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

Reserved on: 13th November, 2024
Date of Decision: 4th April, 2025

\+ CS(OS) 632/2024

SHAZIA ILMI .....Plaintiff

Through: Ms. Natasha Garg and Mr. Thakur Ankit Singh, Advocates

versus

RAJDEEP SARDESAI & ORS. .....Defendants

Through: Mr. Hrishikesh Baruah, Mr. Anurag Mishra, Advocates for D-1
Mr. Hrishikesh Baruah, Mr. Anurag Mishra, Mr. Utkarsh Dwivedi, Ms. Mashu Bishnoi, Advocates for D-2 and D-12
Mr. Varun Pathak, Mr. Yash Karunakaran and Mr. Tanuj Sharma, Advocates for D-4 (Through VC)
Mr. Sauhard Alung, Advocate for D-5

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CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. No. 36026/2024

1. The present application has been filed by the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 (CPC), seeking interim injunction against the Defendants.

2. This Court vide order dated 13.08.2024 had passed an ad-interim injunction directing Defendant No. 1 to take down the impugned video[1] from his personal X handle pending adjudication of the captioned application. Similarly, Defendant Nos. 6 to 10 were also directed to take down the impugned video from their respective social media platform, handles and websites, until the final disposal of the captioned application. Further the Defendant No.4 was directed to take down the impugned video uploaded on its platform.

By this judgment, this Court will now proceed to finally decide the captioned application.

3. The underlying suit has been filed by the Plaintiff seeking inter alia relief of permanent injunction against the Defendants, thereby restraining them from making, publishing, circulating objectionable, offensive, ex facie false and allegedly doctored video outraging Plaintiff's modesty in the privacy of her home, followed by public statement (i.e., Quote Tweet circulated by Defendant No. 1 on his personal X handle) with malicious intent, to lower the dignity of the Plaintiff and cast a slur on her temperament and character, which as per the Plaintiff is defamatory. The Plaintiff further seeks compensation in terms of damages on account of loss of reputation and dignity and public ridicule due to the willful and malicious publication and circulation of defamatory doctored video and malicious statement by the Defendants.

[1] Defined in Para 7.5 of this Judgment.

Facts germane for deciding the captioned application garnered from the pleadings

4. The Plaintiff is presently a politician and National Spokesperson of a National political party. The Plaintiff was earlier a journalist and had worked in that capacity for more than 15 years.

5. The Defendant No.1 is a well-recognised news anchor and journalist and presently works with Defendant No. 2 a TV Network. The Defendant Nos. 6 to 10 are social media account handlers and/or news agencies. Defendant No.11 is unknow person(s), who as per the Plaintiff have circulated the impugned video. Defendant No.12 is the cameraman of the Defendant No.2, who is part of the controversy which is subject matter of the underlying suit and captioned application.

6. Defendant Nos. 3 to 5 are social media platforms on which the users have posted the impugned video and published reports and/or comments and/or stories pertaining to the Plaintiff.

(i) Version of the Plaintiff as per the plaint

7. The Plaintiff is aggrieved by the incident which occurred at her residence with Defendant No. 12 (cameraman of Defendant No. 2) on 26.07.2024 in the late evening, after she withdrew her participation from a live debate programme ('live debate') hosted by Defendant No.1 premised on 'Kargil Diwas' and 'Agniveers', telecasted at 9:00 PM on India Today Television (i.e., Defendant No.2).

7.1. The Plaintiff was invited as a panelist on the abovesaid live debate. The Plaintiff participated in the said live debate, virtually from her residence and in this regard, Plaintiff permitted the Defendant No.12 and other crew members, who were part of the Production Control Room (PCR) team of the Defendant No.2 to visit her residence in order to record her opinion on subject matter of the live debate. The Plaintiff designated a specific portion

of her residence to be included in the shooting frame and further communicated her preference to limit the shooting frame during the live debate to her head and upper body only. It is stated that the Plaintiff had a cast on her leg and did not want the same to be shown as a part of the shooting frame.

7.2. The live debate was aired at about 9 PM. During the live debate it is alleged that the Defendant No.1 disagreed with the Plaintiff on certain aspects of the subject matter of live debate and started constantly heckling and speaking over the Plaintiff. It is stated that the Plaintiff held her ground and after sometime the Defendant No.1 asked the PCR of the Defendant No.2 to *'put her voice down'* i.e., lowering the voice/volume of the Plaintiff (down) during the live debate.

7.3. It is stated that after the Plaintiff was put on mute during the live debate on the instructions of Defendant No.1, she decided to discontinue with her participation in the live debate and to move out of the said debate. It is stated that the Plaintiff made it abundantly clear by her gestures and actions that she would like to end her participation in the live debate. It is stated that Plaintiff had a cast on her leg due to a sprain and when she decided to discontinue and move out of the live debate, she removed her mike which was attached to her shirt and she had to hobble away from the chair on which she was seated.

7.4. It is stated that however, Defendant No.12 continued to unauthorizedly video record the Plaintiff in the awkward situation i.e., while she was removing the mike; hobbling to get out of the chair. It is stated that despite Plaintiff's request to Defendant No. 12 to stop recording, he did not

accede to said request of the Plaintiff and continued to record the Plaintiff in awkward situation in the confines of her house.

7.5. The Plaintiff contends that the video recording[2] which was done after she conveyed her intent to withdraw from the live debate, was unauthorized, without the consent of the Plaintiff (‘**impugned video’**) and was a blatant violation of her right to privacy.

7.6. The Plaintiff contends that the Defendant No.1 on 27.07.2024 at 8:33 A.M. published a Quote Tweet on his personal X handle (**‘Impugned Quote Tweet’**) in connivance with Defendant No.2, which is defamatory and lowers the reputation of the Plaintiff. It is stated that the impugned video published along with the said Impugned Quote Tweet was illegally recorded by Defendant No. 12 at the instruction of the PCR of Defendant No. 2, even after she had exited the live debate. It is stated that the impugned video has been published by the Defendant No.1 on his personal X handle without obtaining prior consent of the Plaintiff.

7.7. The Plaintiff contends that it is a matter of record that the [part of] said impugned video published by the Defendant No.1 with his Impugned Quote Tweet does not form part of the live debate, which was aired on 26.07.2024 on National Television. It is stated that, therefore, the said impugned video was provided by the Defendant No.2 to the Defendant No.1 with the sole intention to attack and defame the Plaintiff, while casting slur on her.

7.8. It is stated that due to the actions of the Defendant Nos.1, 2 and 12, the other Defendants i.e., Defendant Nos. 6 to 10 also published various posts, news articles and/or impugned video on various social media

[2] Details are given at Para 3.20 of the Plaint.

platforms, which tarnishes the image and reputation of the Plaintiff. It is stated that because of the said Impugned Quote Tweet of the Defendant No.1 the Plaintiff has been subjected to excessive ridicule, trolling and personal comments.

7.9. It is stated that in these facts the Plaintiff is entitled to grant of injunction and restraint order against the Defendants directing them to remove/take down all the defamatory and scurrilous content along with the impugned video of the Plaintiff.

7.10. From the pleadings as set out in the plaint and the captioned application it is apparent that the Plaintiff has two-fold grievance with respect to the Impugned Quote Tweet i.e., the *text portion* of the Impugned Quote Tweet and the impugned video attached and published along with the said Impugned Quote Tweet; therefore this Court would analyze the contentions of the parties qua the said Impugned Quote Tweet in context of the said two-fold grievance of the Plaintiff.

