draft amended defence.
12. In response, the defendant engaged legal representatives to assist with the drafting of an amended defence and he agreed an extension of time for the claimant's Reply. On 6

May 2022, the defendant provided the claimant's solicitors with his draft Amended Defence ('AmDef').

13. On 10 May 2022, the claimant's solicitors wrote to the defendant seeking further information:

"In order to assist our client to better understand your proposed case, please provide the following information:

1. As to paragraph 22 of the draft amended defence, please identify and give details of the land transfers referred to.

2. As to paragraph 24 of the draft amended defence, please identify and give details of the monetary transactions and land transfers referred to.

3. As to paragraph 28 of the draft amended defence, please provide details of what you have allegedly been told by our client's sister and cousin."

14. The defendant has provided two responses to the request for further information. He first responded on 12 May 2022 that in relation to paragraphs 22 and 24 of the draft Amended Defence, "*your client and his father are well aware and informed of ... all the details of the transactions and land transfers in Punjab Pakistan and London United Kingdom*". With respect to paragraph 28 of the draft Amended Defence he wrote, "*the claimants sister Masooma Bukhari called my home phone number twice leaving a threatening message on the answer machine. I immediately contacted the Metropolitan police provided them the messages and logged my complaint[.] The claimants first cousins have also sent voice notes and text messages of a threatening nature ...*"

15. On 13 May 2022, the claimant's solicitors wrote that the claimant would not consent to the draft Amended Defence as it did not comply with the requirements previously set out in detail in their correspondence, and stating that the defendant's letter of 12 May failed to provide the details sought in the claimant's letter of 10 May.

16. On 19 May 2022, the defendant provided a further response to the request for information:

"As you are aware I am representing myself I didn't understand how much detail was required. Further to your letter dated 10 May 2022 followed by your letter dated 13 May 2022 I can give you further details that you require for the points you have raised.

1. I am referring to the land transfers of Kamra Village Attock Pakistan and 64 Fellows Road Hampstead NW3 Land registry Title number NGL729297.

2. Details of the monetary transaction were from NIB Bank Pakistan involving the claimant's nephew and the land in Kamra Village Attock Pakistan.

3. As mentioned in my previous letter the claimant's elder sister Masooma Bukhari called my home number after my mother's interview was aired on ARY TV Power Play threatening me that I will face the consequences this I believe is the most accurate translation I can provide from Urdu to English."

17. On 20 May 2022, the claimant's solicitors confirmed that the claimant's position remained that he did not consent to the draft Amended Defence. The same day, the defendant sent an Application Notice to the court, copied to the claimant's solicitors, seeking permission to amend his Defence in the terms of the draft Amended Defence. Although that application is unsealed, the claimant accepts that the pragmatic course is to consider their application primarily by reference to the draft Amended Defence.

18. On 10 October 2022, the claimant issued the application notice which is the subject of this judgment. The application seeks:

"An order: (1)(a) striking out D's Defence and (if applicable) draft Amended Defence; and (1)(b) granting summary judgment to C on his claim; (2) providing directions for a remedies hearing; (3) that D pay C's costs of the application."

The claimant filed the third witness statement of Ushrat Sultana, the claimant's solicitor, in support of the application.

19. By an order dated 14 December 2022, Nicklin J gave directions for the hearing of the claimant's application. In accordance with those directions, the defendant filed a witness statement on his own behalf on 6 January 2023.

20. Finally, I note that on 4 March 2022, Bourne J dismissed applications made by the defendant on 12 January and 9 February 2022 seeking to vary the costs orders made by Julian Knowles J and Murray J. A further application dated 23 March 2022 to vary those costs orders was dismissed by Martin Spencer J on 27 April 2022, and certified as totally without merit. An application to vary the costs order made by Master Giddens on 18 March 2022 was also made by the defendant on 23 March 2022 but, as far as I am aware, has not been determined. The current position is that the defendant has not paid any of the costs orders made in the claimant's favour in this litigation, and his evidence is that he has no means of satisfying those costs orders.

C. The legal framework

Harassment

21. Section 1 of the Protection from Harassment Act 1997 ('the 1997 Act') provides, so far as relevant:

"(1) A person must not pursue a course of conduct –

(a) which amounts to harassment of another, and

(b) which he knows or ought to know amounts to harassment of the other.

...

(2) For the purposes of this section ..., the person whose course of conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to or involved harassment of the other.

(3) Subsection (1) ... does not apply to a course of conduct if the person who pursued it shows –

(a) that it was pursued for the purpose of preventing or detecting crime,

(b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.” (Emphasis added.)

22. Section 3(1) of the 1997 Act provides:

“An actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.”

23. Section 7 of the 1997 Act provides, so far as relevant:

“(2) References to harassing a person include alarming the person or causing the person distress.

(3) A “*course of conduct*” must involve—

(a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, ...

(4) “Conduct” includes speech.”

24. In *Hayes v Willoughby* [2013] UKSC 17, [2013] 1 WLR 935 Lord Sumption JSC (with whom Lord Neuberger PSC and Lord Wilson JSC agreed) held at [1]:

“... Harassment is both a criminal offence under section 2 and a civil wrong under section 3. Under section 7(2), ‘references to harassing a person include alarming the person or causing the person distress’, but the term is not otherwise defined. It is, however, an ordinary English word with a well understood meaning. Harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or

distress: see *Thomas v News Group Newspapers Ltd* [2002] EMLR 78, para 30 (Lord Phillips of Worth Matravers MR). ...”

25. The editorial note to Practice Direction 53B (‘PD53B’) states at 53BPD.54 of the White Book 2023:

“‘Conduct’ includes speech: s.7(4). But claims for harassment by publication are likely to be rare, because to comply with s.3 of the Human Rights Act 1998, the courts will hold that a course of conduct in the form of journalistic speech is reasonable under s.1(3)(c) of the 1997 Act unless the conduct is so unreasonable that it is necessary and proportionate to interfere with that speech in pursuit of one of the aims listed in art.10(2): *Trimingham v Associated Newspapers Ltd* [2012] EWHC 1296 (QB). In pleading a claim for harassment by publication, it will be essential to have that test in mind. See also *McNally v Saunders* [2021] EWHC 2012 (QB; [2022] EMLR 3, where the defendant was a ‘citizen journalist’ whose art.10 rights protected his postings from liability in harassment even though their tone was ‘puerile and abrasive’. Indeed, nothing short of a conscious or negligent abuse of media freedom by a media defendant is likely to justify a finding of harassment, and such a case would be exceptional: *Sube v News Group Newspapers Ltd* [2020] EWHC 1125 (QB); [2020] EMLR 25.”

26. In *Sube*, Warby J observed at [65]:

“The overall approach which the Court should take to the interpretation and application of these provisions is well-established.

(1) A person who causes another alarm and distress is not by that token guilty of harassing them:

‘It does not follow that because references to harassing a person include alarming a person or causing a person distress(section 7(2)), any course of conduct which causes alarm or distress therefore amounts to harassment ... So to reason would be illogical and would produce perverse results ...’

R. v Smith [2012] EWCA Crim 2566; [2013] 1 W.L.R. 1399 [24].

(2) Harassment is a more nuanced and specific concept. Harassment is

‘... an ordinary English word with a well understood meaning. Harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another

person, which is calculated to and does cause that person alarm, fear or distress.’

Hayes v Willoughby [2013] UKSC 17; [2013] 1 W.L.R. 935 [1] (Lord Sumption SC).

(3) In order to establish a civil claim for harassment the claimant must prove conduct on at least two occasions which is, from an objective standpoint, calculated to cause alarm or distress and oppressive, and unacceptable to such a degree that it would sustain criminal liability: see *Dowson v Chief Constable of Northumbria Police* [2010] EWHC 2612 (QB) [142] (Simon J).

(4) The last point reflects the fact that the conduct prohibited by s 1 is not only a tort but also a crime. Hence:-

‘[Where] the quality of the conduct said to constitute harassment is being examined, courts will have in mind that irritations, annoyances, even a measure of upset, arise at times in everybody’s day-to-day dealings with other people. Courts are well able to recognise the boundary between conduct which is unattractive, even unreasonable, and conduct which is oppressive and unacceptable. To cross the boundary from the regrettable to the unacceptable the gravity of the misconduct must be of an order which would sustain criminal liability under section 2.’

Majrowski v Guy’s and St Thomas’s NHS Trust [2006] UKHL 34; [2007] 1 A.C. 224 [30] (Lord Nicholls).”

27. There is a tension, in a case such as this concerning harassment by publication, between the provision that harassment includes “*alarming the person or causing the person distress*” (s.7(2) of the 1997 Act) and the protection provided by article 10 of the European Convention on Human Rights for speech that offends, shocks and disturbs. In *Sube*, the claim for harassment by publication was brought against the conventional news media. Warby J provided the following guidance at [67]:

“When presented with a claim of this kind, the Court must be especially mindful of the threshold of gravity required before a finding of harassment can be made; and it must be careful to ensure that its approach is compatible with the human rights engaged by the particular facts of the case. In this case, as in all or most cases of alleged harassment by publication, there is a tension. On the one hand, the claimants have art.8 rights to respect for their private and family life and their home. On the other side are the publishers’ art.10 rights to convey information and ideas, and the rights of the public at large to receive such information and ideas. The PHA must be interpreted and applied in a way that upholds the art.8 rights but avoids undue interference with art.10 rights.”

28. If the alleged harassment is by publication of “*journalistic material*”, “*nothing short of a conscious or negligent abuse of media freedom will justify a finding of harassment*”: *Sube*, Warby J, [68(5)].

Libel

29. Section 1(1) of the Defamation Act 2013 (‘the 2013 Act’) 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*”.

30. Section 2 of the 2013 Act replaced the common law defence of justification with a statutory defence of truth. Section 2(1) provides:

“It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statement complained of is substantially true.”

31. If the statement complained of conveys two or more distinct imputations, then s.2(3) applies:

“If one or more of the imputations is not shown to be substantially true, the defence under this section does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant’s reputation.”

