

GUNJAN MANGLA
ADVOCATE

CHAMBERS OF MR. MAHESH JETHMALANI, 29, Jolly Maker Chamber-II,
Nariman Point, Mumbai-400 021, 022-22820550, gunjan1@gmail.com

BY REGD. POST AD/ COURIER/ HAND/EMAIL

November 6, 2018

1. Mr. Shailesh Kantharia
105, Apollo Street,
Prime Business Centre,
Near Stock Exchange,
Mumbai- 400 023.

Dear Sir,

Sub: Rejoinder to your letter dated 15.10.2018 received on 16.10.2018

Ref: My Notice dated 25.09.2018

1. I am in receipt of your letter dated 15.10.2018 received by us on 16.10.2018 ["Reply"]. On behalf of my client, Mr. Prahlad Advani, I am filing the present rejoinder as a brief response to your reply. In the interest of brevity, I am not repeating the contents of the notice dated 25.09.2018. However the contents of the same may be deemed to be incorporated in the present rejoinder.
2. At the outset I say that nothing stated in your reply may be deemed to be admitted merely because the same is not specifically traversed. All your assertion and allegations are denied *in toto*.



3. With regard to the allegations now made by you as an afterthought, I state that the same are nothing but attempts to now improve your clients' case.
4. It is stated that the Company issued a termination notice to Mrs. Amrita Gujral Sachdev on 11.08.2018, which was dispatched by Reg. Post to her residential address [as per the company records]. As per the postal tracking consignment the same was attempted to be delivered on 14.08.2018 at 05.05 PM. It is stated that from the tracking report it can be now seen that the same was not received on the said date by Mrs. Amrita Gujral Sachdev as the door was locked.
5. I reiterate that my client has been extremely empathetic towards your client and has granted her every indulgence as an employer. The same is borne out from the following:
 - a. In November 2017, when your client had a miscarriage and missed a crucial Board Meeting with the CMD, ED and the Board of Directors, my client went to the extent of allowing her to be absent from the office for a period of almost two weeks and post the unfortunate loss, permitted her to stay at home in order to recover from the physical and mental trauma.
 - b. You have alleged that all the leaves availed by your client were legal leaves and available to her credit and thus my client was not required to be accommodative in granting any leave to your client. First, availing Privilege Leave does not mean that an employee is entitled to simply take leave as and when he or she desires and that too in succession. Secondly, it is stated that no employee in the Company has received four back-to-back extensions of leave amounting



to 61 days of leave of continuous absence from work - especially not a senior employee like the Vice President of Sales & Marketing, on whom the Company's Sales / business is heavily dependent. As you are aware, your client was on leave for a continuous period of (61 days) i.e. from June 1, 2018 to July 31, 2018, the same was availed by her by seeking leave extensions four times i.e. from June 1 to June 8th, then from June 10th to June 24th, then from June 26th to July 27th and then on July 30th and July 31st. By granting these four back-to-back extensions, it is evident that my client was extremely empathetic towards her situation and has gone out of his way to ensure her comfort and recovery. Moreover, my client has not only condoned your clients absence at several pre-planned and crucial meetings, but also had to pick up the slack for her during her absences.

5. It is reiterated that the assertion and imputations made by you in the public domain have caused enormous reputational loss to my client. Your clients were very well aware of the fact that the assertions and imputations made by them were not true and have made them knowing full well that the same are going to tarnish the reputation of my client. Moreover, your client has resorted to posting the said slanderous statements on social media, email, the press and on multiple WhatsApp messages with the clear intention to damage my clients' reputation.
6. It is stated that the position of a strong second-in-command in the Sales and Marketing Department was vacant from the end of November 2017. As there was no similar official recruited by your client, inspite of the requests by my client, the Company had to rely solely upon your client to carry out all necessary / critical functions and decisions with regard to the Sales & Marketing Department. The reason for not recruiting a