(ii) Arguments of the Plaintiff qua the captioned application

8. Learned counsel for the Plaintiff states that the Plaintiff had clearly conveyed during the live debate after being put on mute, that she did not want to anymore be a part of the live debate and the live streaming of the debate from her residence. She states that the Plaintiff had visibly left the chair which she was sitting in. She states that despite such clear withdrawal from the live debate; subsequent recording of the Plaintiff in her private space (i.e., her home), was without her consent and/or free will. She states that the impugned video published on the X handle of Defendant No.1 along with Impugned Quote Tweet is modified/distorted/doctored and is so done to show the Plaintiff in poor light and it also outrages her modesty.

8.1. She states that Defendant Nos.1 and 2 have not denied that the impugned video was recorded without the consent of the Plaintiff.

8.2. She states that the Plaintiff asked the Defendant No.12 to stop recording when she had gotten up from her seat but the Defendant No.12 overstepping his rights (i.e., qua limited permission granted by Plaintiff) continued to video record the Plaintiff; (i) while she was in an awkward situation; (ii) in her private space i.e., her bedroom and living area and it was to this unauthorized recording that the Plaintiff retaliated and again asked the Defendant No.12 to stop the recording and '*just get out of my house'*.

8.3. She states that there was no 'misbehavior' done with the Defendant No.12; or 'cuss' word used against Defendant No.12 by the Plaintiff. She states that the allegation of the Defendant No.1 that the Defendant No.12 was *abused* by the Plaintiff is misconceived.

8.4. She states that the Plaintiff had only once moved the camera away from her because she was being recorded by Defendant No. 12 without her consent in the privacy of her home. She states that while pushing away the camera, the Plaintiff asked the cameraman to *get out* of her house which is otherwise a fair request to the person who is intruding in the private space of the Plaintiff. She states that answering the Plaintiff, Defendant No.12 stated that he was being instructed by the PCR to record.

8.5. She states that there was no *chuck the mike* done by the Plaintiff as alleged by the Defendant No.1 in his Impugned Quote Tweet and the same is evident from the impugned video. She states that the Plaintiff had carefully removed the mike and kept the same on the table before walking away, which the Defendant No.12 collected after she had gotten up[3].

[3] Para 3(iii), internal page 2 written submissions filed by the plaintiff.

8.6. She states that Defendant No.12 was not *thrown out of the house* as alleged by the Defendant No.1 in his Impugned Quote Tweet. She states that the Plaintiff asked the Defendant No.12 to *get out* of her house for the reasons stated in the preceding paragraphs. She states that the Defendant No.1's assertion is misleading and false as no physical force was used against the Defendant No.12 to get him and the crew out of the house.

8.7. She states that the Defendant No.1 used the phrases like *'just Not done'* and *'No excuse for bad behaviour'* in the Impugned Quote Tweet which shows that the whole narrative portrayed by the Defendant No.1 was to show the Plaintiff in poor light.

8.8. She states that Defendant No.1 and Defendant No.2 have not acted in accordance with the provisions of the Press Council of India Norms of Journalistic Conduct, News Broadcasting and Digital Standards Authority (NBDSA) dated 28.10.22 and News Broadcasting Standards Authority (NBSA) dated 06.12.2019.

8.9. She states that the incident between Defendant No. 2 and Defendant No. 12 is not a matter of public interest and, therefore, truth is no defence for publishing the defamatory Impugned Quote Tweet. She states that the reasons furnished by Defendant No. 2 in its reply at paragraph 4(F) and (K) to the captioned application for publishing the impugned video, that it was done to expose the character of the Plaintiff, which explanation clearly shows that there was no public interest involved and it was done to cast a slur on Plaintiff's character.

8.10. She states that Defendant No.1 and 2 did not attempt to know the complete truth by seeking the Plaintiff's version of the event as it transpired at her residence and only relied on the contents of the impugned video. She

states that Defendant No. 1 and Defendant No. 2's failure to seek Plaintiff's version shows that the Impugned Quote Tweet and impugned video were only published with the intent to defame the Plaintiff. Similarly, Defendant Nos. 6 to 10 also did not seek the version of the Plaintiff before publishing their stories.

8.11. She states that the Defendant No.1 being a journalist/presenter of Defendant No.2 has no authority to redress the grievances of Defendant No.12 and that too by publishing an unauthorizedly recorded video. She states that this shows that the act of Defendant No.1 is nothing but reeked of personal animus and malice.

8.12. She states that the Supreme Court in the case of **KS Puttaswamy v. UOI**[4] has held that privacy at a subjective level is a reflection of those **areas of** where an individual desires to be left alone. Further, the Supreme Court observed that the right to refusal is a basic essence of the right to privacy. She states that a citizen has a right to safeguard the privacy of his/her own self as observed by the Supreme Court in the case of **R. Rajagopal and Ors. v. State of Tamil Nadu & Ors.**[5]

8.13. She states that the Plaintiff has a strong prima facie case in her favour as she has clearly demonstrated that the act of Defendants was aimed at causing reputational harm to the Plaintiff by defaming her.

8.14. She states that balance of convenience also lies in favour of Plaintiff as there is no other purpose of the impugned video and the Impugned Quote Tweet to be online as it is not for any public interest and it is not portraying any truth.

[4] (2017) 10 SCC 1.
[5] 1994 SCC (6) 632.

8.15. She states that grave and irreparable loss and injury would be caused to the Plaintiff if the Impugned Quote Tweet and impugned video and all other content which was further circulated, are not removed. She states that the Impugned Quote Tweet and impugned video has brought immense loss of reputation to the Plaintiff.

(iii) Common arguments on behalf of the Defendant Nos. 1, 2 and 12

9. In reply, Mr. Baruah, the learned counsel for Defendant Nos. 1, 2 and 12 contends that the Plaintiff has not come with clean hands before this Court. He states that the Plaintiff has suppressed two (2) tweets from this Court. The first tweet is dated 26.07.2024 published at 10:21 PM (**'Suppressed Tweet No.**1') and second tweet is dated 27.07.2024 published at 10:27 PM ('**Suppressed Tweet No.2'**). He states on the basis of this fact alone the plaint along with the application is liable to be dismissed. (**Re: Ramjas Foundation v. UOI[6]).** He states that the Impugned Quote Tweet cannot be read in isolation and will have to be read together with the Suppressed Tweets of the Plaintiff which forms part of the same conversation thread.

9.1. He states that in the Suppressed Tweet No.1 there is not even a whisper about the alleged invasion of privacy or outraging of modesty of Plaintiff by Defendant No. 2 and/or Defendant No. 12, due to the recording of the footage after she decided to leave the live debate. He states that the *unmiking* by the Plaintiff was duly telecasted on National Television at the relevant time and the Plaintiff did not raise any objections in the Suppressed Tweet No. 1 qua the telecasted video, furthermore, the Plaintiff did not ask

[6] (2010) 14 SCC 38.

take down of the said part of the video either in the plaint or the captioned application.

9.2. He states that after the Defendant No.1 published the Impugned Quote Tweet, the Plaintiff had published Suppressed Tweet No.2 in response thereto, wherein she had for the first time raised the issue of violation of privacy rights. He states that furthermore, there was no assertion by the Plaintiff in this Suppressed Tweet No. 2 that the impugned video is doctored or mischievously edited.

9.3. He states that the allegation raised by the Plaintiff to the effect that the impugned video is doctored and cannot be accepted. He states that firstly, the staring 22 second of the impugned video was telecasted live, and secondly, there is no material placed by the Plaintiff on record to show that the impugned video is doctored. He states that Plaintiff has herself relied upon the said video and its screenshot to substantiate her arguments, therefore, if the impugned video is doctored the claim of the Plaintiff has to fall which is made on the basis of the said impugned video.