Strike out and summary judgment

32. Rule 3.4(2) of the Civil Procedure Rules (“CPR”) provides:

“The court may strike out a statement of case if it appears to the court –

(a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;

(b) that the statement of case is an abuse of the court’s process or is otherwise likely to obstruct the just disposal of the proceedings; or

(c) that there has been a failure to comply with a rule, practice direction or court order.”

The defendant relies on subparagraphs (a) and (c).

33. Practice Direction 3A (‘PD3A’), paragraph 1.4, provides examples of cases where the court may conclude that a defence falls within rule 3.4(2)(a), namely where:

“(1) it consists of a bare denial or otherwise sets out no coherent statement of facts, or

(2) the facts it sets out, while coherent, would not amount in law to a defence to the claim even if true.” (Emphasis added.)

34. CPR r.24.2 provides (so far as relevant):

“The court may give summary judgment against a ... defendant on the whole of a claim or on a particular issue if –

(a) it considers that

...

(ii) that defendant has no real prospect of successfully defending the claim or issue; and

(b) there is no other compelling reason why the case or issue should be disposed of at a trial.”

35. The principles to be applied on an application for an order pursuant to CPR r.24.2 were summarised by Lewison J in *Easyair Ltd v Opal Telecom Ltd* [2009] EWHC 339 (Ch) at [15] (and approved by the Court of Appeal in *AC Ward & Sons Ltd v Catlin (Five) Ltd* [2009] EWCA Civ 1098; [2010] Lloyd’s Rep IR 301 at [24]):

“i) The court must consider whether the claimant has a ‘realistic’ as opposed to a ‘fanciful’ prospect of success: *Swain v Hillman* [2001] 1 All E.R. 91;

ii) A ‘realistic’ claim is one that carries some degree of conviction. This means a claim that is more than merely arguable: *ED & F Man Liquid Products v Patel* [2003] EWCA Civ 472 at [8];

iii) In reaching its conclusion the court must not conduct a ‘mini-trial’: *Swain v Hillman*;

iv) This does not mean that the court must take at face value and without analysis everything that a claimant says in his statements before the court. In some cases it may be clear that there is no real substance in factual assertions made, particularly if contradicted by contemporaneous documents: *ED & F Man Liquid Products v Patel* at [10];

v) However, in reaching its conclusion the court must take into account not only the evidence actually placed before it on the application for summary judgment, but also the evidence that can reasonably be expected to be available at trial: *Royal Brompton Hospital NHS Trust v Hammond (No.5)* [2001] EWCA Civ 550;

vi) Although a case may turn out at trial not to be really complicated, it does not follow that it should be decided without the fuller investigation into the facts at trial than is possible or permissible on summary judgment. Thus the court should

hesitate about making a final decision without a trial, even where there is no obvious conflict of fact at the time of the application, where reasonable grounds exist for believing that a fuller investigation into the facts of the case would add to or alter the evidence available to a trial judge and so affect the outcome of the case: *Doncaster Pharmaceuticals Group Ltd v Bolton Pharmaceutical Co 100 Ltd* [2007] FSR 3;

vii) On the other hand it is not uncommon for an application under Pt 24 to give rise to a short point of law or construction and, if the court is satisfied that it has before it all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to address it in argument, it should grasp the nettle and decide it. The reason is quite simple: if the respondent's case is bad in law, he will in truth have no real prospect of succeeding on his claim or successfully defending the claim against him, as the case may be. Similarly, if the applicant's case is bad in law, the sooner that is determined, the better. If it is possible to show by evidence that although material in the form of documents or oral evidence that would put the documents in another light is not currently before the court, such material is likely to exist and can be expected to be available at trial, it would be wrong to give summary judgment because there would be a real, as opposed to a fanciful, prospect of success. However, it is not enough simply to argue that the case should be allowed to go to trial because something may turn up which would have a bearing on the question of construction: *ICI Chemicals & Polymers Ltd v TTE Training Ltd* [2007] EWCA Civ 725.”

36. In *Kim v Park* [2011] EWHC 1781 (QB), Tugendhat J held at [40]:

“where the court holds that there is a defect in a pleading, it is normal for the court to refrain from striking out that pleading unless the court has given the party concerned an opportunity of putting right the defect, provided that there is reason to believe that he will be in a position to put the defect right.”

Requirements of a defence

37. CPR 16.5 provides:

“(1) In the defence, the defendant must deal with every allegation in the particulars of claim, stating—

- (a) which of the allegations are denied;
- (b) which allegations they are unable to admit or deny, but which they require the claimant to prove; and
- (c) which allegations they admit.

- (2) Where the defendant denies an allegation—
- (a) they must state their reasons for doing so; and
 - (b) if they intend to put forward a different version of events from that given by the claimant, they must state their own version.
- (3) If a defendant—
- (a) fails to deal with an allegation; but
 - (b) sets out in the defence the nature of their case in relation to the issue to which that allegation is relevant,
- the claimant is required to prove the allegation.
- (4) Where the claim includes a money claim, the claimant must prove any allegation relating to the amount of money claimed, unless the defendant expressly admits the allegation.
- (5) Subject to paragraphs (3) and (4), a defendant who fails to deal with an allegation shall be taken to admit that allegation.” (Emphasis added.)

38. This claim includes a claim for defamation and a claim for harassment by publication. It is, therefore, a claim to which CPR Part 53 and Practice Direction 53B (‘PD53B’) applies. PD53B provides (so far as relevant):

“2.1 Statements of case should be confined to the information necessary to inform the other party of the nature of the case they have to meet. Such information should be set out concisely and in a manner proportionate to the subject matter of the claim.

(Part 16 and the accompanying practice direction contain requirements for the contents of statements of case.)

...

Defamation

...

4.3 Where a defendant relies on the defence under section 2 of the Defamation Act 2013 that the imputation conveyed by the statement complained of is substantially true, they must—

- (1) specify the imputation they contend is substantially true; and
- (2) give details of the matters on which they rely in support of that contention.

...

Harassment

10.1 This paragraph applies to claims for harassment arising from publication or threatened publication via the media, online, or in speech.

...

10.4 A defendant must in any defence specifically admit or deny each act alleged in the particulars of claim to constitute part of a course of conduct amounting to harassment.”

39. In *Ashcroft v Foley* [2012 EWCA Civ 423, [2012] EMLR 25 Pill LJ and Sharp J (with whom Elias LJ agreed) observed:

“49 ... Particulars provided in support of a plea of justification must be both sufficient and pleaded with proper particularity. The former requirement is met if the (properly pleaded) particulars are capable of proving the truth of the defamatory meaning sought to be justified. The latter requirement is a factor to be judged not by the number of particulars provided, but by the pleading of a succinct and clear summary of the essential (and relevant) facts relied on, enabling a claimant to know the precise nature of the case against him, and providing him with sufficient detail so he can meet it. ...

58 The ‘precision of an indictment’ rule if it can be so described, does not more than require a defendant to comply with the well-established principle that in pleading a defence of justification he must identify the acts which the claimant is said to have committed and which are relied on to justify whichever imputation they are directed to support.

59 This principle has particular resonance when the charges are serious ones, as they are here. ...” (Emphasis added.)

Although the defence of “*justification*” has been replaced by the statutory defence of truth, the guidance referred to above remains apposite.

D. The Statements of Case

40. Under the “*The defendant’s conduct complained of*” the AmPoC states:

“4. The Defendant Tweets from the Twitter ‘handle’ [defendant’s Twitter handle]. The brief biography given on his publicly accessible Twitter page reads as follows:

Real cousin & victim of Zulfi Bukhari (PM Imran Khan’s advisor & minister) & his father Wajid Bukhari. They ruined our lives Seeking justice & need your help

5. As of 20 March 2020 the Defendant had 1,879 twitter followers, many of whom are based in the UK. The Defendant Tweets in both English and in Urdu. Many of his Tweets contain embedded video footage, usually featuring the Defendant speaking to camera in Urdu.

6. Since at least early September 2019 the Defendant has been publishing Tweets concerning the Claimant. The Tweets number in the hundreds. There are often several in one day. They all contain a common theme, namely that the Claimant is corrupt, that his family wealth is derived from serious crime and that the Defendant and his father are the victims of the Claimant and the Claimant's father's serious criminal conduct.

7. The Defendant's Tweets during this period early September 2019 to 20 March 2020 of which the Claimant is aware which refer to the Claimant or the Claimant's father are set out in the Table of Tweets in Appendix One to this document. The Table gives each Tweet a number, sets out the content of the Tweet, states whether there was a video embedded with the Tweet (by reference to the number given to the video as described below) and states the number of any Retweets or 'likes' which the Tweet attracted. Idiosyncrasies of spelling and syntax are reproduced throughout.

8. If a video was embedded with the Tweet which is relied on for the purposes of this claim then the content of that video is given in the Table of Videos in Appendix Two to this document. That Table gives each video a number and sets out the original Urdu language of the video along with a true English translation.

9. The Claimant will rely on the following notable characteristics of the Twitter campaign which is set out in full in the attached Appendices:

9.1.1. In very many of the Tweets the Claimant is tagged with his Twitter handle [claimant's Twitter handle], with the intention and effect of both bringing the Tweet to the attention of the Claimant and ensuring that, even if the Claimant is not named, the reader of the Tweet will understand the allegations made in the Tweet to relate to the Claimant.

9.1.2. The Defendant very often includes the Twitter handle of a number of other Twitter users within his Tweets, with the intention that the Tweet will come to attention of those individuals who have been 'tagged', and in the hope that the Tweet will be Retweeted by that individual, or that it will otherwise come to the attention of a wider audience. By way of example, in a series of Tweets published on 5 October 2019, published on the occasion of the visit of the Duke and Duchess of Cambridge to Pakistan (Tweets 23 – 49) the Defendant

‘tagged’ many news organisations, including Hello! Magazine, the Irish Sun and the Guardian newspaper.