strong second-in-command in the Department post November 2017 was not on account of your clients 'hardcore professionalism', but done intentionally by your client, so as to keep the Company in a vulnerable position, by not creating any back-up during her unavailability, thereby making herself indispensable, so that she would consolidate her control over the Domestic Sales & Marketing functions of the Company and be able to leverage that power if and when needed. Your client was insecure of hiring any new senior employee who was not a confidant and could potentially cover for her during any absence. It is relevant to state here that my client, had put a reminder for appointing a second-in-command in writing on June 10, 2018 that email was ignored by your client. In addition, as recent as August 3, 2018, my client gave multiple resumes to your client for appointing a second-in-command, but your client refused to even interview any of the potential candidates who had applied for the job, by stating that the Company does not require a senior second-in-command at this stage. Thus, while your client had no qualms about replacing a majority of the old team of the Sales and Marketing Department - but she did not allow or appoint someone new in the Mumbai Head Office who would be capable / experienced enough to take on her role in her absence. This can by no stretch of imagination be termed as 'hardcore professionalism'. If your client truly cared for the Company, and was the 'hardcore professional' that she proclaims herself to be, she would have put the Company's interests before her personal insecurities.

7. It is reiterated that your client has never requested for maternity leave. It is stated that on some occasions your client has informed my client about the medical issue faced by her and her husband, but has never




requested him for any maternity leave. It is further stated that your client's assertion that maternity leave was discussed and my client allowed her to work from home, is based solely on her bare words. There is no documentary proof to substantiate the same claim and my client calls upon your client to produce any document to prove the said assertion. It is pertinent to mention here that my client has various documents, emails and WhatsApps to prove that your client never requested for any maternity leave and my client never approved any work from home as alleged. One such written proof is hereby reproduced below.

On July 26, 2018 at 1:46pm my client sent your client a WhatsApp message (before the meeting that same evening), wherein he stated:

" You and Sumeet suggest to me what options work for you - only then will I talk to the family.

.... Continuing from our last discussion - I will await your help and guidance and brainstorm what options suit YOU best"

This further proves that my client never allowed your client to work from home previously as alleged. It also shows that my client was awaiting a proposal from your client that he would in turn put forth to the CMD & ED of the Company for their comments and necessary approval. If he had previously allowed your client to work from home as asserted by you, my client would not be asking for options which suited your client. Furthermore, this also proves that your allegation that my client abruptly withdrew the alleged 'approval to work from home' later in the evening of the same day is also false. It is noteworthy to state here that in no communication has your client ever written to the Company and or my client about being allowed to work from home. Thus the same has been deliberately concocted by your client



post her termination with the deliberate intent of creating a false narrative in the public domain to defame my client and harm his reputation. Besides, the very core function of Sales is actively going in the field and travelling with ones team to meet people, build relationships, and to close business; it is not a job that can be effectively done from home for months; your clients own past travel patterns / travel records in the Company indicate that Sales cannot effectively be done by sitting in one place.

8. Furthermore, you have alleged that in the past, approvals of your client's leave were never discussed with the CMD and ED. It is stated that you yourself have admitted in Paragraph 15 of your reply that your client used to, as a matter of fact and record send her leave and travel emails to the CMD / ED. The same was done by your client as she was supposed to report to the CMD and not to my client. As per her employment letter she was supposed to report to the CMD and only in his absence was to report to a Whole Time Director of the Company. It is noteworthy to state here that my client has always directed your client to address all travel emails / leave to the CMD / ED. My client has approved of all the leaves only after the same were discussed with the CMD of the Company. Moreover, any travel or absence from the Mumbai office could not be done without their knowledge and consent.
9. Your reply states that my client initially regretted to meet but then surprisingly landed up at your client's home. The falsity of the said statement can be proved from the WhatsApp conversation between my client and your client. On 26.07.2018 your client sent a WhatsApp message to my client which was as follows:

"You want to meet for dinner tonight?"



to which my client's response was:

"that sounds good"

This was replied by your client as follows:

"Ok, pls let me organize and revert within 30 mins.."