9.4. He states that in the impugned video it can be seen that the Plaintiff is abusing the Defendant No.12 and has forced him to *get out of her house*. He states that the Plaintiff in the plaint and in the captioned application has not pleaded anything with respect to that part of impugned video where the Plaintiff can be seen misbehaving with the Defendant No.12, who was just doing his duty. He states that in the plaint the Plaintiff has nowhere mentioned that she had moved the camera or even touched the camera or the cameraperson i.e., Defendant No.12, but on being pointed out during the course of hearing, there has been a summersault in the said stand as can be seen in the written submission of the Plaintiff wherein she stated that she

had moved the camera just once. He states that this goes on to show that the plaint and captioned application suffers from material suppression.

9.5. He states that the grant of interim injunction as sought for by the Plaintiff cannot be in nature of a final relief or mandatory injunction as the same if granted would amount to a final decree.

9.6. He states it is admitted that the Defendant No.12 went to the house of the Plaintiff at her invitation. It is also admitted that the Defendant No.12 had placed the camera after taking due consent from the Plaintiff and therefore, the Plaintiff waived off her rights if any to claim defence of privacy right being violated.

9.7. He states that once the use of video was consented, the manner of using the said video was entirely the discretion of the Defendants and the same cannot be dictated by the Plaintiff. (**Re: Martin v. Senators, Inc.**[7]). He further states that the right of privacy does not exist where a person has consented and further that an individual cannot claim right to privacy with regard to subject matter which cannot from the very nature of things remain private. (**Re: Metter v. Los Angeles**[8])

9.8. He lastly, states that the video in question was of such clarity and strength that it was not necessary for the Defendant No.1 to seek further clarification or corroboration. He states that in-fact the Defendant No.1 has not even taken views of Defendant No.12 before publishing the said video.

(iv) Plaintiff's response to the non-disclosure of Suppressed Tweet Nos. 1 and 2

10. In rejoinder the learned counsel for the Plaintiff states that the Suppressed Tweet No.1 was nothing but a point of view of the Plaintiff on the political issue forming part of the subject matter of live debate, which

[7] 418 S.W.2d. 660.
[8] Cal. Ct. App. 1939.

she had not been allowed to express by Defendant No. 1 during the live debate. She states that the said tweet is purely political statement made by the Plaintiff in pursuance of her position as National Spokesperson of National Political party and is, therefore, not relevant to the controversy.

10.1. There is no response of the Plaintiff to the non-disclosure of the Suppressed Tweet No. 2 in the rejoinder.

Analysis and Findings

11. This Court has considered the submissions of the parties and perused the pleadings and the material on record.

12. Before adverting to the facts of the present case and the averments in the application under consideration, this Court deems it appropriate to refer to the well-recognized basic threshold which has to be crossed by the Plaintiff, for establishing a case for the grant of interim relief in a suit seeking injunction and damages for defamation. The Supreme Court recently in **Bloomberg Television Production Services India (P) Ltd. v. Zee Entertainment Enterprises Ltd.**[9] has reiterated the principles to be considered by a Court in the context of interim injunctions in suits seeking injunction and damages for defamation. The relevant extracts of the judgment reads as under:

> "**5**. In addition to this oft-repeated test, there are also additional factors, which must weigh with courts while granting an ex parte ad interim injunction. Some of these factors were elucidated by a three-Judge Bench of this Court in Morgan Stanley Mutual Fund v. Kartick Das [Morgan Stanley Mutual Fund v. Kartick Das, (1994) 4 SCC 225: (1994) 81 Comp Cas 318], in the following terms: (SCC pp. 241-42, para 36)
>
> > "36. As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are—

[9] (2025) 1 SCC 741.

(*a*) whether irreparable or serious mischief will ensue to the plaintiff;
(b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;
(c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;
(d) the court will consider whether the plaintiff had acquiesced for some time and in such circumstances it will not grant ex parte injunction;
(e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.
(f) even if granted, the ex parte injunction would be for a limited period of time.
(g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court."

6. Significantly, in suits concerning defamation by media platforms and/or journalists, **an additional consideration of balancing the fundamental right to free speech with the right to reputation and privacy must be borne in mind** [*R. Rajagopal* v. *State of T.N.*, (1994) 6 SCC 632]. The constitutional mandate of protecting journalistic expression cannot be understated, and courts must tread cautiously while granting pre-trial interim injunctions. **The standard to be followed may be borrowed from the decision in *Bonnard* v. *Perryman* [*Bonnard* v. *Perryman*, (1891) 2 Ch 269 (CA)]. This standard, christened the "Bonnard standard", laid down by the Court of Appeal (England and Wales), has acquired the status of a common law principle for the grant of interim injunctions in defamation suits** [*Holley* v. *Smyth*, 1998 QB 726 (CA)]. The Court of Appeal in *Bonnard* [*Bonnard* v. *Perryman*, (1891) 2 Ch 269 (CA)] held as follows: (Ch p. 284)

"… But it is obvious that the subject-matter of an action for defamation is *so special as to require exceptional caution in exercising the jurisdiction to interfere by injunction before the trial of an action to prevent an anticipated wrong*. The right of free speech is one which it is for the public interest that individuals should possess, and, indeed, that they should exercise without impediment, so long as no wrongful act is done; and, unless an alleged libel is untrue, there is no wrong committed; but, on the contrary, often a very wholesome act is performed in the publication and repetition of an alleged libel. Until it is clear

> that an alleged libel is untrue, it is not clear that any right at all has been infringed; *and the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions*."

7. In *Fraser* v. *Evans* [*Fraser* v. *Evans*, (1969) 1 QB 349: (1968) 3 WLR 1172 (CA)], the Court of Appeal followed the Bonnard principle and held as follows: (QB p. 360)

> "… insofar as the article will be defamatory of Mr. Fraser, it is clear he cannot get an injunction. *The Court will not restrain the publication of an article, even though it is defamatory, when the defendant says he intends to justify it or to make fair comment on a matter of public interest*. That has been established for many years ever since (*Bonnard* v. *Perryman* [*Bonnard* v. *Perryman*, (1891) 2 Ch 269 (CA)]). The reason sometimes given is that the defences of justification and fair comment are for the jury, which is the constitutional tribunal, and not for a Judge. *But a better reason is the importance in the public interest that the truth should out*. …"

(Emphasis supplied)

13. Keeping in view the above principles of law governing grant of interim injunction in a suit alleging defamation, this Court now proceeds to analyze the *facts of the case* at hand. The impugned video which was published by Defendant No. 1 with his Impugned Quote Tweet was placed by Defendant No. 2 before this Court in a pen drive; and the same is titled as Video No. 3 with the footage lasting 01 minute 05 seconds.

13.1. As per the report of the Local Commissioners dated 16.10.2024 and post script filed along with the said report, the impugned video consists of three (3) parts; the first part of the footage ends at 40 seconds, the second part of the footage ends at 49 seconds and the third part of the footage ends at 01 minutes and 05 seconds.

13.2. The Plaintiff's exit from the live debate hosted by Defendant No. 1 and verbal altercation thereafter between the Plaintiff and the Defendant No.12 forms part of the first part of the video footage which ends at 40

seconds. In this application, this Court is concerned specifically with the 40 seconds video footage, which was admittedly shot at the residence of the Plaintiff; in the context of the plea of protection of privacy raised by the Plaintiff.

13.3. It is a matter of record that in the *first portion* of the 40 seconds video footage i.e., in the first 22 seconds (from 01 to 22 seconds of the video footage), the Plaintiff is seen removing her mike, rising from her chair and walking out from the shooting frame. This was also seen in the live telecast on national television at the contemporaneous time.