9.1.3. On several occasions the Defendant’s aim of using his Twitter account to bring his allegations to the attention of an audience much larger than his own followers has been very successful. By way of example, a Tweet dated 18 November 2019 (Tweet 163), in which the Defendant accused the Claimant of corruption and of being behind an attack on the Defendant at his home, was Retweeted by the well-known Pakistani journalist Reham Khan, who has over 2.4million Twitter followers. This led to the video embedded in that Tweet (Video 11) being viewed over 10,000 times. The inference will be invited that a very substantial proportion of those views were made by Urdu speakers within this jurisdiction.” (Underlining added.)

41. In the draft Amended Defence, the above paragraphs are admitted, save for the two underlined passages. In relation to the underlined passage in paragraph 6 of the AmPoC, the draft Amended Defence, states at paragraph 4:

“It is denied that every tweet contains what is described as ‘a common theme’. It is admitted that many contain one or more the following assertions: that the Claimant is corrupt; that his family wealth has been derived from serious crime; that the Defendant and his father were victims of the Claimant; and the Claimant’s father’s, serious criminal conduct. Those assertions are true.”

42. In relation to the underlined passage in paragraph 9.1.3 of the AmPoC, the draft Amended Defence denies “*that it is reasonable to infer that a substantial proportion of those who viewed video 11 were Urdu speakers within the jurisdiction*”.
43. Appendix 1 to the AmPoC contains a table of 249 tweets, and Appendix 2 contains a table of 21 videos.

Harassment

44. The claim for harassment is pleaded at paragraphs 10 to 13 of the AmPoC which state:

“10. The acts of the Defendant described above constitute a course of conduct which amounts to harassment of the Claimant and which the Defendant knows or ought to know amounts to harassment of him.

11. In support of his case that the Defendant knows or ought to know that his course of conduct amounts to harassment the Claimant will rely on the fact that his solicitors, Stone White Solicitors, wrote to the Defendant by letter dated 10 December 2019 making a detailed complaint concerning the Defendant’s conduct, expressly pursuant to the Pre-Action Protocol for Media and Communications Claims, stating, amongst other things that

the Defendant's conduct was unreasonable and oppressive and had caused the Claimant serious alarm and distress as well as well-grounded fears that he and his family were being put in physical danger from those who might believe or respond to the Defendant's campaign.

12. The Defendant did not reply to that letter. Rather he continued his campaign against the Claimant, Tweeting the following on 15 December 2019 (Tweet 195):

Tell your solicitor [claimant's Twitter handle] to file a case against me on Monday pls don't wait till Wednesday. Looking forward to expose the TRUTH about your fathers money made from human trafficking, money laundering and illegal arms sales & your moneytrail to NAB.

13. Despite a follow up letter on 10 January 2020, the Defendant has failed to bring his campaign to a halt, or even to seek to justify his conduct.”

45. In response, the draft Amended Defence states:

“7. It is denied as alleged in paragraph 10 of the amended particulars of claim that the acts of the Defendant relied on by the Claimant amount to harassment. The matters of which complaint are made by the Claimant are substantially true and the Defendant's course of conduct was pursued for the purposes of preventing and or detecting crime and in the particular circumstances the pursuit of the course of conduct was reasonable. The Defendant relies on the defences to a claim in harassment provided by s1(3)(a) and 1(3)(c) Protection from Harassment Act 1997.

8. The Claimant occupied at all material times a position of power and influence in Pakistan both as an advisor to a prime minister elected on a pledge to stamp out corruption and ill doing and as a very rich businessman. The judiciary, the police, the government, the people, and those within the state responsible for considering where wealth had come from had a proper interest in considering these matters. The Defendant repeats the matters set out in paragraphs 14-32 of this defence so far as is necessary to provide particulars of his defences to the claim for harassment.

9. Paragraphs 11 and 12 of the amended particulars of claim are admitted save that it is denied that the Defendant knew or ought to have known that the course of conduct amounted to harassment for the reasons set out in paragraph 7 of this defence.

10. It is admitted as alleged in paragraph 13 of the amended particulars of claim that a follow up letter as sent it is denied that

in the circumstances that the Defendant has not justified his conduct.

11. It is denied that the Defendant has harassed the Claimant or that the Claimant is entitled to the relief sought in respect of the matters pleaded within paragraphs 10 to 13 of the amended particulars of claim.”

46. Paragraphs 14-32 of the draft Amended Defence, to which cross-reference is made in paragraph 8, set out the defence of truth to the libel claim.

Libel

47. The libel claim is pleaded at paragraphs 14-18 (although there is no paragraph 17). Paragraph 14 states:

“14. The Tweets and embedded videos contain a number of distinct defamatory meanings along the general theme identified above.”

48. In response, the defendant has “*denied as alleged in paragraph 14 of the amended particulars of claim that the tweets and videos have any wider meaning than those found by Murray J*”: AmDef, para 12.

49. Paragraph 15 of the AmPoC refers to the judgment and order of Murray J dated 1 February 2022, and states that:

“...the Claimant now relies for the purpose of this claim in libel on 40 Tweets, of which 21 contain defamatory text alone, 7 contain defamatory text and a defamatory video and 12 contain non-defamatory text but a defamatory video.”

50. Paragraph 16 of the AmPoC pleads that in respect of each of the statements complained of the defamatory meaning is as identified by Murray J in Annex 1 to his order of 1 February 2022, a copy of which is appended to the AmPoC as new Appendix Three.

51. In response, the draft Amended Defence admits at paragraph 13 that paragraphs 15 and 16 of, and Appendix Three to, the AmPoC accurately represent the effect of the order of Murray J of 1 February 2022.

52. Paragraph 18 of the AmPoC states:

“Given the extent of publication of the Tweets in question, and the nature and identity of the publishees, the Claimant will invite the inference that serious harm has been caused to his reputation by the publication of each such Tweet.”

53. The defendant denies that claimant has suffered any harm to his reputation by reason of the matters alleged: AmDef para 33.

54. At paragraphs 14-32 of the draft Amended Defence the defendant has pleaded a defence of truth. First, paragraphs 14-20 of the draft Amended Defence seek to address T9, T63, T74, T100 and T198 (although I note that T198 was found not to be defamatory):

“14. The following tweets and videos bear the meaning that the Claimant dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity (9, 63, 74, 100, 198). Those allegations and the meanings are substantially true.

15. The Claimant’s and Defendant’s family were of humble origins in Pakistan but by about 1980 had developed a lucrative, clandestine, business supplying very large numbers of former members of the Pakistani armed forces or police to the regime in Libya. The trade was facilitated by the payment of bribes to members of the security, immigration, and customs authorities in Pakistan to turn a blind eye to what was happening. Those being recruited by the family were told that they were to act as security contractors in Libya. They were in fact required to act as mercenaries fighting for the Libyan government and if they refused were kept in detention in very poor conditions. Securing their return to Pakistan was almost impossible.

16. The family thereafter branched out into the illegal supply of weapons to the Libyan regime. As that trade grew the supply of illegal arms was extended to other countries including Chad.

17. The sums of money made were very large and the money was put into extensive purchases of property in London and elsewhere and in Pakistan and into businesses so that income could be disguised as coming from legitimate sources. Very little tax was paid on any of these activities until there was an apparently reputable income source to justify paying tax.

18. These matters were openly discussed between the Defendant’s father and the Claimant’s father and other members of the family (all of whom were heavily involved in all of this behaviour and freely admitted it to be the case) in the hearing of the Defendant on many occasions in Pakistan and, when the family had grown sufficiently rich to buy properties in London and to trade out of the United Kingdom, in England. The Defendant’s father never resiled from any of this until his death in late 2019. The Defendant himself saw many of these activities in Pakistan as he was growing up.

19. A military tribunal in Pakistan in 1982 sentenced the Claimant’s father to a 14 year sentence of imprisonment for the arms trading, as well another uncle of both the Claimant and the Defendant.

20. The Claimant will never admit any of these matters but will suggest that his money is derived from his and his father's investments in hotels and property rather than being ultimately derived from these improper activities."

55. Secondly, paragraphs 21-22 of the draft Amended Defence seek to address T50, T53, T67, T75, T142, T228 and V2:

"21. The following tweets and videos bear the meaning that the Claimant is dishonest has committed a fraud and stolen land and valuables from the Defendant's father and is a criminal (Tweets: 50, 53, 67, 75, 142, 228, Video:2). Those allegations and the meanings are substantially true.

22. The Defendant's father had land and property in England and in Pakistan. Some of the land was leasehold land held through companies some was freehold. Transfers were affected out of the name of the Defendant's father into companies controlled by the Claimant without the Defendant's father consent both in Pakistan and England."

56. Thirdly, paragraphs 23-24 of the draft Amended Defence seek to address T98 and T99:

"23. The following tweets and videos bear the meaning that the Claimant is dishonest and stole the Defendant's assets (tweets: 98, 99). Those allegations and the meanings are substantially true.

24. The Defendant's bank account in Pakistan was emptied of some approximately £200,000 worth of rupees in 2012 at the suit or behest of the Claimant. Title to land in Pakistan in the name of the Defendant father was transferred without his knowledge or consent."

57. Fourthly, paragraphs 27-28 of the draft Amended Defence seek to address T119, 163, 191, V10 and V12:

"27. The following tweets and videos bear the meaning that the Claimant has been responsible for an attack on the Defendant, for the Defendant's parents being threatened by gangsters, and for being responsible for thugs threatening the Defendant (tweets: 119, 163, 191 videos: 10, 12). Those allegations and the meanings are substantially true.

28. The Defendant has been threatened following a television expose of the Claimant and his family in June 2018. The only reasonable inference supported by what the Defendant has been told by the Claimant's sister and cousin is that the Claimant was responsible for this. Following the Defendant's mother's appearance on television in Pakistan in June 2018 exposing the behaviour of his family, she and her husband were threatened,

and the Defendant's car was vandalized in England. The only reasonable inference is that the Claimant was responsible for these acts being carried out by others on his behalf."

