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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 478/2023

XYZ ..... Plaintiff

Through: Mr. Sumit Bansal, Mr. Pankaj Gupta, Mr. Udaibir Singh Kochar, Ms.Tulna Rampal, Ms. Surbhi Tandon and Mr. Aditya Bakshi, Advocates.

versus

BHARAT PRAKASHAN (DELHI) LTD AND ORS ..... Defendants

Through: None.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% 16.08.2023

I.A. 15139/2023 (exemption in displaying actual and correct name, by Plaintiff)

1. This is an application preferred on behalf of the Plaintiff seeking exemption in displaying his actual and correct name in the plaint, memo of parties and index and other places in the suit.

2. For the reasons stated in the application, the same is allowed and disposed of.

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3. Let the plaint be registered as a suit.

4. Upon the Plaintiff taking steps within 10 days, let summons be issued to the Defendants, through all permissible modes.

5. Summons shall indicate that the Defendants are required to file written statements to the plaint within 30 days from the date of receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiff. Plaintiff may file replications to the written statements within 30 days from receipt of the written statements along

with affidavit of admission/denial of the documents filed by Defendants.

6. List before the learned Joint Registrar for completion of pleadings and admission/denial of documents on 10.11.2023.

I.A. 15140/2023 (under Order XXXIX Rules 1 and 2 CPC, by Plaintiff)

7. This is an application preferred on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC for grant of ad-interim *ex-parte* injunction against the Defendants.

8. Upon the Plaintiff taking steps within 10 days, let notice be issued to the Defendants, through all permissible modes, returnable on 16.02.2024 before Court.

9. Plaintiff is the Principal of a reputed unaided recognized minority School affiliated to Central Board of Secondary Education. It is mentioned that names of the Institutions with which the Plaintiff is concerned are being deliberately omitted in the present order for the sake of anonymity and reputation of the said Institutions. The School is run by XXX founded in France in 1938 and started functioning in 1978. Plaintiff has been carrying out the duties of a Principal from 2018. Prior thereto, he has been functioning as Vice-Principal in another School from 2009 to 2011 and in the present School from 2011 to 2014. It is stated in the plaint that with passage of time Plaintiff has gained immense popularity in the field of education and is part of the Managing Committee of other reputed Schools in the city.

10. Case of the Plaintiff as set out in the plaint is that Defendants No. 1 and 2 are engaged in the business of news and media and Defendants No. 3 and 4 are Limited Liability Companies incorporated in U.S.A. and are service providers to Defendants No. 1 and 2 for

running their website over their domain on renewal basis. In order to malign the image of the Plaintiff, Defendants posted/published objectionable and obscene articles comprising of allegations related to sexual intimacy and exploitation of nuns and Hindu women associated with the church on the website of the Defendants on 09.06.2023/ 10.06.2023, titled as 'Indian Catholic Church Sex Scandal: Priest exploiting nuns and Hindu women exposed'. The article further claims that Plaintiff is engaged in sexual activities with staff members, chefs and students and Plaintiff has also been accused of financial wrongdoings.

11. Immediately on coming to know of the said article, Plaintiff filed a police complaint with the Cyber Cell which is pending inquiry. Defendants No. 1 and 2 are aware of the complaint as notices have been issued to them by the Delhi Police to join in the inquiry.

12. Plaintiff states that he has never been involved in any sexual activity as alleged or a financial wrongdoing with any staff member, chef, student or nuns etc. in any manner and the article has been published only to harm his reputation and of the missionaries as also to prejudice the elevation of the Plaintiff to a hierarchical position, on which he is expected to be appointed soon. The article has been published without verification of the allegations and is leading to tarnishing Plaintiff's image, reputation and goodwill which he has garnered with hard work over the years.

13. Plaintiff further states that the article/URLs/Weblinks that have been uploaded, shared and disseminated on the portals of the Defendants are available for public viewing both in India and abroad and are gravely damaging his reputation in the Schools/other Institutions with which he is associated as also amongst students and staff. Defendants have not removed the article despite legal notices

sent to them on 03.08.2023 and 04.08.2023. Right to reputation is a fundamental right under Article 21 of the Constitution of India and needs to be protected. It is thus prayed that directions be issued to remove the offending article from the public domain to save further damage to Plaintiff's reputation.