In this regards it is relevant to note that Plaintiff had at the contemporaneous time published Suppressed Tweet No. 1 on 26.07.2024 at 10:21 P.M. and she did not raise any objection with respect to the live telecast of this *first portion* of 22 seconds video footage on the National Television, where she is seen *unmiking*. The Suppressed Tweet No.1 reads as under:

> "@sardesairajdeep
> @IndiaToday
> @aajtak
> Don't you ever bring down my Fader again.
> Remember I have been on both the sides and know how to handle bullies like you.
> BTW it doesn't **behove** political propagandists masquerading as journalists to **sermonise.**
> And learn your facts before pitting one Ex Army Chief against all other Defence Chiefs simply to create mischief.
> Not a bolt from the blue, Army chief says Agnipath scheme came after 'due consultation' theprint.in/defence/not-a-..."
>
> (Emphasis supplied)

13.4. In the *second portion* of the 40 seconds video footage i.e., 18 seconds (which starts at 23 seconds and continues till 40 seconds) there is a verbal altercation between the Plaintiff and the cameraman i.e., Defendant No.12. It

is a matter of record that it is this 18 seconds part of the video footage out of the 40 seconds video footage, which led to the publishing of the Impugned Quote Tweet, by the Defendant No. 1. The transcript of the verbal altercation between Plaintiff and the cameraman i.e., Defendant No.12 is at **Annexure 'C'** of the Local Commissioners report dated 16.10.2024 and the same reads as under:

TRANSCRIPT

Speaker 1 (00:00:28:11 – 00:00:29:09)	:	Why, then you have?
Speaker 1 (00:00:29:10 – 00:00:30:08)	:	When I've gotten up, why you doing?
Unclear (00:00:31:00 – 00:00:31:16)	:	[*Voice unclear*]
Speaker 1 (00:00:31:17 – 00:00:32:13)	:	Just get out of my house.
Speaker 1 (00:00:32:14 – 00:00:33:12)	:	You get out of my house!
Speaker 1 (00:00:33:13 – 00:00:34:17)	:	But why when I've gotten up
Speaker 1 (00:00:34:18 – 00:00:35:24)	:	so why have you kept it like this?
Speaker 2 (00:00:36:22 – 00:00:37:22)	:	Ma'am, *waaha se* on *hai*
Speaker 1 (00:00:37:23 – 00:00:40:05)	:	Shut up! It's my house and my face!

13.5. The aforesaid transcript filed by the Local Commissioners is admitted by the parties, as recorded in the order dated 13.11.2024. The IT professional attached with the High Court of Delhi was appointed as a Local Commissioner for preparing the transcript of the altercation between the Plaintiff and Defendant No.12 in the impugned video, along with another Advocate Local Commissioner as in the pleadings, the transcript of the altercation offered by the Plaintiff and Defendants was not a match.

13.6. In this background, it would be relevant to refer to the Impugned Quote Tweet of Defendant No. 1, posting his comment on the basis of the 18 second video footage and uploading the impugned video; the said Quote Tweet reads as under:

> "Ma'am,
> @shaziailmi
> I respect all my guests always. If anything, I am too indulgent: the fader is lowered only to avoid cross talk and noise on the show. If you have a grouse with me or with an army general on the show, of course that's your prerogative. And I respect that too. **But for you to chuck the Mike and abuse our video journalist and throw him out of your house is just NOT done.** He was only doing his job. **No excuse for bad behaviour.** The rest I leave to you. Have a good weekend 🙏 (the **video below** is from last night..)
>
> **(Attached video)** "
>
> (Emphasis supplied)

13.7. It is a matter of record that the Plaintiff first saw the impugned video w.r.t. the 18 second video footage as a part of the Impugned Quote Tweet. Plaintiff responded with the Suppressed Tweet No. 2 on 27.07.2024 at 10:27 PM, wherein Plaintiff vehemently objected to the continued video recording by Defendant No. 12 for the entire 40 seconds video footage after she had exited the live debate and expressed herself as under:

> "Thanks for providing me with the EVIDENCE which clearly shows how your camera man behaved after the show
> 1. Why on earth would I stay on your show when you humiliate me and say CUT SHAZIA'S Mike off? Only because I asked you whether you think all the Defence Chiefs are lying.
> Don't know about you but I have SELF RESPECT.
> 2. I have a FOOT FRACTURE.
> Your cameraman knew it (we even discussed it as he had coffee and biscuits in my house).
> When you decided to cut my audio I saw little point staying on your terribly biased show.
> **Your cameraman watched me struggle as I got up and continued**

to film me trying to remove my mike, instead of helping me with the wheelchair.
3. **Why was he still continuing to focus on MY UPPER BODY showing it up close. It was so uncomfortable for me and I felt most embarrassed.**
Any lady would tell you that focussing on their chest is a clear No NO.
I could see this live on screen and requested him not to film me any or switch off the camera light.
4. The pervert cameraman continued to film me despite my obvious physical and emotional discomfort after the show was over. Why?
5. Why would he keep filming him in my home, my SAFE place against my WILL. And that too, AFTER the show?
6. Just because you're a famous anchor (just as much you're a sore loser) doesn't mean you can humiliate people who call you out and force your crews on people, beyond the brief and violate their private space.
7. And I dare @indiatoday to show footage of my upper body and chest again.
8. **I will take this matter up seriously as I was deeply hurt and humiliated by this behaviour.**
I have a right to choose what I want up show on air and I object to the lens focusing on my body and not my face AFTER the show.
9. It's my house @sardesairajdeep and I'm curious whether your wife would entertain a crew shooting her remove her mike from up close and then follow her around after show.
Thanks for providing this VIDEO EVIDENCE, which clearly shows how the lecherous camera man is continuing to film me despite me not wanting to be ON air."

(Emphasis supplied)

Plaintiff ought to have disclosed the Suppressed Tweets published by her on 26.07.2024 and 27.07.2024.

14. This Court would finds merit in the submission of the Defendant Nos. 1, 2 and 12 that Suppressed Tweet No. 1, Impugned Quote Tweet and Suppressed Tweet No. 2 are part of the same conversation thread and have to be read together, to appreciate the rival contentions of the parties vis-à-vis

the Impugned Quote Tweet and the impugned video. The Plaintiff ought to have made a full disclosure of the said tweets published by her especially as the contents of the said tweets have a direct bearing on the merits of the challenge laid by the Plaintiff in the plaint to the video footage of first 22 seconds in the impugned video.

First Part of the text portion of the Impugned Quote Tweet

15. The text portion of the Impugned Quote Tweet published by Defendant No. 1 is in two (2) parts. The *first part* is a response of Defendant No. 1 to the Suppressed Tweet No. 1 published by the Plaintiff. There is no grievance raised by the Plaintiff with respect to the *first part*. The un-objected *first part* of the text portion of Impugned Quote Tweet reads as under:

> "Ma'am,
> @shaziailmi
> I respect all my guests always. If anything, I am too indulgent: the fader is lowered only to avoid cross talk and noise on the show. If you have a grouse with me or with an army general on the show, of course that's your prerogative. And I respect that too."

15.1. In absence of any objection by the Plaintiff to the *first part*, this Court holds that the Defendant No. 1 is at liberty to retain the *first part* of the text portion of Impugned Quote Tweet.

Second part of the text portion of the Impugned Quote Tweet

16. The *second part* of text portion of the Impugned Quote Tweet, is stated to be the Defendant No. 1's comment about the alleged misbehaviour and conduct of the Plaintiff vis-à-vis the cameraman i.e., Defendant No. 12; on the sole basis of the impugned video published with the Impugned Quote Tweet. The *second part* reads as under:

> **But for you to *chuck the Mike* and *abuse our video journalist* and *throw him out of your house* is just NOT done.** He was only doing

his job. ***No excuse for bad behaviour.*** The rest I leave to you. Have a good weekend 🙏 (the **video below** is from last night..)