58. Fifthly, in relation to T103, T166, T185, T193, T212, V5, V13 and V17, the draft Amended Defence states that they "*bear the meaning that the Claimant is dishonest, is guilty of fraud*" (para 25). T75 (which was addressed in paras 21-22) is addressed again in paragraph 29 of the draft Amended Defence which states that this tweet "*bears the meaning that the Claimant is a criminal*". The defendant asserts those "*allegations and meanings are substantially true*" (paras 25 and 29); and repeats paragraphs 14-24 in support of that contention (paras 26 and 30).
59. Finally, paragraphs 31-32 of the draft Amended Defence seek to address the remaining tweets and videos (i.e. T16, T171, T172, T177, T180 and V14):

"31. The remaining tweets and videos bear the meaning that the Claimant is corrupt. Those allegations and the meanings are substantially true.

32. The Claimant occupied a prominent position within the government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity in the administration and society. He resisted any attempt to explain where his family money came from. He prevented government and judicial agencies from investigating the Defendant's allegations about his personal ill doing. He used his position to help facilitate wrongdoing by him in relation to the Defendant and his father. All of this was incompatible with his duties to the government and prime minister of Pakistan and its people."

60. As set out in paragraphs 13-16 above, the claimant requested further information in respect of paragraphs 22, 24 and 28 of the draft Amended Defence, to which the defendant provided two responses.
61. Although the claimant agrees that I should assess his application by reference to the draft Amended Defence, in considering the question whether to allow the defendant a further opportunity to plead his case - if I find the current pleading is defective - it is important not to lose sight of the detail pleaded in the (original) Defence. The Defence was clearly defective as a pleading in that it did not address whether each of the allegations in the particulars of claim were admitted, denied or not admitted. Nevertheless, the Defence provides a detailed explanation in respect of each tweet and video of the basis on which the defendant asserts the meaning is substantially true, as well as pleading further detail regarding the defendant's own position as a "*social activist*" who "*actively write[s] about political issues in Pakistan*".

E. The parties' submissions

62. In respect of the harassment claim, the claimant submits that the defendant has pleaded in paragraph 7 of the draft Amended Defence a bare denial that his admitted conduct amounts to harassment of the claimant. That is contrary to the requirements of CPR 16.5(2) and so the draft Amended Defence is defective. Reasons for the denial are

particularly important, the claimant submits, in circumstances where the defendant has made admissions as to the number of tweets, the attempts to get wider exposure, and given the serious nature of the allegations.

63. The claimant submits that the defendant has no real prospect of making good his denial of harassment, given his admissions, the serious nature of the allegations, the volume and reach of the defendant's tweets and the fact that the defendant tagged the claimant in many tweets. In these circumstances, the claimant contends the threshold for the conduct to constitute harassment – “*a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress*” (*Hayes v Willoughby*, [1]) – is easily met. He submits the campaign in this case was similar to that which Warby J held amounted to harassment in *Hourani v Thomson* [2017] EWHC 432 (QB).
64. The defendant pleads reliance on the statutory defences in s.1(3)(a) and (c) of the 1997 Act, but neither is particularised save to the extent of general averments regarding the claimant's position and a cross-reference to the truth defence. The claimant submits the truth defence to the libel claim is defective, but in any event although the truth or falsity of the defendant's allegations is not irrelevant to the determination of the harassment claim, it is not sufficient to the point to the truth of what has been said to establish a defence to a harassment claim. A course of conduct involving making repeated public statements about a person may be unreasonable and oppressive even if what is said is true. The claimant acknowledges the defendant's article 10 rights fall to be considered but nonetheless submits he has no real prospect of demonstrating that his admitted conduct was reasonable.
65. Warby J addressed the s.1(3)(a) defence in *Hourani v Thomson* at [177]

“The sole requirement of this defence is to show that the otherwise harassing conduct was engaged in for one or other of the specified public interest purposes. The defence is available to a private person as well as to a police force or other public authority. It is not necessary to show that a crime has been committed or is imminent. There is no requirement of reasonableness. The test is subjective. All these points are established by *EDO MGM Technology v Axworthy* [2005] EWHC 2490 (QB) and *Hayes v Willoughby* [2013] UKSC 17 [2013] 1 WLR 937. But as Lord Sumption explained in *Hayes* at [15]:-

‘Before an alleged harasser can be said to have had the purpose of preventing or detecting crime, he must have sufficiently applied his mind to the matter. He must have thought rationally about the material suggesting the possibility of criminality and formed the view that the conduct said to constitute harassment was appropriate for the purpose of preventing or detecting it. If he has done these things, then he has the relevant purpose. The court will not test his conclusions by reference to the view which a hypothetical reasonable man in his position would have formed. If, on the other hand, he has not engaged in these minimum mental

processes necessary to acquire the relevant state of mind, but proceeds anyway on the footing that he is acting to prevent or detect crime, then he acts irrationally... The effect of applying a test of rationality to the question of purpose is to enable the court to apply to private persons a test which would in any event apply to public authorities engaged in the prevention or detection of crime as a matter of public law. It is not a demanding test, and it is hard to imagine that Parliament can have intended anything less.’

Moreover, this defence is available only if the purpose of prevention or detection of crime is the ‘dominant’ purpose of the course of conduct: Hayes [17].”

66. The claimant contends that applying these principles, the defendant has no real prospect of demonstrating that he pursued the admitted conduct for the purpose of preventing or detecting crime. Ms Overman drew attention to the (original) Defence in which the defendant stated in respect of T53 (which bears the meaning “*The claimant has stolen land and valuables from the defendant’s father*”),

“I have not suggested that the claimant has take the valuables from the locker or made the forged power of attorney. I have maintained that the claimant has assisted the culprits involved by misusing his power and position and denied me and my father the right of a fair investigation to our complaint. He has protected the people involved in the crime.”

67. The claimant’s initial submission was that the defendant was saying that he never intended to suggest the claimant was guilty of criminal conduct. However, in oral submissions Ms Overman acknowledged that in saying he has assisted and protected the culprits the defendant was not disavowing any allegation of criminal conduct on the part of the claimant, but she submits that the gravity of the allegations in his tweets was higher than the allegations he now seeks to support.
68. In relation to the libel claim, the claimant submits the defendant’s plea to the claim of serious harm is defective. The claimant’s plea of serious harm relies on an inferential case based on the extent of publication, the nature and identity of the publishees, and the gravity of the meanings of the statements complained of. The defendant has advanced a bare denial at paragraph 33 of the draft Amended Defence, and it is unclear what the reference in that paragraph to “*any of the matters relied upon by the Claimant*” is intended to signify.
69. The claimant acknowledges that in *Sivananthan v Vasikaran* [2022] EWHC 2938 (KB) at [53] Collins Rice J observed that (i) “a *purely* inferential case,, while in principle available, is not an *alternative* to an evidential process for establishing serious harm – it must *be* an evidential process for establishing serious harm”; and (ii) the “components of an inferential case must themselves be sufficiently evidenced and/or inherently probable to be capable of adding up to something which discharges a claimant’s burden”. However, the claimant notes that in this case the defendant has not chosen to make a non-admission, putting the claimant to proof on this issue, but has pleaded a denial which he has to make good. In any event, the claimant submits that in view of

the gravity of the allegations, and the defendant's admissions regarding the claimant's reputation in this jurisdiction, and as to the extent of publication, he has no real prospect of success on this issue.

70. In relation to the truth defence, the claimant's position is that it is manifestly non-compliant with the stringent pleading requirements applicable where a defendant seeks to defend as true allegations of serious criminality. In particular, the claimant submits:
- i) Many of the particulars do not refer to the claimant at all. Paragraphs 15-19 of the draft Amended Defence plead information regarding the claimant's and defendant's family, but make no reference to the claimant. At paragraph 20 it is said the claimant "*will never admit these matters*", but there is no pleading of what, if anything, the claimant is alleged to have known.
 - ii) There are no particulars capable of giving rise to a case that the claimant was dishonest which is the crux of the meanings.
 - iii) Certain elements of the pleaded meanings are not addressed at all in the particulars. Paragraph 22 of the draft Amended Defence purports to contain the plea of truth in relation to the allegation of fraud. It is unclear whether that is a separate matter to the allegation of stealing land and valuables. If it is, no particulars of the alleged fraud are provided. Nor are there any particulars in relation to the stealing of "valuables" such as, what has been stolen, by whom, when and from what location.
 - iv) Where factual matters are pleaded, the particulars are largely devoid of details enabling the claimant to understand what is being referred to. The claimant made a request for further information, but the responses proved insufficient to allow the claimant to understand the case he is required to meet. Paragraph 22 of the draft Amended Defence is in the passive voice: no particulars are given of, for example, who is said to have transferred the land into companies controlled by the claimant, when they are alleged to have done so, or of any alleged involvement or knowledge of the claimant. In relation to paragraph 28 of the draft Amended Defence and the further information provide, the defendant has not pleaded any link between the claimant and the alleged threats by other family members.
 - v) The same particulars are relied upon to prove the truth of substantively different allegations. And it is not appropriate for serious allegations to be dealt with, as the defendant has done in paragraphs 31-32 of the draft Amended Defence in a sweep up clause.
71. The claimant submits the deficiencies in the defendant's pleading are comparable to those in *Ashcroft v Foley*, [34], in which case the Court of Appeal held the pleading was defective.
72. The claimant acknowledges the observation of Tugendhat J in *Kim v Park* at [40] (see paragraph 36 above) but submits this is not a case in which the court should give the defendant a further opportunity to remedy the defects. First, Ms Overman submits that the claimant has already given the defendant the opportunity that in *Kim v Park* it was suggested the court would normally give a party. The fact that the claimant has done so

should not count against him on this application. Secondly, such an opportunity should only be given if there is reason to believe the defendant will be in a position to put the defect right. The claimant submits there is no basis for concluding that he could plead a proper truth defence, particularly in relation to the allegation of criminality, noting that he has never been convicted of any offence in any jurisdiction and nor are there any investigative findings against him. The claimant submits that there is nothing in the defendant's witness statement (or either version of his defence) to show that he would be able to replead his case in such a way as to remedy the defects. Thirdly, the claimant draws attention to the observation of Pill LJ and Sharp J in *Ashcroft v Foley*, [43], that there "*must come a point at which repeated attempts at amendment, necessary because of the defendants' wish to keep the pleading as general as they can, become an abuse of the process of the court*". The claimant submits an opportunity has already been provided and so the point has been reached at which no further opportunity should be given.

