



2024:DHC:8354



\$~41

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

% Judgment delivered on: 22.10.2024

+ CS(OS) 845/2024

DR SHAMA MOHAMEDPlaintiff

Through: Mr Muhammad Ali Khan, Mr Omar Hoda, Ms Eesha Bakshi, Mr S. M. Khursheed, Mr Uday Bhatia, and Mr K. Sharma, Advocates.

versus

SMT SANJU VERMA AND ORSDefendants

Through:

**CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN**

JUDGMENT

VIKAS MAHAJAN, J. (ORAL)

I.A. 42960/2024 (exemption)

1. Allowed, subject to all just exceptions.

I.A. 42961/2024 (by the plaintiff under Section 149 read with Section 151 CPC)

2. Learned counsel for the plaintiff submits that the deficient court fee will be deposited by the plaintiff within two weeks from today. The statement is taken on record.

3. The Registry is directed to place the matter before the Court if the deficient court fee is not deposited within the period of two weeks.

4. The application stands disposed of.



2024:DHC:8354



CS(OS) 845/2024

5. The plaint be registered as a suit.
6. On filing of process fee, summons be issued to the defendants by all permissible modes.
7. The summons shall indicate that written statements must be filed within thirty days from the date of receipt of summons. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.
8. The plaintiff is at liberty to file replication thereto within thirty days after filing of the written statements. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.
9. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
10. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.
11. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 16.01.2025.
12. List before Court on 14.02.2025.

I.A. 42959/2024 (by the plaintiff under Order XXXIX Rule 1 and 2 read with Section 151 CPC)

13. The present application has been filed by the plaintiff seeking grant of ad-interim *ex parte* injunction.
14. Issue notice to the defendants by all permissible modes.
15. The defendants may file reply to the application within four weeks on



2024:DHC:8354



receipt of notice. Rejoinder thereto, if any, be filed within a period of four weeks thereafter.

16. The plaintiff has filed the present suit seeking permanent and mandatory injunction along with damages and compensation on account of defamation committed by the defendant nos. 1 and 2.

17. The facts which can be noted from the record are that the plaintiff is a national spokesperson of the Indian National Congress (hereinafter referred to as the 'INC'). She is also a Dentist by profession and Chairperson and Trustee of Zoya Charitable Trust, an NGO.

18. The defendant no. 1 claims herself to be a national spokesperson of the Bhartiya Janta Party (hereinafter referred to as 'BJP'). The defendant no. 2 i.e., 'TV-18' is an Indian Media conglomerate. The defendant nos. 3 and 4 are social media platforms viz. 'X Corp.' and 'Google LLP', respectively.

19. The plaintiff is aggrieved by the defamatory statements made by the defendant no. 1 against her on 20.08.2024 on a TV debate show which was about the horrific incident that took place in RG Kar Hospital in West Bengal and the action taken by the State of West Bengal in that regard. The said TV debate was organized by the defendant no. 2 and was shared and broadcasted on the social media platforms of the defendant nos. 3 and 4.

20. It is the case of the plaintiff and so contended by Ms Eesha Bakshi, the learned counsel appearing on behalf of the plaintiff that the defendant no. 1 instead of engaging with the merits of the plaintiff's statement during the debate, resorted to malicious and vicious name calling against the plaintiff labelling her as '*A Madrassa Bred Bigot*' and also alleging that the plaintiff is '*not a real doctor*'.



2024:DHC:8354



21. As per the learned counsel for the plaintiff the aforesaid comments are *per se* and *prima facie* defamatory and unjustifiably portray the plaintiff in a regressive and unfavourable light.
22. She submits that the entire debate is still available on the YouTube channel of the defendant no. 2 and is accessible to public at large. He adds that the said video has created immense sensation and is going viral on social media platforms as the same has been repeatedly shared on the defendant no. 2's social media handle.
23. She further submits that the defendant no. 1 on multiple occasions has resorted to mud-slinging and name-calling practice against the leaders of the INC and other members of the opposition.
24. It is her submission that in 2019, BJP's Maharashtra Unit had officially issued a statement in which it condemned the actions and language used by the defendant no.1 during a TV debate.
25. She submits that the defendant no.2 has a history of allowing the use of abusive, violent and defamatory statements against the plaintiff and other people on its news media channel. Such instances have also been brought to the notice of the National Broadcasting and Digital Standards Authority, whereby the said authority has passed orders imposing penalties against the defendant no. 2 for violating 'Code of Ethics and Broadcasting Standards'.
26. She further submits that making and sharing of false statements by the defendant nos. 1 and 2, respectively, has caused irreversible damage to the reputation of the plaintiff.
27. She submits that the defendant no. 1 in her reply to the legal notice dated 16.09.2024 sent by the plaintiff to defendant nos. 1 and 2, has unequivocally admitted to the fact that she had labelled the plaintiff as 'A



2024:DHC:8354



Madrassa Bred Bigot and *'not a real doctor'*.