(Emphasis supplied)

16.1. Significantly, Defendant Nos. 1 and 2 have categorically stated that they did not seek any clarification or corroboration from Plaintiff or Defendant No. 12 before publishing the Impugned Quote Tweet. The relevant para of their stand in the written submissions read as under:

> "21. The video in question (Video-3) was of such clarity and strength that it was **not necessary** for the Defendant No. 2 to seek further clarification or corroboration. It is important to point out that D-2 had not sought the view of D-12 before publishing the said video."
>
> (Emphasis supplied)

16.2. As per the pleadings of Defendant No.1 the comment in the *second part* is intended to show the correct and *true* picture to public at large, of the Plaintiff and her unjustified and unprovoked[10] misbehavior vis-à-vis the cameraman i.e., Defendant No. 12. It is stated that it is in public interest to expose this misbehavior by a VIP political figure i.e., Plaintiff.

Scope of analysis by this Court

17. This Court deals *firstly* with the plea of the Plaintiff that the impugned video is an invasion of her privacy as she had not consented to the recording of the impugned video. It is further contended that the said video is defamatory; and therefore, the same should be taken down from the public domain.

17.1. Thereafter, this Court will analyze the Plaintiff's challenge to the comments in the *second part* of the text portion of the Impugned Quote Tweet on the ground of defamation.

Privacy rights of the Plaintiff vis-à-vis impugned video

[10] Para 2 (x) and (xi) in Defendant No. 1's Reply to I.A. No. 36026/2024

18. The Defendant Nos. 1 and 2 have contended that video footage of 40 seconds which was recorded after the Plaintiff withdrew from the live debate was due to a technical lag and not deliberate. The said Defendants contend that its subsequent uploading with the Impugned Quote Tweet is not in violation of Plaintiff's privacy as Plaintiff had consented[11] to the video recording of her interview as a panelist of the live debate on 26.07.2024 and, therefore, the Plaintiff has waived all her rights to privacy qua the recorded footage including these 40 seconds post her withdrawal.

(i) First Issue vis-à-vis rights of privacy of the Plaintiff qua the 40 second video First portion of 22 seconds of the impugned video

19. Therefore, the first issue arising for consideration on the basis of the defence of Defendant Nos. 1 and 2 is that, '*whether the Plaintiff had waived all her rights to privacy vis-à-vis the impugned video (more specifically the first part of 40 seconds forming part of Video No.3) recorded in the privacy of her home and as uploaded with the Impugned Quote Tweet ?*

19.1. Admittedly the Plaintiff had consented to participating in the live debate hosted by Defendant No. 1 on the platform of Defendant No. 2 on a current affairs issue. The Plaintiff had joined the live debate virtually from her home and had consented to the video recording of her views on the topic of the live debate. It is a matter of record that due to a difference of opinion with the host Defendant No. 1, the Plaintiff elected to withdraw from the live debate midway, which was not objected to by Defendant No. 1 and he in fact, fairly observed on the National Television that Plaintiff is at liberty to withdraw from the debate. [This can be seen in the video footage of the televised live debate placed before this Court as Video No. 1].

[11] Para 2 (xii) in Defendant No. 1's Reply to I.A. No. 36026/2024

19.2. A perusal of Video No. 1 as seen on National Television shows that when the Plaintiff withdrew from the live debate, she first removed the microphone and the patch and thereafter, rose from her chair and walked away from the shooting frame; all of which was visible in the televised live debate. These actions are *also* captured in the first 22 seconds of impugned video, which video was recorded at Plaintiff No. 1's residence. To this extent, this Court finds merit in the submission of Defendant Nos. 1 and 2 that the Plaintiff had waived privacy rights vis-à-vis the first 22 seconds of the Video No.3 as she did not instruct Defendant No. 12 to stop recording her before she started removing her microphone. The live telecast of first 22 seconds of the impugned video was known to the Plaintiff at the contemporaneous time and she did not raise any objections to this effect in her Suppressed Tweet No. 1 which was published on 26.07.2024 at 10:21 P.M., immediately after she exited from the live debate.

19.3. In this regard, this Court observes that the allegations of the Plaintiff[12] that the video recording of her removing her microphone (as seen in the first 22 seconds of the impugned video) outrages her modesty also does not *prima facie* appeal to this Court. When Video No. 1 of the live debate is seen in continuity and as a whole, it is observed that Plaintiff carefully proceeded to remove the microphone having decided to withdraw from the live debate. There is no discomfort visible on the Plaintiff's face, as alleged in the plaint. In fact, the Plaintiff can be seen removing the microphone efficiently and walk away from the chair in which she was seated. More importantly, the televised live debate was also being viewed by the Plaintiff on the TV screen in her room at her residence (as also admitted by the Plaintiff in the

[12] At paragraph 3.6 of the plaint.

Suppressed Tweet No.2) and therefore, she could see that her action of removal of her microphone has been captured on the live debate and Plaintiff did not raise any objection at the contemporaneous time on this recording of *unmiking* in the Suppressed Tweet No.1.

19.4. If the Plaintiff, did not want the removal of the microphone to be recorded, she should have first asked Defendant No. 12 to stop recording her, confirm the stoppage of recording and then proceeded to remove her microphone. In the facts of this case, Plaintiff did not do any of the above; however, once she decided to withdraw from the live debate, she *unmiked* herself while still being seen on National Television and walked away from the shooting frame.

19.5. Thus, the Plaintiff's allegations pertaining to the video recording of her removing the microphone, allegedly outraging her modesty or violating her privacy appears is misconceived and appears to be an afterthought.

Next 18 seconds of the impugned video

20. Now this Court proceeds to examine the next 18 seconds (23 to 40 Seconds) of the impugned video recorded by Defendant No. 12 after the Plaintiff had walked away from the chair and the shooting frame; and Plaintiff's shooting frame admittedly stopped being telecast on the National Television.

20.1. Upon careful examination of the next 18 seconds of the impugned video, it is evident that various parts of the Plaintiff's residence, including her bedroom, are visible in this footage. Additionally, while the Plaintiff was participating in the live debate, her hair was styled and left open. However, in these 18 seconds of the impugned video, her hair can be seen tied in a bun, moreover she is hobbling (probably due to the cast on her foot) suggesting that at the relevant time she had no intention of being recorded

for public viewing. After moving out of the shooting frame, she was in the comfort and privacy of her home, a space where she had a reasonable expectation of being undisturbed and not being seen by public without her consent.

20.2. This Court recognizes that the Plaintiff has her right to privacy and her right to be left alone *qua* these 18 seconds portion of the impugned video. In making the above observations, this Court draws support from the principles laid down by the Supreme Court in **Gobind v. State of MP**[13], wherein, after referring to its earlier decision in the case of **Kharak Singh v. State of MP**[14] the Supreme Court observed, to the effect, that when an individual is within the privacy and comfort of their home, they are able to relax and be their authentic self, free from the societal expectations and personas they may adopt in public to foster acceptance and harmony with others. The relevant portion of the said judgment in **Gobind** (supra) reads as under:

> "27. **There are two possible theories for protecting privacy of home**. The first is that activities in the home harm others only to the extent that they cause offence resulting from the mere thought that individuals might be engaging in such activities and that such "harm" is not constitutionally protectible by the State. **The second is that individuals need a place of sanctuary where they can be free from societal control. The importance of such a sanctuary is that individuals can drop the mask, desist for a while from projecting on the world the image they want to be accepted as themselves, an image that may reflect the values of their peers rather than the realities of their natures.**"
>
> (Emphasis supplied)

20.3. The consent of the Plaintiff to record her video in her house as a part of the participation in the live debate came to an end the moment, the

[13] (1975) 2 SCC 148.

Plaintiff withdrew herself from the live debate and walked away from the chair and shooting frame. Ideally, Defendant No. 2's PCR and Defendant No. 12 ought to have stopped recording the Plaintiff immediately. The video recording continued as per Defendant No. 12 due to a technical lag. The Defendant No. 2 was not authorized to use this footage of 18 seconds recorded as a consequence of a technical lag, by itself or share the same with Defendant No. 1 as it does not fall in the first category of exception recognized in **Gobind** (supra).