73. In relation to the fact that his application to amend his Defence remains unsealed, the defendant states that he is unable to understand why his Amended Defence has not been accepted by the claimant. If there is a legal requirement he failed to comply with when applying to amend, he states that was unintentional and apologises if he has made an error.
74. The defendant stated in evidence that:

"The Claimant is currently being investigated and the matter has been referred to The National Accountability Bureau and the Anti-Corruption Department Punjab for a thorough investigation regarding The Ring Road Mega scandal and the FIA has launched an inquiry in the Toshakhana gift case which the Prime Minister and the Claimant are both alleged to be involved in."

The defendant submitted that the court should not strike out his defence or give summary judgment to the claimant before he has had an opportunity to put forward in evidence the material that is likely to emerge from that investigation. He states that the matters he tweeted about are now being investigated in Pakistan.

75. The defendant contends that the claimant's role as Minister for overseas Pakistanis was to investigate his complaint that his land and valuables had been stolen, and the claimant failed to do so. He states his "*campaign*" was "*not to harass C but to highlight the corruption in the government departments and the failure of the system and to raise awareness that he has been denied justice and to hold C accountable for his misconduct as the Minister of Overseas Pakistani*".
76. The defendant states that the human trafficking 40 years ago which his campaign has highlighted "*was discussed in the Pakistani parliament by the Defence Minister*". He states that the illegal arms supply by his family, which he has highlighted, was referred to by a (now deceased) journalist, Arshad Sharif, who drew a connection with the murder of British police officer Yvonne Fletcher. He states that his intention is not to embarrass or humiliate the claimant. His campaign is to urge the Pakistani and UK authorities to investigate the human trafficking, supply of illegal arms, and the properties brought with the proceeds from those crimes, to highlight the unfair class

system in Pakistan, and to assert that rich, powerful and influential people are not above the law.

77. In his oral submissions, the defendant referred to articles in *the Guardian* on 2 February 2006, bearing the headline “*London man agreed to sell arms to terror group, jury told*” and 25 February 2006, bearing the headline “*Businessman on terror charge walks free*”, in support of his case that his family were professional arms dealers. He had referred to the second of those articles in his (original) Defence, in support of the truth of T171 and T172, and he attached a copy to his statement filed in response to the claimant’s application. The first Guardian article stated:

“A London-based arms dealer plotted to sell surface-to-air missiles and other arms to a Colombian Marxist rebel group in breach of British anti-terrorism laws, the Old Bailey was told yesterday. Syed Mohsin Bukhari allegedly agreed to supply 200 Russian-made SA 18s – also known as Iglas – as well as rocket-propelled grenades and AK7 rifles at a meeting at a London hotel in December 2002.

But unknown to Mr Bukhari, the man with whom he was negotiating was an undercover FBI agent called David Sullivan and their conversations were recorded, Julian Bevan, for the crown, told the court. ...

Mr Bukhari, whose family owns companies in the UK and Pakistan, denies entering into an arrangement to supply weapons and military hardware contrary to the Terrorism Act.”

78. The defendant identified Mr Syed Mohsin Bukhari as both his and the claimant’s first cousin. The second Guardian article stated:

“A London-based international businessman accused of trying to sell millions of pounds’ worth of rocket launchers, missiles and rifles to terrorists walked free from the Old Bailey yesterday after the FBI refused to disclose key documents about its handling of the case.

...

Jurors were told Mr Bukhari and his family were experienced illegal arms dealers and he had supplied surface to air missiles and helicopters worth £50m to Pakistan. ...” (Emphasis added.)

79. The defendant contends that as the claimant is a politician he should be entitled to criticise him as he has done without being accused of harassment.

F. Analysis and decision

Harassment

80. I am not persuaded that the defence to the harassment claim should be struck out or that the claimant should be given summary judgment on the claim. The case of *Hourani v*

Thompson on which the claimant places heavy reliance was, of course, determined following a full trial. The draft Amended Defence makes sufficiently clear, first, that the defendant's course of conduct in (admittedly) publishing the tweets and videos relied on in the harassment claim does not constitute harassment and, secondly, that in the particular circumstances the pursuit of the course of conduct was reasonable (s.1(3)(c) of the 1997 Act).

81. In circumstances where the claim is one of harassment by publication, the defendant's article 10 rights are engaged. The weight to be given to those rights will fall to be assessed in the context of the defendant's plea that at the material time the claimant occupied a prominent position within the government of Pakistan, wielding power and influence (AmDef, paras 1, 8 and 32). In addition, as to a large extent the defendant's publications relate to the defendant himself and his family, the defendant's article 8 rights (as well as those of the claimant) are engaged. The defendant has pleaded that his statements were true, and matters of public interest for "*the judiciary, the police, the government, the people*" and others to consider, particularly in view of the (then) Prime Minister of Pakistan's pledge to stamp out corruption and impose high standards of probity (AmDef, paras 8 and 32). In my judgment, those aspects of the defendant's pleading are adequate, and it cannot be said at this stage that the defence has no real prospect of success.
82. I have found, for the reasons explained below, that the plea of truth in defence of the libel claim has not been properly particularised. It follows that, in relation to the subset of statements complained of in the libel claim, the defendant's reliance on the truth of his statements in the context of the harassment claim is also not properly pleaded. However, I have also found that the defendant should be given a further opportunity to provide adequate particulars of his defence of truth.
83. The defendant's reliance on s.1(3)(a) of the 1997 Act is inadequately pleaded. No proper basis for asserting that he published the statements that he did "*for the purpose of preventing or detecting crime*" has been pleaded. In particular, in the context of the harassment claim (and the draft Amended Defence more broadly), the defendant has not particularised the alleged crime or crimes that he was seeking to prevent or detect by publishing any of the tweets and videos. Nor has he specified whether his purpose was the prevention or the detection of such alleged crimes.
84. However, as I have explained in the context of considering the defence of truth below, it is apparent that the defendant relies on a number of alleged crimes, including forgery of a power of attorney in respect of his father, theft of land in Kamra village belonging to his father, theft of valuables (jewellery) from a bank locker, theft of a property at 64 Fellows Road, vandalism of his car, and laundering of money derived from people smuggling and illegal arms trading.
85. In my judgment, it cannot fairly be said at this stage that there is no reason to believe the defendant will be able to put the defect right. I consider that the court should refrain from striking out the defendant's reliance on the s.1(3)(c) defence, and give him a further opportunity to particularise this aspect of his defence.

Serious harm

86. The claimant’s pleading of serious harm is limited to an assertion that the claimant will invite the court to infer that serious harm has been caused to his reputation by the publication of each of the tweets complained of in the libel claim based on: (i) “*the extent of publication of the Tweets in question*” and (ii) “*the nature and identity of the publishees*” (AmPoC, para 18). The pleading of serious harm does not expressly rely on the seriousness of the meanings of the statements complained of, although it is asserted in the summary of the claim that many of the tweets are “*seriously defamatory*” (AmPoC, para 3). The seriousness of the allegations is a relevant factor which Ms Overman made clear the claimant relies on. Nonetheless, in considering the adequacy of the defence it is pertinent to have regard to the limited nature of the pleading to which the defendant was responding.
87. In relation to the extent of publication, the claimant has pleaded that:
- i) As of 20 March 2020 the defendant had 1,879 Twitter followers, many of whom are based in the UK (AmPoC, para 5). This is admitted by the defendant (AmDef, para 3).
 - ii) Insofar as the claimant complains of the content of any tweet *per se* in the libel claim, each of those tweets was in English: AmPoC, para 7 and Appendix One. However, each of the videos complained of to which links were given by the defendant in his tweets was in Urdu: Appendix Two: AmPoC, para 8 and Appendix Two. This is admitted by the defendant (AmDef, para 5).
 - iii) The defendant “*very often*” tagged other Twitter users in the hope that they would retweet his tweet or that it would otherwise come to the attention of a wider audience: AmPoC, para 9.1.2. An example is given of tagging *Hello!* magazine, the *Irish Sun* and the *Guardian* newspaper in Tweets 23-49, however, none of those tweets are complained of in the libel claim. “On several occasions”, the defendant was successful in his aim of bring his allegations to the attention of an audience “much larger than his own followers”. The example is given of T163, which embedded V11, being re-tweeted by Reham Khan (who has 2.4 million Twitter followers) with the consequence that the video was viewed over 10,000 times. I note T163 is one of the tweets complained of in the libel claim, but V11 is not relied on in the libel claim except as context for the publication of T163. These matters are admitted by the defendant (AmDef, para 6).
 - iv) The claimant invites the inference that a very substantial proportion of the more than 10,000 views of V11 (which, as I say, is not itself complained of in the libel action) were by speakers of Urdu within this jurisdiction (AmPoC, para 9.1.3). The defendant denies that such an inference should be drawn (AmDef, para 6).
88. The claimant has pleaded the number of retweets or likes each tweet complained of attracted in Appendix One (and paragraph 7 of the AmPoC). In relation to the tweets and videos complained of in the libel claim the figures given by the claimant – and admitted by the defendant (AmDef, para 5) - are as follows:

Tweet No.	No. of any embedded Video	Views	Retweets	Likes

<i>Note: Tweets or Videos marked with an * are not themselves complained of in the libel claim but are relied on as providing context for a connected Video or Tweet of which complaint is made</i>				
T9				
T16				1
T18			2	1
T50	V2	31	4	2
T53				
T63			1	
T67	V2	248	2	4
T74				
T75				
T84*	V5	9		
T85*	V5	1200	41	49
T98			446	781
T100			2	1
T101*	V5	114	4	2
T103				
T117	V10	3100	69	124
T119	V12	437	9	15
T125				
T142				
T163	V11*	34,700	997	1,600
T165*	V13	704	26	29
T166	V13	243	3	3
T171				
T172			10	21
T177			1	2
T180			1	1
T185				1
T187*	V13	15,800	268	431
T191	V11*	18,200	60	169
T193	V13	268	6	9
T194*	V14	11,200	475	1000
T195*	V14	403	18	32
T198*	V14	242	5	9
T201	V2	485	16	22
T206				3
T210	V15	9,200	100	219
T212	V1*	3,300	35	76
T216*	V14	144	3	3
T218*	V17	86	2	2
T228	V2	75	2	4

89. In relation to the nature and identity of the publishees, the only points pleaded by the claimant are those which I have identified in (i), (iii) and (iv) of paragraph 87 above. Those points go to the extent of publication within the jurisdiction.