My client then informed your client as follows:

"I am here till Monday- so don't push Sumeet if he has commitments"

My client also stated that:

"We can plan what mutually suits Sumeet and my family prayer times (every day from now till Sunday)"

10. The above WhatsApp communication clearly demonstrates that my client had informed your client in writing that he can meet either on Thursday, 26th July, or any day upto and including Sunday, 29th July, subject to her and her husband's convenience. Thus, the said visit cannot be termed to be a surprise - when your client herself invited my client to her residence. It is pertinent to mention here that considering the position and nature of my client he would never make any "surprise" visits to anyone's residence, let alone your client, who was an employee with the Company.

11. It is now stated here that in your reply your client has now made a new allegation that my client told her that in the event of a miscarriage, maternity benefit was just 1.5 months instead of 6 months. You have further alleged that the said statement was made by my client humorously. The same new allegations are now concocted to create a false story and further create prejudice against my client. No prudent person would ever talk about miscarriage to a pregnant woman, let alone my client who has expressed his concern for your clients health and well being repeatedly in writing and had offered to meet at your clients at their residence because he did not want Mrs. Amrita Gujral Sachdev to go through any

hardship, including one of a short travel. My client has always been extremely kind and considerate towards the medical condition of Mrs. Amrita Gujral Sachdev and it is stated that he has not even remotely ever suggested anything of this sort to her. All the other assertions / allegations made in the said and the foregoing paragraphs are denied in toto.

12. It is reiterated that your client resumed work on 01.08.2018 as all her Privilege Leave was exhausted. The Company has records of the same, which my client will produce at the appropriate stage. Furthermore, your client's assertion that my client used to change the dates of important meetings as per his convenience is absolutely false and baseless. As can be seen from an e-mail of May 31, 2018, addressed by your client, she herself had pre-planned several meetings with specific dates till the month of October, including the Praxis meeting in Goa in August 2018. Thereafter, on Monday, 30th July, at the request of Praxis she sought to pre-poned the said meeting and then my client requested her to schedule the Praxis meeting on any day as per her convenience up to and including August 6, 2018. Your client has distorted facts, which are clearly contradicted by documentary proof on record. It is pertinent to mention here that the said Praxis meetings for rate and revenue management take place twice a month in Goa and your client used to drive the said meetings being the head of Sales & Marketing. On July 30, 2018, your client had already missed 4 such consecutive meetings during her 2-month long absence from office and thus attending the Praxis meeting was in her professional-interest.
13. Your client has now made another new allegation that she was made to run from one Banquet Hall to another, which took a toll on her. This again is a contrary stand taken by your client. On one hand your client



has stated that she was taking breaks between meetings as she was advised by the doctors to take periodic strolls and on the other hand she is stating that she was **harassed** as she was made to run from one place to another. In fact this new allegation is also contradicted by the CCTV footage, where at no point of time is your client seen **running** from one place to another.

14. Contrary to your client's contentions in your reply my client has not tried to justify any of his actions by relying on CCTV footage but has referred to the same in order to bring out the blatant falsehoods of your client that are widely circulated in the public domain. It is reiterated that my client made reasonable arrangements keeping in mind your clients medical condition.
15. Furthermore, your clients allegations that she was forced to go Goa are denied in *toto* and have been already replied in detail vide our Notice dated 25.09.2018, wherein it is clearly proved by your clients own official emails that she was not forced to go to Goa, and not forced to stay back in Goa on a Sunday. Furthermore, the fact that your client did not raise the issue with the CMD / ED whilst she was in the Mumbai office on 01.08.2018 and in fact emailed them about her upcoming travel to Goa - is ample proof that it was not a forced travel to Goa, as she had not attended work for a continuous period of 61 days. All the other assertions in the paragraph are denied in *toto* and will be dealt with at the appropriate time.
16. With regard to your clients claim that she has no intention to extort any exorbitant amount from my client, the same is contradicted by the emails sent in response by your client to the Company's email wherein the



Company has categorically requested your client to list out her dues.

The Company in their email dated 29.09.2018 stated as under:

Sr. No.	Particulars	Status of Payment / Remarks
1.	Salary upto August 7, 2018	Already paid to you
2.	Reimbursement of Driver Salary, petrol exps, Attire, entertainment etc. upto August 7, 2018 totaling to Rs. 25,278/-	Your reimbursement claim with supporting documents is awaited from you.
3.	Leave Travel Allowance from April 2018 till August 7, 2018 - Rs. 62,365/-	You need to submit LTA claim with accurate supporting documents.
4.	Travel expense reimbursement towards official visit to Goa during August 2018	Your reimbursement claim with supporting documents is awaited from you.