20.4. Defendant No. 12 in his version of events given to this Court on 13.08.2024 has stated that it took him some lag time to switch off his camera after Plaintiff had withdrawn from the live debate and the recording of 40 seconds is bona fide. Assuming this defence of Defendant No. 12 to be correct , however, same would not authorize Defendant Nos. 1, 2 and 12 to use the video footage recorded for these 18 seconds after the Plaintiff had risen from the chair and walked away from the shooting frame, without the Plaintiff's express consent; as the Plaintiff's consent to video recording had ceased when she rose from the chair and walked away from the shooting frame.

20.5. Defendant Nos. 1 and 2 have sought to justify the use of the 18 second video footage to allegedly comment upon the (unbecoming) conduct of Plaintiff, who is a public figure vis-à-vis Defendant No. 12 (cameraman). In the considered opinion of this Court, even this plea would not entitle Defendant Nos. 1 and 2 to use the video footage of 18 seconds for uploading it along with the Impugned Quote Tweet as they had no authority to use the said footage in absence of express consent from the Plaintiff.

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[14] (1964) 1 SCR 332.

20.6. The Defendant No.1, 2 and 12 also could not have used the said video footage of 18 seconds as no *'Harm'* was caused by the Plaintiff against the Defendant No. 12 which would make the actions of Defendant Nos.1 and 2 of use of the said video footage to fall within the exception test of 'Harm' settled in **Gobind** (supra). In this regards it is imperative to note that the verbal altercation which took place between the Plaintiff and Defendant No. 12 on 26.07.2024 at the highest qualifies as verbal abuse. This abuse is not actionable in law (penal or otherwise). Supreme Court recently in **Mohd Wajid & Anr. v. State of U.P.**[15] had an occasion to examine whether verbal abuse is actionable under Penal Law and the Supreme Court held as under:

> 25. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. **Mere abuse may not come within the purview of the section**. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

[15] 2023 INSC 683.

> 26. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. **Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant.** In King Emperor v. Chunnibhai Dayabhai, (1902) 4 Bom LR 78, a Division Bench of the Bombay High Court pointed out that:- "To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds." (Emphasis supplied)"
>
> (Emphasis supplied)

20.7. In the facts of this case as well the verbal altercation does not constitute '*harm'* as envisaged by the Supreme Court in **Gobind** (supra) and, therefore, the exception recognized in the law so laid down, is not attracted so as to justify the action of Defendant Nos. 1 and 2 to upload the video footage of 18 seconds without the consent of the Plaintiff.

20.8. The Supreme Court in the case of **R. Rajagopal v. State of Tamil Nadu**[16], summarized the principles relating to the conflicting aspects of right to privacy vis-à-vis freedom of speech and expression and also freedom of press. The Supreme Court held that right to privacy is an integral part of right to life and personal liberty (i.e., Article 21 of the Constitution of India) and the said right to privacy also encompasses right to be let alone. The Supreme Court further held that because of the safeguards forming part of the right to privacy, no one can publish anything with respect to an

[16] (1994) 6 SCC 632.

individual's own self or her home without his or her consent. The relevant paragraph of the said judgment reads as under:

> "26. We may now summarise the broad principles flowing from the above discussion:
> (1) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent — whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned…"

20.9. As regards, the Plaintiff being a public figure, a learned Single Judge of High Court of Madras in **Selvi J. Jayalalithaa v. Penguin Books India**[17] while opining on the issue of right to privacy of Public Personality has held that even though an individual possesses a public centric life, then too when it comes to right of privacy, the said individual enjoys similar safeguard of privacy rights as any other individual. The relevant paragraph of the said judgment reads as under:

> "63. As far as a public personality is concerned, **the right of privacy is equivalent to that of an individual when it is not associated with the public life.** Therefore, a thin difference has been put forth regarding the private life of a public official and the public duties of the public official. **Even a public official's private life is touched by publishing the information regarding those private matters without consent and verification, it would be an invasion of private life or privacy**."
>
> (Emphasis supplied)

20.10. Therefore, it is held that the Defendant No.1 and 2 could not have used the said video footage of 18 seconds as the same was recorded without the consent of the Plaintiff violating her right to privacy. One such exception where this video footage could have been used by Defendant Nos. 1 and 2

[17] 2012 (3) MWN (Civil) 171.

would have been before an appropriate authority with the permission of the said authority if they intended to lodge a formal complaint against the Plaintiff to seek redressal against her actions qua the cameraman i.e., Defendant No.12. However, trial by social media at the behest of Defendant Nos. 1 and 2 against the Plaintiff by using this video footage of 18 seconds on their social media handle without her consent would be impermissible in law.

20.11. Thus, in view of the aforesaid findings and law laid down by the Constitutional Courts, the ad-interim order passed on 13.08.2024 directing the Defendants to remove the impugned video (video no. 3) and not circulate the same, which contains the said of 18 seconds video footage is hereby confirmed until the final disposal of the suit.

21. The Defendant Nos. 1 and 2 has relied on the judgments i.e., **Martin (supra)** and **Meter (supra)**, which in the opinion of this Court are distinguishable in the facts of the present case and also in light of the findings given by this Court.

21.1. In **Martin (supra)** the Court observed that once a person has consented to the use of photograph, the manner of use of photograph cannot be dictated by the Plaintiff and in **Meter (supra)** the Court held that once consent has been given the person, he/she cannot claim right to privacy. In the preceding paragraphs, this Court has given a finding that the Plaintiff did not consent to the recording of the 18 seconds of the impugned video and/or its publishing. This Court has further observed that since there was no consent, the recording and/or publishing of the 18 seconds of the impugned video is violative of the right of privacy of the Plaintiff. Therefore, in the

light of said findings the judgment in **Martin (supra)** and **Meter (supra)** will not come to the aid of the Defendant No.1 and 2.

(ii) Second Legal Issue vis-à-vis Second part of the text portion of the Impugned Quote Tweet

22. This bring this Court to the second legal issue pertaining to permissibility of the publishing of the *second part* of the text portion of the Impugned Quote Tweet, which as per Defendant Nos. 1 and 2 is solely based on their opinion drawn after viewing the impugned video. The issue is '*whether second part of the text portion of the Impugned Quote Tweet is protected by the defence of truth or not'*. The said *second part* of the text portion of the Impugned Quote Tweet is reproduced hereinbelow:

> **"But for you to *chuck the Mike* and *abuse our video journalist* and *throw him out of your house* is just NOT done.** He was only doing his job. ***No excuse for bad behaviour*.** The rest I leave to you. Have a good weekend 🙏 (the **video below** is from last night..)"
>
> (Emphasis supplied)

22.1. Before adverting to the facts of the present case in this regard, it would be apposite to refer to the judgment of learned Single Judge of this Court in the case of **Ram Jethmalani v. Subramaniam Swamy**[18], wherein the Court explained that the defenses available in a suit for defamation are that of truth, fair comment and privilege. The Court in the said judgment further explained that if a party is claiming defence of truth the said party has to establish that whatever has been stated which is alleged to be defamatory is '*substantially correct*'. The relevant paragraph of the said judgment reads as under:

> "95. Traditional defences to an action for defamation have now become fairly crystallised and can be compartmentalised in 3 compartments: truth, fair comment and privilege. **Truth, or**

[18] (2006) 126 DLT 535.

justification, is a complete defence. The standard of proof of truth is not absolute but is limited to establishing that what was spoken was 'substantially correct'."

(Emphasis supplied)

22.2. In the *second part* of the text portion of the Impugned Quote Tweet there are four (4) comments vis-à-vis Plaintiff solely based on the impugned video; (i) *chuck the mike*; (ii) *abuse our video journalist*; (iii) *throw him out of your house*; and (iv) *no excuse for bad behaviour*.