90. The draft Amended Defence can fairly be criticised for denying that the claimant has suffered any serious harm to his reputation without giving any reason for the denial (AmDef, para 33), contrary to CPR 16.5(2)(a). However, in my judgment, that is a flaw that can be easily remedied.
91. It is reasonably clear that there is an issue between the parties as to the extent of publication to viewers within this jurisdiction of the (Urdu-language) videos (and, perhaps, as to extent of publication within this jurisdiction of the tweets within which such videos were embedded). The only video in respect of which the claimant has made an assertion regarding the proportion of viewers within this jurisdiction is video 11, which is not itself complained of in the libel claim. The defendant has not given express reasons for denying that a “*very substantial proportion*” of the viewers of video 11 would have been within this jurisdiction. Nor has he expressly stated that the same denial applies to the other Urdu-language videos (if the claimant asserts it can be inferred a very substantial proportion of viewers of those videos would have been within the jurisdiction).
92. However, I surmise that (a) his assertion that it would not be reasonable to infer that a very substantial proportion of viewers of the videos were within the jurisdiction applies to all the videos; (b) his reasons for refuting that such an inference can be drawn are that the videos were about a Pakistani politician, they were in Urdu, and they were placed on an international platform accessible to readers and viewers in Pakistan who are most likely to have been interested in the subject-matter; and (c) in the absence of any direct evidence of harm to the claimant’s reputation, he denies that in all the circumstances, having regard in particular to the gravity, source and extent of publication within this jurisdiction, that it would be reasonable to infer the statements complained of in the libel claim caused, or are likely to cause, serious harm to the claimant’s reputation. Those are matters that ought to have been pleaded, if they are relied on, but I reject the contention that the failure to plead them is such that the defence to the claim of serious harm – an issue on which the claimant bears the burden of proof – ought to be struck out.
93. Nor do I accept the claimant’s application for summary judgment on the issue of serious harm. In accordance with the usual practice within the Media and Communications List, since the decision of the Supreme Court in *Lachaux v Independent Print Ltd* [2019] UKSC 27, [2020] AC 612, the issue of serious harm was left for determination at trial rather than set down to be determined as a preliminary issue. A factor that, in my view, would render it particularly inappropriate in this case to determine the issue of serious harm without a trial is that there are 30 tweets and 8 videos complained of, and many of them convey two or more distinct imputations. If the defendant were to succeed in showing one or more imputations to be substantially true, while failing in relation to others, the serious harm issue would have to be revisited in accordance with s.2(3) of the 2013 Act.
94. The claimant’s case on serious harm is entirely inferential. There is a question as to the extent of publication within this jurisdiction, and in any event the figures are not huge. The claimant submits the lack of (or low level of) engagement (in terms of retweets and likes) is not indicative of a lack of readership. That may (or may not) be so: it is a matter for trial. There is also a question as to the extent to which readers/viewers would have treated the source as credible (e.g. possibly regarding the defendant as ‘in the know’ as a family member, or possibly regarding the publications as emanating from a family

member with a grudge). In my judgment, it is plain that the question whether the test in s.1 of the 2013 Act has been met should be determined at trial. It is not a matter on which the defendant has no real prospect of success.

Meanings

95. There is a flaw in the draft Amended Defence to the extent that the defendant pleads meanings at paragraphs 14, 21, 25, 27 and 31 that do not entirely reflect the meanings determined by Murray J, albeit they are broadly the same. However, it is evident from paragraphs 12-13 of the draft Amended Defence that the defendant accepts, and indeed avers, that the statements complained of bear only the meanings found by the court. The laudable aim was evidently to group the meanings found with a view to pleading the defence of truth concisely, rather than giving particulars of truth in respect of each tweet or video individually, as the defendant had done in the Defence (prompting criticism of, among other matters, the length of the document). Although the way in which meanings have been pleaded in the draft Amended Defence has, unfortunately, produced some inaccuracies, it is plain that the intention was not to assert that the tweets or videos bear any different meaning to that which has been found. This can be easily remedied by amendment.

Truth defence: T9/T63/T74: “The claimant dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity”; T100: “The claimant’s source of income is from human trafficking”

96. At paragraphs 15-19 of the draft Amended Defence, the defendant has pleaded that the claimant’s family’s wealth was derived from human trafficking, in or around 1980, of people from Pakistan to the regime in Libya, and thereafter from the illegal supply of weapons to the Libyan regime, and subsequently to other countries including Chad. He has also pleaded (AmDef, para 20), that the claimant will never admit these matters but will suggest his wealth is derived from his and his father’s investments in hotels and property.
97. However, there is no pleading in respect of a number of elements of the meanings above. First, there is no assertion in the draft Amended Defence as to the identity of the family members who are alleged to have engaged in human trafficking, whether the claimant has knowledge of this activity (and, if so, how), who directly derived money from this activity, how and by whom any such money has been passed on to the claimant, and whether the claimant knows that such money was derived from human trafficking (and, if so, how).
98. Secondly, there is no direct pleading as to the claimant’s father’s alleged involvement in illegal arms trading. It may be implicit, but it is a very serious allegation which, if it is made, should be made clearly and expressly. The pleading makes no express allegation that the claimant was involved, but there is a vague reference to “*other members of the family*”, all of whom are alleged to have been heavily involved in the illegal arms trading business. That is unfair: if, as I surmise, there is in fact no allegation the claimant ever participated in illegal arms trading or human trafficking that ought to be made clear in the defence.
99. Thirdly, although it appears to be the defendant’s case that the claimant knows about his father’s and/or family’s involvement in illegal arms trading, the draft Amended

Defence does not say so, nor provide any particulars as to how or why the claimant is alleged to have such knowledge. There is no assertion in the draft Amended Defence as to who directly derived money from illegal arms trading, how and by whom any such money has been passed on to the claimant, and whether the claimant knows that such money was derived from illegal arms trading (and, if so, how).

100. Finally, the draft Amended Defence does not give particulars of any occasions on which the claimant is alleged to have been dishonest about the provenance of his wealth, including setting out what the claimant has said that is allegedly dishonest.
101. In considering whether there is reason to believe that the defendant will be in a position to put the defects right, if given a further opportunity to amend his defence, I have had regard to the defendant's statement and the (original) Defence in which some of the matters omitted in the draft Amended Defence are addressed. (As the Defence is unpaginated and contains no paragraph numbers, references to passages of the Defence are given by reference to the Tweet under which any relevant passage is pleaded.)
102. (a) *Who is alleged to have engaged in human trafficking and/or illegal arms trading?* The defendant stated in the Defence that when he referred to 'The Bukhari Family' working with Muammar Gaddafi and the Libyan regime, he was referring to his own father and his father's three brothers, including the claimant's father, Syed Wajid Bukhari (Defence, Tweet 9). The defendant stated that the business, a Pakistani company called Al Murtaza Associates, was held in the names of Syed Wajid Hussain Bukhari (the claimant's father) and Syed Mansoor (or Manzoor) Hussain Bukhari (the claimant's and defendant's uncle) (Defence, Tweet 9, Tweet 53). The claimant's father is said to have been the managing director of Al Murtaza Associates at the material time in the 1980s (Defence, Tweet 171/172, Tweet 180).
103. The defendant has pleaded that Al Murtaza Associates (including the claimant's father) trafficked 2,700 Pakistanis to Libya (Defence, Tweet 9), having secured a contract to procure the service of 5,000 retired armed forces or police personnel for the Government of Libya (Defence, Tweet 67, Tweet 100). The defendant states the human smuggling case came to light when a few Pakistanis sent abroad by Al Murtaza Associates were "*killed under mysterious circumstances in Libya*" (Defence, Tweet 75). In his witness statement, the defendant states that the (then) President of Pakistan, Ziaul Haq, asked a cabinet member, Mr Ghulam Dastgir Khan Sahib to investigate, which led to a ten-month investigation.
104. He has pleaded that the claimant's father and their uncle were convicted in their absence in Pakistan, by the Military Court of Rawalpindi, on 3 November 1982, of human smuggling, and sentenced to 14 years' imprisonment, in case FIR No.161/82 (Defence, Tweet 63; Tweet 74). The defendant states that although a confiscation order was made, the claimant's father and uncle had no wealth or property in their names in Pakistan, having transferred it to the UK, and so nothing was confiscated and they did not serve the sentences imposed (Defence, Tweet 75).
105. In relation to the allegation of illegal arms dealing, the claimant has pleaded that Al Murtaza Associates, of which the claimant's father was at the time the managing director, illegally supplied weapons to Libya in the early 1980s. He alleges that the weapon used to kill a British police officer, Yvonne Fletcher, was traced back to Al Murtaza Associates. The defendant states that the proceeds were received by his and

the claimant's uncle in the UK, who used them to purchase a mansion in The Bishops Avenue, London N2 and a flat in Trump Tower, New York (Defence, Tweet 171/172, Tweet 180).