The amounts which are pending for your submission of documents with necessary supportings will be settled within 7 working days from the receipt of documents. Please inform us if there are any further dues as per your understanding.

.....

You vide your email dated August 30, 2018 have informed the Company about the unfortunate incident of your miscarriage. Without any admission on our part that the Company or anybody in the Company is directly or indirectly in any way responsible for your miscarriage, the Company will honour the statutory liability applicable to miscarriage under the Maternity Act 2017. We request you to produce all medical

documents / records from the hospital for our record and to enable us to process the said legal dues."

17. It is stated that if your client did not intend to extort any exorbitant amounts from my client she would have simply replied to the said email, claiming her legal dues and supported by all documents. Rather, your client chose not to provide any details of the dues, but has been making false and malicious allegations only with the intention to blackmail my client into factoring her extortionary demand under the cloak of "compensation".

18. Your client has also once again attempted to raise issues that are not relevant and/or related to the termination of your client's employment. Your clients new assertion that my client intentionally mentally and physically harassed her and thereafter sent a termination letter without any reasons only because your client '*refused to help my client in an affair which ended between your client and the lady*' is completely false and an unfortunate attempt at manifest blackmail. It is pertinent to state here that your client has taken contradictory stands [state] with regard to her role in the alleged relationship. Time and again, your client has made references to the alleged relationship of my client and the lady - which has absolutely no bearing on the issue of termination. It is also pertinent to state at this stage that as per the appointment letter of Mrs. Amrita Gujral Sachdev, was supposed to report to the CMD and my client had no authority to terminate her services. The Chairman & Managing Director and Executive Director decided to terminate her and approved the termination of her services as the management of the company had lost confidence in her for several reasons, few of which have been enumerated in my notice to your client dated 25.9.2018. Furthermore, it is pertinent to state that the said termination letter is signed by the CMD

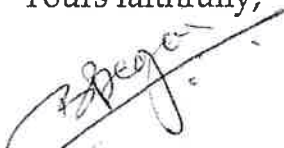
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and ED which fortifies the point that my client was not authorized to terminate your client. Furthermore, as per Clause 18 of the appointment letter, the Company could terminate your client any time without notice or compensation. It is thus stated that your client should refrain from making any references to any alleged relationship my client had with any person as the same has no bearing on the termination of your client's services. It is stated on behalf of my client that all your other allegations are denied *in toto*.

19. With respect to the allegation that my client "purposely and with ill motive harassed your client to the extent that your client was totally shattered due to which after her return from Goa, she had to be hospitalized..". I would like to state that the CCTV footage of the entire stay of your client in Goa portrays a completely different picture than that alleged. In addition, post returning from Goa in the afternoon of Monday, August 6, 2018, later that very night at approximately 10:21pm your client has given written directions / instructions via WhatsApp to Mr. Rejo Francis in the Sales team to increase the wedding rates by Rs.500 in certain future months and to email the same to my client. Furthermore, on the morning of Tuesday, August 7, 2018 your client has shot-out 16-17 work emails within a short time span of 25 minutes from her official email ID addressed to various people in the Company. Any person who is "totally shattered" and needing to be hospitalized will not be in a position to issue directions / instructions in this manner. Such behavior and actions when viewed together are significant, and do not suggest that your client was suffering unbearable trauma with immediate consequences and complications to her health upon her return from Goa.

20. Lastly it is stated that though my client is extremely sympathetic towards your clients unfortunate loss, he will not give in to your client's extortionary tactics and demands. Your client's have knowingly tarnished his reputation and have harmed his professional and personal life. All the defamatory imputations made by your clients were not made in good faith and thus are not covered under the ninth exception to section 499 Indian Penal Code. On the contrary, your clients have maliciously published false and incorrect facts in the public domain for which my client will be instituting appropriate criminal and civil actions.

Yours faithfully,


For
Gunjan Mangla