22.3. As noted above Defendant No.1 admits that these comments are not based on corroboration of Defendant No. 12 but solely on the basis of the opinion formed by Defendant No.1 and PCR of Defendant No. 2 after viewing the impugned video. This Court will deal with each of the said comment, objected to in the plaint and the captioned application, to see whether they are covered by the defence of truth or not.

'Chuck the mike' and 'throw him out of your house'

22.4. This Court has viewed Video No. 3, which has been relied upon by Defendant Nos. 1 and 2 and also Video No.1 for further clarity. As previously noted in this judgment, a careful examination of the said videos reveals that the Plaintiff removed the mike efficiently and the patch attached to it, and subsequently rose from her chair, placing the microphone on the table in front of her. The microphone however fell due to the entanglement with the cord. It is therefore, clear on a bare perusal of the video footages that by no reasonable interpretation, can it be claimed that the mike was '*chucked'* by the Plaintiff. Therefore, the comment *chuck the mike* cannot be said to be substantially correct as it is without any basis and contrary to the video footages; not affording this comment, the protection of defence of truth as contended/relied upon by Defendant No. 1.

22.5. Insofar as protection of defence of truth qua the comment *throw him out of your house* is concerned it has been examined on the basis of the impugned video and the reply filed by Defendant No. 12 to the captioned application. This is for the reason that Defendant No. 1 admits that he had not verified the facts from Defendant No. 12 before posting the Impugned Quote Tweet and had relied solely upon the impression formed by him after viewing the impugned video. The part of impugned video of 18 seconds certainly shows the Plaintiff aggressively demanding Defendant No. 12 to leave her house and the words used while so directing are certainly not polite or cordial. Admittedly, it is not the case of Defendant No. 12 in his reply to this application that he was physically escorted out or pushed out from Plaintiff's apartment. However, Defendant No. 1's comment that Plaintiff threw the Defendant No. 12 out of her house is bound to give an impression to the ordinary reader on reading the comment with the impugned video as though, Plaintiff physically pushed out Defendant No. 12 from the apartment; which is factually inaccurate and not even made out from viewing the 18 seconds video footage. The dictionary meaning of '*throw*' as per Shorter Oxford English Dictionary Sixth Edition, Volume 2, which is relevant in the facts of this case reads as under:

> "**Throw**/verb
> **7.** verb trans. **a Cause forcibly to fall**"
>
> (Emphasis supplied)

Thus, this comment '*throw him out of your house'* in the *second part* of the text portion of the Impugned Quote Tweet is not substantially correct and therefore, not saved by defence of truth.

22.6. Furthermore, when the phrases *chuck the mike* and *throw him out of your house* is evaluated in the context of Defendant No. 1's assertion in his reply, wherein he stated that the Impugned Quote Tweet was published to

present the Plaintiff's true image vis-à-vis her character to the public, it can be reasonably concluded that the comment *chuck the mik*e and *throw him out of your house* is an overstatement, intended to create a sensationalized narrative, which in fact had an intended effect because various news agencies published and reported the Impugned Quote Tweet as a *fact* to its readers/viewers.

22.7. In the present case, the text of the Impugned Quote Tweet uses a powerful expression, which when the ordinary reader of the tweet would read is bound to influence his/her mind before he/she plays the attached impugned video. The comments in the Impugned Quote Tweet would create a perspective with which the reader would view the impugned video. Since, 'X' is a conversational medium and the reader would spend limited time viewing the comment and the video, the impression formed on the basis of the comment and video would be instantaneous. Since Defendant No. 1 is a reputed Journalist with large number of followers, the tendency of the reader to believe the accuracy of the comment posted by Defendant No. 1 would be higher. Moreover, in the facts of this case, since Defendant No. 1 in the Impugned Quote Tweet has asserted that he is commenting about the conduct of Plaintiff vis-à-vis Defendant No.2's cameraman (Defendant No. 12), the reader would further assume that Defendant No. 1 had verified the said fact. Thus, the impact of Defendant No. 1's Impugned Quote Tweet is certainly significant as is evident from the rapid traction that this comment got with other news agencies. For instance, Defendant No. 10 has posted a comment alleging that Plaintiff *attacked* Defendant No. 12, which comment is clearly not made out in the facts of this case. However, this Court having viewed the impugned video and having perused the affidavit of Defendant

No. 12 finds that Defendant No. 1 did not have a reasonable basis for making these impugned comments i.e., '*chuck the mike'* and *'throw him out of your house'*.

'Abuse our video journalist' and 'no excuse for bad behaviour'

22.8. The comment '*abuse our video journalist'* when tested on the touchstone of the defence of truth, would be maintainable being substantially correct on perusal of the impugned video footage. The dictionary meaning of '*abuse*' as per Shorter Oxford English Dictionary Sixth Edition, Volume 1, which is relevant in the facts of this case is as under:

> "**abuse/**verb trans.
> **6. Speak insultingly** or **unkindly** to or of; malign."
>
> (Emphasis supplied)

In the video footage of 18 seconds, the tone, tenor and the language (as noted in the transcript[19]) used by Plaintiff vis-à-vis Defendant No. 12 while directing him to leave her house, would certainly fall within the definition of abuse and to this extent, in the opinion of this Court the comment of the Defendant No. 1 is *prima facie* saved by the defence of truth. In conjunction with this finding, the final comment of Defendant No. 1 *no excuse for bad behaviour* would be *prima facie* maintainable on this ground alone.

22.9. The Plaintiff while admitting to the veracity of the Local Commissioner's transcript of the 18 seconds video, has simply stated that it does not amount to *abuse* or *misbehaviour*. This Court at this *prima facie* stage is unable to accept this stand of the Plaintiff and finds that the Defendant No.1's comment to this extent in the Impugned Quote Tweet

[19] Annexure C to the Local Commissioner's Report

based on the impugned video footage, while adjudicating this interim application is probable; and is, therefore, not liable to be struck down.

22.10. In fact, after viewing the impugned video, per se this Court is of the opinion that the comments i.e., *pervert cameraman* and *lecherous cameraman* made by the Plaintiff against the Defendant No.12 in the Suppressed Tweet No.2 are not made out and are *ex-facie* incorrect.

Applicability of norms of journalistic conduct

Qua Defendant No.1

23. The Plaintiff has relied upon paragraph 5 (ii) of the Norms of Journalistic Conduct 22nd edition, published by Press Council of India to contend that since the altercation between Plaintiff and Defendant No. 12 has no public interest element, Defendant No. 1 cannot plead truth as a defence.

23.1. In the facts of this case, the Impugned Quote Tweet is admittedly not a Journalistic piece published by Defendant No. 1. It has been pleaded by Defendant No. 1 in its reply that after the live debate concluded, he was shown the impugned video by the PCR of Defendant No. 2 and he was asked to do something about the misbehaviour and abuses hurled by the Plaintiff on Defendant No. 12. Defendant No. 1 has further contended that after perusing the Suppressed Tweet No. 1 he posted the Impugned Quote Tweet to set the record straight and also highlight the conduct of Plaintiff vis-à-vis Defendant No. 12.

23.2. Thus, this Court finds that the Impugned Quote Tweet of Defendant No. 1 would not be covered by the Norms of Journalistic Conduct as it was not being published as a journalistic piece of news and is in the nature of the personal comment of Defendant No. 1 vis-à-vis the Plaintiff, basis the impugned video; albeit with the express approval of Defendant No. 2.