106. (b) *Who is alleged to have derived money directly from human trafficking and/or illegal arms trading?* The defendant has pleaded that the Bukhari Family (including the claimant's father and uncle) "*laundered*" the money gained from human trafficking, which was initially paid in Pakistan, by investing in properties in the UK (Defence, Tweet 9, Tweet 63). The defendant states that the claimant's father bought several properties in the UK with the "*ill-gotten wealth*" from human trafficking, mainly in the Swiss Cottage and Hampstead areas, which he rented out to Camden Council (Defence, Tweet 99). He states the claimant's father bought expensive real estate in London in 1981, 1983 and 1984, using at least two companies, Masouma Investment Company and Sakina Investment Ltd (Defence, Tweet 9, Tweet 100).
107. In relation to alleged illegal arms trading, in the Defence, references are made to the uncle of the claimant and defendant receiving the proceeds in the UK. There is no reference in the Defence to the claimant's father receiving any money from illegal arms trading, although the defendant has pleaded that he was the managing director of the company which is alleged to have supplied the arms at the relevant time.
- (c) *How and by whom has money allegedly derived from human trafficking and/or illegal arms trading been passed to the claimant?* The defendant states that the proceeds of the human trafficking crimes in the 1980s were invested by the claimant's father, and by the defendant's own father, in property in the UK. The claimant inherited his initial fortune from his father (Defence, Tweet 9; Tweet 67; Video 5). The defendant states the properties were "*transferred or sold after 2007 after the Camden council got suspicious*" and started to investigate (Defence, Tweet 103). The defendant alleges the claimant has the revenue from the properties in which the claimant's father invested, as well as properties which were in the defendant's father's name, all of which were bought from the proceeds of human trafficking (Defence, Tweet 125). The defendant states the list of properties owned by the claimant in the UK which he declared to the National Accountability Bureau consists of "*the same properties that were initially owned by the claimant's father and my father which were purchased after the urge of ill-gotten wealth*" (Defence, Tweet 9; Tweet 63).
108. Neither the Defence nor the defendant's statement assert that the claimant's father received any money from illegal arms trading, or that any proceeds of illegal arms trading have been passed to the claimant by any other family member.
109. (d) *Is the claimant alleged to know about the alleged human trafficking and/or illegal arms trading?* The Defence and the claimant's statement say nothing about what, if any, knowledge the claimant is alleged to have about his father's, or any other family member's, alleged involvement in either human trafficking or illegal arms trading.
110. (e) *Is the claimant alleged to know that the provenance of his initial fortune is from human trafficking/illegal arms trading?* The Defence and the claimant's statement also say nothing about what, if any, knowledge the claimant has in relation to the alleged provenance of wealth he has inherited from his father or otherwise gained from family members.

111. (f) *What has the claimant said, and when, about the provenance of his wealth that is allegedly dishonest?* The defendant has particularised statements by the claimant that he relies on to the following extent:
- i) He refers to an article in the *Mayfair Times*, August 2016, which states, “*Born and brought up in the UK, property is in Bukhari’s blood. His father, a former political figure in the Pakistan government, ran a portfolio of rental properties in London, which Bukhari was involved in managing for a period*”, and states the claimant “*has confirmed these details in interviews*” (Defence, Tweet 9, Tweet 100).
 - ii) The defendant states the claimant (and his father) have failed to give the National Accountability Inquiry, which was authorised to probe allegations against the claimant on 15 January 2018, “*a satisfactory explanation of the money trail of offshore companies and all the properties and business located in the United Kingdom*” and of their surge of wealth (Defence, Tweet 9, Tweet 16, Tweet 63, Tweet 185). In particular, he alleges a failure to provide a satisfactory explanation for allegedly suspicious transactions in respect of two UK based companies, Martin Kemp Design Limited and HPM Developments Limited, in respect of which the claimant is alleged to have changed the records, and resigned, after the National Accountability Inquiry began.
 - iii) The defendant states the “*claimant has explained that his personal as well as family’s business have been in the UK for over several decades and all his money is legitimate*” (Defence, Tweet 16). The first part of this statement, the defendant states the claimant has said “*on many TV shows*” (Defence, Tweet 63). However, he has not given any particulars of when, or to whom, the claimant is alleged to have said that “*all his money is legitimate*”.
 - iv) The defendant states that in interviews in the Pakistani media the claimant has said that he inherited the seed of his wealth from this father’s property business (Defence, Tweet 74).
 - v) The defendant states that claimant “*dishonestly pretends that his father is an honest property tycoon*” (Defence, Video 5, Tweet 103).

112. In my judgment, although even taking into account what the defendant has said in his statement and original Defence, there remain some gaps in the extent to which the defendant has addressed the meanings above, I do not consider that the stage has been reached at which it can fairly be said that the defendant should have no further opportunity to amend his defence, or that there is no reason to believe he will be in a position right the defects to which I have referred above.

Truth defence: T75: “*The claimant is a criminal*”; T125 and (part of the meaning of) V14: “*The claimant is a thief*”; T166/V13 and (part of meaning of) T103/T193/V5: “*The claimant is guilty of fraud*”; T53/T142/T228 and (part of meaning of) T50/V2: “*The claimant has stolen land and valuables from the defendant’s father*”; T67: “*The claimant stole from the defendant’s father*”; T98 and (part of meaning of) T99: “*The claimant stole the defendant’s assets*”; (part of meaning of) T50/V2: “*The claimant has committed a fraud against ... the defendant’s father*”

113. The defendant has pleaded that these meanings are substantially true at paragraph 21 of the draft Amended Defence. The only particulars of truth given are in paragraph 22 where it is said that the defendant's father had land (some of which was freehold, and some was leasehold land held through companies) and property in England and in Pakistan. In both countries, transfers were effected out of the defendant's father's name into companies controlled by the claimant without the defendant's father's consent.
114. In his second response to the claimant's request for further information about paragraph 22, the defendant stated he was referring to "*the land transfers of Kamra Village Attock Pakistan and 64 Fellows Road Hampstead NW3 Land registry Title number NGL729297*".
115. The pleading is clearly inadequate to support a plea of truth in respect of the meanings above. First, the passive tense is used: the claimant has not alleged that the claimant effected the transfers of these two properties out of the defendant's father's name into companies he controls. Secondly, no particulars are given of when, or how, any such transfers occurred without the defendant's father's consent. There is no explanation in the draft Amended Defence of what "*valuables*" belonging to the defendant's father the claimant is alleged to have stolen, or when or from where he is said to have done so; or of the allegation of "*fraud*". Nor is there any basis asserted for the allegation of stealing the "*defendant's assets*", as opposed to his father's, provided.
116. I have, again, considered the greater detail provided by the defendant in his original Defence and his statement, in assessing whether there is reason to believe he will be able to address the defects if given an opportunity to do so.
117. In relation to land in Pakistan, the defendant has stated that his grandfather Syed Murtaza Hussain Bukhari left one small ancestral house, one plot of land, and a mosque in Punjab Kamra village, which should have been inherited by his grandfather's four sons (including the defendant's father) in four equal shares (Defence, Tweet 75). It appears that the quarter share of this land is the land in Kamra village which the defendant alleges was stolen from his father, and which he should have inherited when his father died in December 2019.
118. The defendant has stated that a forged power of attorney (giving incorrect details and using a forged signature) was sent from London to Pakistan by Syed Mohsin Bukhari, a cousin of both the claimant and defendant. He states it was used to take his father's land and valuables from HBL Bank, Attock City. He alleges that his (and the claimant's) uncle removed the valuables from the defendant's father's locker in HBL bank, using the forged power of attorney. The defendant alleges the claimant's father is in possession of his father's ancestral land, which he should have inherited following his father's death in December 2019 (Defence, Tweet 117). The defendant has not specified the nature of the "*valuables*" in any documents, but during the oral hearing he said that the locker held jewellery belonging to his mother, his sister, his wife and his daughter.
119. The defendant states the criminal complaint his father made to the Metropolitan Police was forwarded to the Pakistani FIA department, and then by them to the "*Pakistani Ministry of Overseas Pakistani & Human Resource Development*", in respect of which the claimant had responsibility as the Minister of state and special assistant for overseas Pakistanis. The defendant contends the claimant is an accomplice in the crime

committed by their uncle and cousin because he hindered any investigation, and prevented him and his father obtaining justice, in order to protect the perpetrators and his family's reputation. (Defence, Tweet 50, Tweet 53, Tweet 67). He alleges the claimant has "*misused his power and position*" to deny him and his father a fair investigation, and has "*protected the people involved in the crime*" (Defence, Tweet 53, Tweet 98, Tweet 117). The defendant has made clear that he does *not* allege that "*the claimant has taken the valuables from the locker or made the forged power of attorney*" (Defence, Tweet 53).

120. The defendant contends, in short, that the claimant and his father stole 64 Fellows Road, and the proceeds from that property, from the defendant's father, and so also from the defendant as he should have inherited the property or proceeds on his father's death. The defendant states that the registry of title confirms that on 31 October 1989 64 Fellows Road was owned by his father (Gulzar Hussain Bukhari) and that his father transferred it in 1995 into the name of a company, Alasar International Limited Inc. In 2006, Camden Council prosecuted his father, as the owner of 64 Fellows Road, NW6, and fined him £80,000 for being a rogue landlord. The defendant alleges that during Camden Council's investigation, the claimant's father claimed to be the manager, not the owner, of the property, and the claimant himself did not claim to be the owner of the property (Defence, Tweet 9), and denied ownership during the prosecution case in Highbury Magistrates' Court (Defence, Tweet 16), yet now the claimant claims the property business belonged to his father and he inherited it (Defence, Tweet 99). The defendant contends that 64 Fellows Road was transferred or sold after 2007 and "*the money trail was linked to offshore companies including K-Factor Limited, Bradbury Resources Limited, Baytek Limited all revealed in the Panama Papers and linked to the claimant and his two sisters*". The defendant alleges that the claimant and his father have taken this property from his father, and the revenue has ended up in the claimant's possession (Defence, Tweet 9, Tweet 67).
121. I agree with the claimant that the pleading is currently wholly inadequate to support the serious allegations referred to above. Nevertheless, I consider that the appropriate course is to give the defendant a further opportunity to provide proper particulars in support of his defence of truth (or to recognise, if it is the case, if any of the meanings are ones that he does not contend are substantially true). I bear in mind that the defendant, who is representing himself, has sought to respond positively when the inadequacy of his pleading has been raised, first by the comprehensive amendment of his pleading, producing the draft Amended Defence which is a very considerable improvement on the Defence, and secondly by responding to the (very limited) request for further information (albeit in his second response). I am not persuaded at this stage it would be just to determine that the defendant would be unable to remedy the defects in his pleading.