28. Therefore, she has prayed in this application that an *ex-parte ad-interim* order of injunction be passed against the defendant nos. 1 and 2 to take down/delete the posts and video published by the defendant no. 2 on the social media platform of the defendant nos. 3 and 4.

29. I have heard the learned counsel for the plaintiff and have perused the record.

30. A perusal of the transcript of the TV debate dated 20.08.2024 reveals that the defendant no. 1 has used terms like *'Bewakoof Aurat'*, *'Shama Mohammad is as shameless as they come'*, *'she is not even a doctor'*, *'you are not a doctor'* and *'you are a Madrassa Bred Bigot'* against the plaintiff.

31. The aforementioned comments / terms which have been made by the defendant no. 1 in the TV debate organized by the defendant no. 2 before the public at large and further shared by the defendant no. 2 on different social media platforms of the defendant nos. 3 and 4, on the face of it appears to be defamatory, in as much as, such comments are *per se* demeaning and have a potential to harm the image of the plaintiff, who is a national spokesperson of the INC and a Dentist by profession.

32. I have also gone through the screenshots of the impugned posts posted on the plaintiff's feed of 'X', whereby by some persons have replied to a post dated 20.08.2024 posted by the plaintiff condemning the act of the defendant no.1 assigning names to the plaintiff.

33. The said posts contain comments like *'Madrassa breed bigot is the correct technical term for an Islamist who wants to spread caste poison in Hindus using lies'*, *'Madrassa-Chaap Bigot Shama'*, *'But that's truth. U ppl are not just Madarsah-bred bigots, but also inbred bigots'* etc. Mere reading



2024:DHC:8354



of such comments would show that these comments have been made in a reckless manner without any justification, even disregarding basic etiquettes and demeanour expected of the panellists in a public debate.

34. It is trite law that reputation is an integral and important aspect of dignity of every individual.¹ It is equally well settled that rights conferred by Article 19(1)(a) are subject to reasonable restrictions in the interest of the public or decency or morality or in relation to defamation or incitement of an offence. This freedom needs to be exercised with circumspection and cannot be permitted to violate the rights of other citizens and to jeopardize their public interest. More so, in case of political functionaries, who spend their lifetime in building their image in the public, which cannot be permitted to be tumbled by baseless, defamatory statements by any political entity/individual for petty gains.²

35. At this juncture, apt would be, to refer to a decision of this Court in '*Amit Malviya vs. Samajwadi Party Media Cell & Ors.*', CS(OS) 643/2024 dated 16.08.2024 wherein, while dealing with somewhat similar facts in paragraphs 31 and 32 it has observed as under:

“31. An individual reputation is an integral part of his/her personality and cannot be unjustly tarnished under the guise of freedom of speech. The plaintiff is head of national political party's NITD and also co-in-charge of West Bengal unit of BJP and the heedless allegations of the nature made in the offending post not only bring his name into disrepute, but have the potential of adversely affecting his political career built over the years.

*32. In this regard, reference may also be advantageously made to recent decision of a co-ordinate bench of this Court in **Gaurav Bhatia***

¹State of Bihar vs. Lal Krishna Advani, (2003) 8 SCC 361.

²Hanuman Beniwal and Others vs. Vinay Mishra and Others, 2022 SCC OnLine Del 4882.



2024:DHC:8354



v. NaveenKumar³, wherein in the context of balancing the right of freedom of speech vis-a-vis right to have dignity and reputation, it has been held as under:-

“42. The facts of the present case may now be considered in the light of aforesaid principles to ascertain whether the injunctive relief is justified in the circumstances as made out in the plaint. It is not disputed that the plaintiff is not only holding a distinguished position of Senior Advocate and is acknowledged for his expertise and experience in the legal field, but is also the Spokesperson for one of the most prominent political entity of this Country and being its Spokesperson, plays a crucial role in presenting the views of the party and communicating about its policies and initiatives in public. As has been discussed in the aforementioned judgments, while the threshold of public criticism and alleged defamatory X posts/Tweets on social media platforms is much higher, but the individual dignity and honour of a person cannot be allowed to be defamed or disrepute brought to him on the ground of Right of Free Speech and Expression. A thin line of distinction exists between defamation and public criticism and an onerous task lies with the Courts to maintain this delicate balance between the competing claims and rights.”

