

File lawsuit against coworker who insulted you on WhatsApp



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LEGAL VIEW

Q My colleague has insulted me on WhatsApp because of some work-related issues. Can I file a case against the person? What is the legal procedure I should follow? I have the messages on my phone as proof.

A Insulting any individual in the UAE is a criminal offence. This is in accordance with Article 374 of the Federal Law No. 3 of 1987 in issuance of Penal Code of UAE (UAE Penal Code). The provision reads: "Shall be sentenced to detention for a maximum period of six months or to a fine not exceeding Dh5,000, in case the libel or insult takes place through the telephone or facing the victim in the presence of others.

"The penalty shall be a fine not exceeding Dh5,000 if the libel or insult takes place facing the victim without the presence of a third party or in a letter dispatched to him by any means whatsoever."

Further, it may be noted that in the UAE, insulting or offending any individual through any information technology or electronic means is also a criminal offence.

This is in accordance with Article 21 of the Federal Law No. 5 of 2012 on Combating Cybercrimes (Cyber Law). "Shall also be punished by imprisonment for a period of at least one year and a fine not less than Dh250,000 and not in excess of Dh500,000 or either of these two penalties whoever uses an electronic information system or any information technology means for amending or processing a record, photo or scene for the purpose of defamation of or offending another person or for attacking or invading his privacy."

A criminal action may be filed upon a written or verbal complaint pertaining to an offence related to insult and slander. This is in accordance with Article 10 (4) of the Federal Law No. 35 of 1992 related to Criminal Procedure Law.

The provision, as stated, reads as follows: "The criminal action may not be lodged, in the following cases, except upon a written or verbal complaint of the victim or his legal representative: (4) Insult and slander."

This means you may lodge a criminal com-

plaint against your colleague with the public prosecutor or a police station.

The public prosecutor will investigate the complaint and register a case, if an offence is deemed to have been committed.

Know the law



A person who uses information technology to process a record, photo or scene to defame or offend another person can be punished by imprisonment for a period of at least one year or a fine not less than Dh250,000 and not in excess of Dh500,000.

What to do if you have a bank loan and you lost your job

Q I have taken out a loan from a UAE bank two years ago. Then in January 2019, I lost my job but my monthly instalments are going as scheduled. However, last week, the collection team bounced my security cheque of Dh249,000. I want to know what happens after that, since I went and they took a new cheque from me but did not return the old one.

A It is understood that you have availed of a loan from a bank two years back. In January 2019, your employment was terminated but you continued paying the equated monthly instalments as per schedule. However, the collection team of the bank deposited the security cheque amounting to Dh249,000, which resulted in the dishonour of the cheque.

Thereafter, they obtained a new cheque from you, without returning the previous cheque. Your query is pertaining to the process that occurs after the previous cheque was dishonoured and a new cheque was issued.

It may be noted that the dishonour of a cheque due to insufficient balance in the bank account shall attract criminal proceedings against the signatory of the cheque in the UAE. This is in accordance with Article 401 of the Federal Law No. 3 of 1987 in issuance of Penal Code of UAE (UAE Penal Code).

The provision reads: "Detention or a fine shall be imposed on anyone who, in bad faith, gives a draft (cheque) without a sufficient and

drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being encashed.

"The same penalty shall apply to anyone who endorses a cheque in favour of another or gives him a bearer draft, knowing that there is no sufficient balance to honour the cheque or that it is not drawable."

It may further be noted that since the cheque amounts to Dh249,000, Law No. 1 of 2017 on Criminal Orders (Criminal Order Law), which is only implemented in Dubai, shall not be applicable because the cheque amount exceeds Dh200,000.

Therefore, the punishment as stipulated under Article 401 of the UAE Penal Code may be imposed on the signatory of the cheque.

The bank may, at its discretion, initiate criminal and/or civil charges against you.

In the event of the bank pursuing criminal charges for the dishonour of the cheque, you may present the evidence that may indicate the continued payments of the equated monthly instalments (EMI).

Based on the evidence placed before the court, it may dismiss the charges against you, if it deems that you had honoured the payment obligations towards the loan as per schedule.

Further, it may be prudent on your part to document all the EMI payments being made to the bank towards the loan.

Know the law



If the bank pursues criminal charges for the dishonour of a cheque you issued for a loan, you may present the evidence before the court that may indicate the continued payments of the equated monthly instalments.

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