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

+ CS(OS) 115/2024

R.V.

..... Plaintiff

Through: Mr. Rajshekhar Rao, Senior Advocate with Ms. Vrinda Bhandari, Ms. Vishakha Gupta & Ms. Anandita Rana, Advocates.

versus

NAVBHARAT TIMES & ORS.

..... Defendants

Through: Mr. Ashish Verma, Mr. Rajat Bhatia & Mr. Kartikay, Advocates for D-1.

Mr. Arijit Mazumdar, Mr. Shambo Nandy & Ms. Anushka Dey, Advocates for D-2.

Mr. Vivek Singh, Mr. P.R. Rajhans & Mr. Abhishek, Advocates for D-4.

Mr. Mritunjay Kr. Singh, Mr. Saikat Khatua, Mr. Sahil Chaitanya, Ms. Shrawani Shagun & Mr. Kunal Yadav, Advocates for D-7.

Mr. Umesh Burnwal & Ms. Parul Singh, Advocates for D-11. [M:-9911633057].

Ms. Nisha Bhambhani, Mr. Rajat Arora, Ms. Mariya Shahab & Mr. Nibin Louis, Advocates for D-12.

Ms. Mamta Jha, Mr. Rohan Ahuja, Ms. Shruttima Ehresa & Ms. Diya Viswanath, Advocates for D-13 & D-14.

Mr. Tejas Karia, Mr. Varun Pathak, Ms. Ameer Rana, Mr. Tejpal Singh Rathore & Ms.



Prasidhi Agrawal, Advocates for
D-15.

Ms. Shloka Narayanan & Mr.
Abhishek Kumar, Advocates for
D-16.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.02.2024

CS(OS) 115/2024 & I.A. 3353/2024 (seeking injunction)

1. The plaintiff is a member of Legislative Assembly of the State of Bihar. She has filed this suit in respect of certain allegedly defamatory images of her that have been circulated on social media and published by various media establishments impleaded as defendants.

2. It is the plaintiff's allegation that the images were originally published by defendant Nos. 10 and 11. She states that defendant No. 11 was a political associate with whom she has had some differences. The images in question have been placed on record and purport to show the plaintiff and defendant No. 11 in close proximity. The plaintiff claims that the images are morphed.

3. Defendant Nos. 1 to 9 and 13 to 16 are media houses, search engines and social media platforms which, according to the plaintiff, have published and/or carry the images in question. Defendant No. 17 is impleaded as Ashok Kumar, representing unknown defendants against whom the plaintiff seeks similar relief.

4. Summons were issued in the suit on 13.02.2024, pursuant to which several of the defendants have entered appearance. Defendant Nos. 3, 5, 6, 8, 9 and 10 have not entered appearance despite service.



5. Mr. Rajshekhar Rao, learned Senior Counsel for the plaintiff, seeks an *ad interim* order directing the defendants to take down the said images and to desist from further publication of the same or similar images.

6. Mr. Umesh Burnwal, learned counsel for defendant No. 11, states that defendant No. 11 is not responsible for publication of any of the images in question. He draws my attention to a statement published by defendant No. 11 on 16.08.2023 [Document-5 of the plaintiff's list of documents], in which defendant No. 11 himself has denounced the publications. He states that defendant No. 11 has no objection to the alleged photographs being taken down by the media houses.

7. Some of the appearing defendants have raised grievances as to the manner in which the media houses have been impleaded by the name of the publications in question, instead of the name of the corporate entities responsible for publication. This objection has been raised by Mr. Ashish Verma, learned counsel for defendant No. 1 and Mr. Mritunjay Kr. Singh, learned counsel for defendant No. 7. They are directed to communicate the correct names of the corporations in question to learned counsel for the plaintiff.

8. As far as defendant No. 2 is concerned, Mr. Arijit Mazumdar, learned counsel states that defendant No. 2 is not the entity responsible for publication of any of the images mentioned in the plaint or attached in the list of documents. He submits that the channel ABP Bihar is established by different company, namely ABP Network Private Limited.

9. Ms. Nisha Bhambhani, learned counsel for defendant No. 12, states that News Broadcasting & Digital Standards Authority ["NBDSA"] is a private authority which exercises control only over those broadcasting or



digital media platforms which become members of the News Broadcasting and Digital Association [“NBDA”]. She states that none of the media houses involved in the present litigation are members of the NBDA, and NBDSA therefore has no role to play in this litigation. At the request of Mr. Rao, defendant No. 12 is deleted from the array of parties.

10. Defendant Nos. 13 and 14 are a search engine and video sharing platform respectively, both owned by Google LLC. Ms. Mamta Jha, learned counsel appearing on their behalf, states that the entity Google LLC, which has been mentioned in memo of parties as defendant No. 14, is responsible for both these products. Defendant No. 13 is therefore deleted from the array of parties. It is understood that defendant No. 14 has been impleaded in respect of the Google India search engine and YouTube platform.