(emphasis supplied)

36. Reference may also be advantageously had to a recent decision of a co-ordinate bench of this Court in *Rajat Sharma vs. X Corp (formerly Twitter) and others*⁴ wherein in paras 40 and 41, it held as under:-

“40. While the threshold of public criticism and alleged defamatory X posts/Tweets and YouTube videos on intermediary platforms is much higher, but the individual dignity and honour of a person cannot be allowed to be

³ 2024 SCC OnLine Del 2704.

⁴ 2024 SCC OnLine Del 4399.



2024:DHC:8354



defamed or disrepute brought to him on the ground of Right of Free Speech and Expression. A thin line of distinction exists between defamation and public criticism and an onerous task lies with the Courts to maintain this delicate balance between the competing claims and rights.

41. The Apex Court in the case of Amish Devgan v. Union of India, (2021) 1 SCC 1 referred to Subramanian Swamy (supra), wherein it had been ruled that dignity is the quintessential quality of personality and a basic constituent along with honour and reputation of the rights guaranteed and protected under Article 21. Dignity is a part of the individual rights that form the fundamental fulcrum of collective harmony and interest of a society. While right to speech and expression is absolutely sacrosanct in the sense that it is essential for individual growth and progress of democracy which recognises voice of dissent, tolerance for discordant notes and acceptance of different voices, albeit the right to equality under Article 14 and right to dignity as a part of Article 21 have their own significance.”

(emphasis supplied)

37. Having regard to above discussion, I am satisfied that the plaintiff has made out a case for grant of *ad-interim* relief. I am also satisfied that grave and irreparable loss and injury will be caused to the plaintiff, if *ad-interim* injunctive order is not passed in her favour. The balance of convenience also lies in favour of the plaintiff.

38. Under these circumstances, the defendant no. 2 is directed to take down/remove/restrict/access/block the below mentioned URL of the video uploaded on the defendant no. 4's social media platform i.e., 'Google LLP' within a period of two weeks: -

“<https://www.youtube.com/watch?v=LeItlvuNTMQ>”



2024:DHC:8354



39. In the event, the defendant no. 2 fails to take down/remove/restrict/access/block the aforementioned URL within the period of two weeks, the plaintiff shall be at liberty to approach the defendant no. 4 / 'Google LLP', and the latter, in that eventuality, shall take down the aforesaid URL, within a period of 36 hours of such request.

40. As noted in paras 32 and 33 above, some impugned posts have also been posted against the plaintiff in a reckless manner by some persons, which are equally harming and injuring the reputation of the plaintiff, the defendant no. 3 / 'X' is also directed to take down/remove/restrict/access/block the below mentioned URLs of the impugned posts as per 'Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021', within a period of two weeks:-

- a) <https://x.com/totalwoke/status/1826253686261322217>
- b) <https://x.com/geffbeck/status/1826181930598961261>
- c) <https://x.com/Priyesh2342554/status/1826275339200610682>
- d) <https://x.com/SinghIronman/status/1826347783764512878>
- e) <https://x.com/warinalleys/status/1826085196158087333>
- f) <https://x.com/Aj13078999/status/1826116306065637772>
- g) <https://x.com/ShashiSinghh/status/1826297449725513973>
- h) <https://x.com/adityanyk70/status/1826289387111612805>
- i) <https://x.com/kapoor62403143/status/1825951937700966644>
- j) https://x.com/SharmaJi_ii/status/1825959673796898831
- k) <https://x.com/ipoliticalkeeda/status/1825979169605562517>
- l) <https://x.com/skmahakud21/status/1825959411149582540>
- m) https://x.com/PatriotTom_/status/1826049146748547562



2024:DHC:8354



41. Compliance of Order XXXIX Rule 3 CPC be made within two weeks. An affidavit of compliance may be filed within three days thereafter.
42. Needless to say, that the observations made herein are prima facie for the consideration of ad-interim relief under Order XXXIX Rules 1 and 2 CPC by the plaintiff.
43. List before the Joint Registrar for completion of service and pleadings on 16.01.2025.
44. List before Court on 14.02.2025.

OCTOBER 22, 2024
MK

VIKAS MAHAJAN, J