Truth defence: T18/T99/T185/T201/V17 and (part of meaning of) T99/T103/T212/V5:
"The claimant is dishonest"

122. In the draft Amended Defence, the defendant relies on two matters at paragraph 24 in support of this meaning. One is the transfer of title to land in Pakistan which was in the defendant's father's name, without his knowledge or consent. In response to the request for further information, the defendant has stated that this is, again, a reference to the land in Kamra village in Attock, Pakistan. The particulars given in paragraph 24 of the draft Amended Defence, even as supplemented by the response, are inadequate. I have

referred in the section above to what the defendant has said in other documents about what he alleges occurred in relation to this land, and how alleges the claimant was involved.

123. The other matter relied on in paragraph 24 of the draft Amended Defence is an allegation that in 2012 the defendant's bank account in Pakistan was emptied of about £200,000 worth of rupees at the suit or behest of the claimant. In response to the request for further information the defendant has said the transaction was made from NIB Bank in Pakistan and it involved the claimant's nephew. It appears that this is a reference to the same matter as is referred to in the Defence (Video 14), where it was alleged that "*the same people that the defendant has been protecting*" (which I take to mean the claimant's cousin and uncle) created forged documents and fraudulently accessed the defendant's bank account with NIB Bank in Pakistan. The claimant's nephew is said to have been the bank manager who transferred all the defendant's funds into an unknown account. The defendant states the claimant insisted he was not telling the truth and refused to help, but the bank was helpful, investigating the matter and recovering all the funds. The draft Amended Defence fails to provide any particulars of who is alleged to have taken money from the defendant's bank account, how they are alleged to have done so, or the basis on which it is alleged that it was done at the claimant's suit or behest.
124. There is considerable crossover between this meaning and the allegation that the claimant "*dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity*", as well as the allegations of theft referred to above. If the flaws referred to above are remedied, the amended pleading would be likely to support this meaning. In addition, for the reasons given above I consider that the defendant should be given a further opportunity to particularise the matters on which he relies in support of his contention that the allegation against the claimant of dishonesty is substantially true.

Truth defence: T16/T171/T172/T180/T193/T206/V15 and (part of the meaning of) T212/V14: "The claimant is corrupt"

125. The defendant has given particulars in support of his defence of truth in respect of the allegation that "*the claimant is corrupt*" at paragraph 32 of the draft Amended Defence. He asserts that the claimant occupied a prominent position in a government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity, and yet the claimant (i) resisted any attempt to explain where his family money came from, (ii) prevented governmental and judicial agencies investigating the defendant's allegations about "*his personal ill doing*", and (iii) (mis)used his position to facilitate wrongdoing in relation to the defendant and his father.
126. As currently pleaded, paragraph 32 is opaque, and therefore defective. In light of the defendant's Defence and statement it is apparent that (i) is a reference to the claimant's alleged dishonesty, and lack of openness with the National Accountability Bureau, in relation to the source of his initial fortune allegedly being derived from illegal activity, and the trail of funds. It is also apparent that (iii) concerns the allegation that the claimant protected his uncle and cousin, and prevented the defendant and the defendant's father from obtaining justice, when the claimant's uncle and cousin stole the Kamra village land and valuables from the defendant's father. However, it is not clear to me what the defendant is referring to in the point I have identified as (ii). If he

wishes to maintain reliance on it, it will need to be particularised so that the claimant can understand what the allegations and “*personal ill doing*” are, and what steps the claimant is alleged to have taken, when and where, to prevent any governmental or judicial bodies (which should be identified) from investigating.

127. Given the considerable overlap with the meanings referred to above, if the defects in the pleading in respect of those meanings are remedied it is likely that would address the defects in paragraph 32 to a substantial extent. Insofar as there are further matters referred to in paragraph 32 which are currently improperly particularised, for the reasons given above, I do not consider that the stage has been reached at which it would be fair to strike out this aspect of the defence, giving the defendant no further opportunity to seek to remedy the defects.

Truth defence: T117/V10: “The claimant has been guilty of threatening the defendant”; T119/V12: “The claimant has used thugs to threaten the defendant”; T163: “After the defendant exposed his corruption, the claimant was responsible for an attack on the defendant and for the defendant’s aged parents being threatened by gangsters”; T191: “After the defendant exposed his corruption, the claimant staged an attack on the defendant’s home in London”

128. The defendant’s particulars of his plea of truth in respect of these meanings are at paragraph 28 of the draft Amended Defence. The defendant states that following his mother’s appearance on television in Pakistan in June 2018, “*exposing the behaviour of the Claimant and his family*”, the defendant has been threatened, the defendant’s mother and father were threatened, and the defendant’s car was vandalised in England. The defendant asserts that the only reasonable inference is that the claimant was responsible for these threats/acts being carried out by others. He also asserts this inference is “*supported by what the Defendant has been told by the Claimant’s sister and cousin*”.
129. In response to the request for further information, the defendant has alleged that the claimant’s sister, Masooma Bukhari, called his home phone number twice after his mother’s interview was aired. He states that she left a message on the answering machine, in Urdu, “*threatening that I will face the consequences*”. The claimant’s first cousins have sent voice notes and text messages of a threatening nature.
130. The draft Amended Defence gives no particulars of any threats to himself by “*thugs*”, any “*attack*” on the defendant’s London home, or any threats made by “*gangsters*” against the defendant’s parents, such as when and where each incident is alleged to have occurred, and a description of what occurred (e.g. how many people were involved, what they said and/or did). No particulars of what the claimant’s first cousin is alleged to have said are given in the draft Amended Defence, and the pleading also gives no explanation for the assertion that the only reasonable inference is that the claimant was responsible. However, I note that other than seeking information as to what the claimant’s first cousin is alleged to have said, the claimant did not seek further information in respect of these matters.
131. The defendant had provided some further particulars in the Defence:
- i) Masooma Bukhari is said to have “*called up as soon as the show [i.e. the defendant’s mother’s interview on Pakistani TV] had aired*” (Defence, Tweet 163).

- ii) As regards messages from the claimant's (and defendant's) cousin, the defendant stated, "*My first cousin in Pakistan Syed Khawer Bukhari also sent me wapp txt messages deterring me from telling the truth on social media he tried intimidating me insisting I would be held responsible and would be in trouble for the families truth*" (Defence, Tweet 117).
- iii) In relation to the incident when his car was vandalised, he stated that thugs drove up to his house and walked up to his door to copy the key to start the engine. He believes they had specifically come for his car as there were other expensive cars parked nearby which they did not attempt to steal. They took the defendant's car and dumped it 11 miles away, about 5 minutes from the defendants' parents' house. (Defence, Tweet 119, Tweet 163)
- iv) The defendant alleges he was called on several occasions by the claimant's "*thugs/fans harassing and abusing me*". (Defence, Tweet 119, Tweet 163)
- v) As regards the inference as to who was responsible for these threats, the defendant states that the thugs/fans rang him on his personal number which, at the time, he had only disclosed to "*family and close friend*"; and the "*fans*" "*insisted I was Epileptic*", which he states is "*completely false and is an assumption that family make*". He also alleges that he and his parents received such calls from the claimant's "*direct family, agents or servants*". (Defence, Tweet 119, Tweet 163)

132. In my judgment, applying *Kim v Park*, I consider that I should follow the normal practice, at this stage, of refraining from striking out the pleading in order to give the defendant a further opportunity to put right the defect.

Truth defence: T177: "The claimant manages illegal activities for Pakistan Prime Minister Imran Khan"

- 133. The defendant has not given any particulars in support of his defence of truth in relation to this meaning. It is not encompassed in the "*sweep up*" paragraph 31, as the meaning is not that "*the Claimant is corrupt*", albeit there is a degree of crossover between those meanings. In any event, the particulars given in paragraph 32 of the draft Amended Defence make no reference to the claimant managing any illegal activities for the (former) Prime Minister of Pakistan. This part of the defendant's pleading is, therefore, also defective.
- 134. This is not an allegation in respect of which the claimant made a request for the further information. In the defendant's statement, he alleges that the claimant is currently being investigated in relation to the Rawalpindi Ring Road "*Mega scandal*", a matter which has been referred to the National Accountability Bureau and the Anti-Corruption Department, and the FIA has launched an inquiry in the "*ToshaKhana gift case which the Prime Minister and the Claimant are both alleged to be involved in*". My understanding from the defendant's oral submissions was that it is these matters the defendant relies on in respect of the meaning of T177, although it is rather unclear, and it may be that there are other matters he refers to in his original Defence in support of this allegation.

135. This is a serious allegation and if it is to be maintained it must be properly particularised. While I agree with the claimant that “*there must come a point at which repeated attempts at amendment*” may become “*an abuse of the process of the court*” (*Ashcroft v Foley*, [43]), I do not consider that that stage has been reached yet, for the reasons I have given.
136. I am not prepared to give summary judgment for the claimant on the defence of truth. For the reasons that I have given, I consider that the defence has not been adequately particularised, but having regard to the material in the Defence, the defendant’s statement, and the defendant’s written and oral submissions, and the positive efforts he has previously made to respond to criticisms of his pleading, I am not persuaded that there is no reason to believe he will be able to remedy the defects. In the circumstances, at this stage, it cannot fairly be said that the defence of truth has no real prospect of success. In my view, it is a matter that ought to be determined at trial rather than on a summary basis.

G. Conclusion

137. The Defence was clearly and comprehensively defective. The draft Amended Defence is a marked improvement on the Defence, but as I have identified it is inadequately particularised. I will give the defendant a further opportunity to amend the draft Amended Defence and remedy the defects that I have identified. In these circumstances, I reject the claimant’s application. I will hear the parties on the precise terms of the order that should follow this judgment.