11. As far as defendant No. 15 is concerned, Mr. Tejas Karia, learned counsel, states that, in the plaint, only one of the URLs mentioned pertains to its platform.

12. Ms. Shloka Narayanan, learned counsel for defendant No. 16, on the other hand, states that none of the URLs pertain to any publication of its platform, X, formerly known as Twitter. At Mr. Rao’s request, defendant No. 16 is also deleted from the array of parties.

13. Learned counsel for the plaintiff will file an amended memo of parties in accordance with these directions within three days from today.

14. Mr. Rao seeks an interlocutory injunction restraining the defendants from any further publication of the images complained of and a direction to take down those images. As noted hereinabove, defendant No. 11, whom the plaintiff alleges had put up the images has disowned



them completely. None of the learned counsel present suggest that the publishers of the images in the media have independently verified the veracity of those images. In fact, it is contended by learned counsel for some of the defendants, that the publication of the images was in connection with the story about the images going viral. In some cases, it has also been submitted that the version of the plaintiff and defendant No. 11, that the images are false, have also been published.

15. Subject to the right of the news media to continue to report upon the controversy with regard to these allegedly morphed images going viral and institution of criminal proceedings emanating therefrom, none of the media houses represented today have an objection to an order in the terms sought by Mr. Rao. Mr. Rao is also agreeable to these qualifications in the order.

16. I am of the view that plaintiff has made out a *prima facie* case for an interim order in these terms. It is of significance that none of the defendants are taking responsibility for the veracity of those images. The images, in Mr. Rao's submission, intend to defame the plaintiff's character and, at the very least, breach her privacy. I am satisfied that the plaintiff would suffer irreparable loss and injury, if no interlocutory relief is granted in such circumstances.

17. As far as balance of convenience is concerned, question is of the balance to be struck between the plaintiff's rights in this regard and the rights of the media and public interest in reporting on the issue. Having regard to the nature of the reporting annexed at Document-7 of the plaintiff's list of documents, I am of the view that, by way of an interlocutory order, appropriate balance can be struck with the following



directions:-

- a. Defendant Nos. 1 to 11 are directed not to publish the images reproduced in paragraph 19 of the plaint or images of a similar nature.
- b. The said defendants are directed to take down the images, if already published on their websites or on their social media platforms/channels.
- c. This direction will not come in the way of reporting about the factual controversy regarding the impugned images going viral or the proceedings instituted in this regard, provided that there is no imputation as to the genuineness of the images and/or equal prominence is given to the plaintiff's contention that the images are morphed.
- d. The order will also not come in the way of publication of any images, if the concerned publisher has verified the veracity of the images and seeks to take the defence of justification in respect of the images in question.
- e. Defendant No. 15 is directed to take down the URL mentioned at paragraph 33(m) of the plaint, if defendant No. 8 does not take it down within one week from today.
- f. The plaintiff has articulated a grievance against certain images of her, superimposed with objectionable lyrics and background music, which appear to have been posted on the Facebook page of defendant No. 11. Mr. Burnwal denies that these images and videos have been posted by defendant No. 11, and states that he has no objection if they are taken down by defendant No. 15. Mr. Rao



states that the concerned URLs are <https://www.facebook.com/share/v/c2ziop898SwX33ES/?mibextid=xfxF2i> and <https://www.facebook.com/share/p/YgSZcYEUI1k4jSjN/?mibextid=xfxF2i>. Defendant No. 15 is directed to take these URLs down also within one week from today.

g. The plaintiff has also impleaded unknown defendants, represented by Ashok Kumar [defendant No. 17], who have placed the same images/videos in the public domain or who may do so in future. The aforesaid unknown defendants are also directed take down the images in terms of the aforesaid directions and to desist from uploading the same images or images of the same nature of the plaintiff in future.

18. These directions will operate until the next date of hearing, as interim orders in I.A. 3353/2024. These directions have been passed with the consent of learned counsel for the appearing defendants. In the event any of the other defendants seek modification, variation or vacation of this order, they are at liberty to make an application.

19. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 ["CPC"] be made within one week from today, and affidavit be filed within three days thereafter.

20. The defendants may also file replies to the application within four weeks from today. Rejoinder thereto, if any, may be filed within two weeks thereafter.

21. Learned counsel for some of the defendants submit that they are agreeable to the suit being decreed in these terms. Mr. Rao states that the



plaintiff is also agreeable to giving up her claim for damages, as long as the injunction is made permanent. Learned counsel for the plaintiff and the concerned defendants are directed to place agreed terms on record by way of application/applications under Order XXIII Rule 3 of the CPC.

22. List the suit and all pending applications before the learned Joint Registrar on 20.03.2024 for completion of pleadings, admission/denial of documents and marking of exhibits.

23. List before the Court on 22.05.2024.

PRATEEK JALAN, J

FEBRUARY 20, 2024

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