14. I have heard learned counsel for the Plaintiff and examined the documents on record.

15. In ***Om Prakash Chautala v. Kanwar Bhan and Others, (2014) 5 SCC 417,*** the Supreme Court held that reputation is fundamentally a glorious amalgam and unification of virtues which makes a man feel proud of his ancestry and satisfies him to bequeath it as a part of inheritance for posterity. In ***Umesh Kumar v. State of Andhra Pradesh and Another, (2013) 10 SCC 591,*** the Supreme Court observed that good reputation is an element of personal security and is protected by the Constitution equally with the right to enjoyment of life, liberty and property and is a necessary element in regard to right to life of a citizen under Article 21 of the Constitution. In ***Subramanian Swamy v. Union of India, Ministry of Law and Others, (2016) 7 SCC 221,*** the Supreme Court held that reputation cannot be allowed to be crucified at the altar of others' right to free speech. Relevant paragraph is as follows:-

> *"144. ……..We are in respectful agreement with the aforesaid enunciation of law. Reputation being an inherent component of Article 21, we do not think it should be allowed to be sullied solely because another individual can have its freedom. It is not a restriction that has an inevitable consequence which impairs circulation of thought and ideas. In fact, it is control regard being had to another person's right to go to court and state that he has been wronged and abused. He can take recourse to a procedure recognised and accepted in law to retrieve and redeem his reputation. Therefore, the balance between the two rights needs to be struck. "Reputation" of one cannot be allowed to be crucified at the altar of the other's right of free speech. The legislature in its wisdom has not thought it appropriate to abolish criminality of defamation in the obtaining social climate."*

16. In the same judgment, the Supreme Court also observed that protection of individual right is imperative for social stability in a polity and when harm is caused to an individual the society as a whole is affected. Relevant paragraph is as under:-

> *"80. ……The law relating to defamation protects the reputation of each individual in the perception of the public at large. It matters to an individual in the eyes of the society. Protection of individual right is imperative for social stability in a body polity and that is why the State makes laws relating to crimes. A crime affects the society. It causes harm and creates a dent in social harmony. When we talk of society, it is not an abstract idea or a thought in abstraction. There is a link and connect between individual rights and the society; and this connection gives rise to community interest at large. It is a concrete and visible phenomenon. Therefore, when harm is caused to an individual, the society as a whole is affected and the danger is perceived."*

17. Having perused the article published by Defendants No. 1 and 2, I am of the *prima facie* view that the contents of the article are defamatory. There is *prima facie* merit in the contention of the Plaintiff that the article has been published in a reckless manner without any factual verification and is tarnishing the image and reputation of the Plaintiff, who is a respectable citizen of this country and associated with several educational institutions. It needs no gainsaying that it takes years to build a reputation and therefore, right to reputation has been recognized as a fundamental right under Article 21 of the Constitution. No doubt, Article 19(1)(a) of the Constitution provides the right of freedom of speech and expression to all persons, however, it cannot be overlooked that the same is subject to restrictions under Article 19(2) which includes defamation. The right to freedom of speech and expression cannot be taken as an unfettered right so as to defame and tarnish the reputation of another person. It has been repeatedly held by Courts that fundamental right to freedom of speech has to be counterbalanced with the right of reputation of an individual.

18. Plaintiff has made out a *prima facie* case that the impugned article is damaging and tarnishing his image in the society and as long as the article continues to remain in the public domain, it is likely to continue causing damage to Plaintiff's reputation. Balance of convenience also lies in favour of the Plaintiff and against the Defendants. Irreparable harm and injury shall be caused to the reputation of the Plaintiff if the defamatory article continues on the social media platforms of the Defendants.

19. In view of the aforesaid, an *ex parte* ad-interim injunction is passed against the Defendants, directing the Defendants, their partners, directors, servants, agents and/or any other person acting on their behalf to remove the offending article available at the website of Defendant No. 1 at the weblink https://organiser.org/2023/06/09/178078/bharat/indian-catholic-church-sex-scandal-priest-exploiting-nuns-and-hindu-women-exposed/; and from the website of Defendant No. 2 at the weblink https://thecommunemag.com/the-great-indian-catholic-church-sex scandal-priests-sexually-exploiting-nuns-and-hindu-women-exposed/.

20. Provisions of Order XXXIX Rule 3 CPC be complied with within one week from today.

JYOTI SINGH, J

AUGUST 16, 2023/shivam