Qua Defendant Nos. 6 to 9

23.3. However, Defendant Nos. 6 to 9 hold themselves out to be internet-based news websites. They published impugned articles carrying the Impugned Quote Tweet and impugned video and reported it as 'facts'. These articles would certainly be governed by journalistic norms cited by Plaintiff and Defendant nos. 1 and 2; and these Defendants (nos. 6 to 9) would certainly be obliged to carry out verification from Plaintiff and Defendant No. 12 before reposting the Impugned Quote Tweet and impugned video.

23.4. In this regard, this Court finds that the Plaintiff has rightly relied upon the Norms of Journalistic Conduct published by Press Council of India which requires the journalist to verify the story from the concerned parties before reporting on the same. In the facts of this case, Plaintiff has asserted that no such verification was carried out by the said Defendant Nos. 6 to 9. Moreover, the impugned video placed in public domain by Defendant Nos. 1 and 2 without the consent of the Plaintiff is liable to be removed by other Defendants as well. Therefore, Defendant No.6 to 9 are directed to take down impugned video and/or the article published on the basis of the said impugned video.

Qua Defendant No.10

23.5. Defendant No. 10 in the memo of parties appears to be an individual, who administers the social media account on X mentioned against his name. Defendant No. 10 as well has no justification for uploading the impugned video or the accompanying comment and he is, therefore, directed to take down the impugned video and remove the comment, which remains substantiated.

Doctored Video

24. It has been argued in the plaint at para 3.18 that the impugned video published by the Defendant No.1 is a doctored video. It is stated that impugned video was doctored and published with the intent of putting the Plaintiff in bad light and to defame her. In this regards it would be relevant to refer to the post script filed by the IT Local Commissioner along with the main report of the Local Commissioners. In the said post script, the IT Local Commissioner has highlighted three (3) probable doubts with respect to the impugned video and has subsequently answered all three (3) of them. The relevant extract reads as under:

> "After observing the Impugned Video No. 3, following doubts were raised:
>
> 1. Why the resolution of impugned video is lower (848x480 pixels) as compared to the Original recorded video (1920x1080 pixels)?
> 2. If impugned Video No. 3 is combination of three separate clips then where is the Original recorded video?
> 3. Why the audio in Video No. 3 is in inaudible range?
>
> It seems that Impugned Video No. 3 is the feed from the camera received by the Studio and not the original footage shot at female speaker's house as claimed in the title of the Video No. 3.
>
> In Video No. 1 titled as "Video - 1- Full Video as telecasted- News Today Debate Cost Cutting Or Modernising Forces Rajdeep Sardesai India Today", the male speaker/host calls for putting the voice of female speaker down at 22:30 (MM:SS) and probably this caused very low/inaudible audio in the impugned Video No. 3.
>
> Since, the impugned video has lower resolution and lower audio quality, I had to increase the volume of the impugned video by applying "Volume" effects. However, in my opinion the best video to observe is the Video footage titled as "966_4845" which was actually recorded at the house of female speaker having best video and audio quality. The said video footage is required to be extracted directly from the original recording device/camera to rule out any possibility of editing."
>
> (Emphasis supplied)

Based on the observations outlined, it cannot be definitively concluded at this interim stage that impugned video has been doctored. The concerns raised regarding its lower resolution, the absence of the original recorded video, and the inaudible audio quality are point for consideration, however cannot be gone into at this stage of deciding the captioned application. Therefore, based on the main report and post script, there is insufficient evidence to conclusively state that impugned video has been doctored.

Admittedly, the Plaintiff published Suppressed Tweet No. 2 subsequent to the Impugned Quote Tweet and the accompanying impugned video published by Defendant No. 1. A perusal of the Suppressed Tweet No. 2, published on 27.07.2024 at 10:27 PM, reveals that there is no reference to any allegation, concern, or assertion that the impugned video, published with the Impugned Quote Tweet, was doctored. This omission suggests that, at the relevant time, the Plaintiff did not perceive the impugned video to be altered or doctored, and allegation being raised in the present proceeding is an afterthought.

Conclusion

25. In view of the aforesaid findings, this Court is of the considered opinion that Defendant Nos. 1 and 2 are not entitled to publish or circulated the impugned video as it consists of an 18 seconds video footage for which there was no consent of the Plaintiff for its recording or publication. Moreover, having reviewed the impugned video and having perused the reply of Defendant No. 12, this Court is of the considered opinion that in the Impugned Quote Tweet, the comments '*chuck the mike'* and '*throw him out of your house'* are not justified and are liable to be removed.

26. Defendant Nos. 6 to 10 as well are directed to take down the impugned video from their respective social media platforms, handles and websites, until the final disposal of the underlying suit.

27. This Court considers it apposite to set-out out the findings and directions issued above:

(i) The Court notes that a Plaintiff alleging defamation on social media platform arising out of a conversation thread must mandatorily disclose the full conversation thread, particularly her own tweets/comments as well and should approach the Court with clean hands. The Plaintiff therefore ought to have disclosed the tweet published by her on 26.07.2024 at 10:21 PM and tweet published by her 27.07.2024 at 10:27 PM.

(ii) The Impugned Quote Tweet has to be read with Suppressed Tweet No.1 and Suppressed Tweet No.2 as they form part of the same conversation thread.

(iii) The allegation of the Plaintiff with respect to the first 22 seconds of the impugned video stating that it outrages her modesty is an afterthought, as firstly the Plaintiff did not object to/raise the said grievance in the Suppressed Tweet No.1, which was published right after the live debate; and secondly the said video footage was telecasted on National Television contemporaneously on the date of live debate.

(iv) The contention of the Plaintiff that recording and publishing the impugned video (vis-à-vis 18 seconds after she withdrew from the live debate and moved out of the shooting frame) violates her right to privacy is duly made out in the facts of this case; and this Court finds that indeed the right of privacy of the Plaintiff was violated; but only

with respect to the 18 seconds footage (starting at 23 seconds and ending at 40 seconds) in the impugned video; as the Plaintiff did not consent to the said recording. Therefore, the Defendant No.1 and 2 could not have recorded or used the said portion of the impugned video in absence of the express consent from the Plaintiff and consequently the order dated 13.08.2024 directing removal of the impugned video is hereby confirmed till the disposal of the suit.

(v) The Defendant No.1 can retain the *first part* of the text portion of the Impugned Quote Tweet as there are no objections raised by the Plaintiff qua the said text portion.

(vi) The comments of the Defendant No.1 in the *second part* of the text portion of the Impugned Quote Tweet i.e., *chuck the mike* and *throw him out of your house* cannot stand as the same are not protected by defence of truth, for not being substantially correct. Therefore, the Defendant No.1 cannot retain the said comments.

(vii) Further comments of the Defendant No.1 in the *second part* of the text portion of the Impugned Quote Tweet i.e., *abuse our video journalist* and *no excuse for bad behaviour* can be retained by the Defendant No.1 as the same are protected by defence of truth, being substantially correct.

(viii) The allegation of the Plaintiff that the impugned video is doctored is not prima facie made out. The Plaintiff did not place on record anything to substantiate that the impugned video is doctored. Further the IT Local Commissioner appointed by this Court did not return a positive finding stating the impugned video is doctored.

(ix) Lastly, the order dated 13.08.2024 qua the Defendant Nos. 6 to 10 is also confirmed and they are directed to take down impugned video and/or the article published on the basis of the said impugned video.

28. Before parting this Court would like to take note of the fact that since the Plaintiff had willfully suppressed two (2) tweets which formed part of the same conversation thread of which the Impugned Quote Tweet was part of and therefore, the Plaintiff is saddled with the cost of Rs. 25,000/- payable to Delhi High Court Bar Clerks' Association, through the Secretary within a period of three (3) weeks. In this regard, an affidavit of compliance shall be filed within two (2) weeks thereafter.

29. In view of the aforesaid findings and observations the application filed by the Plaintiff under Order XXXIX Rules 1 and 2 CPC stands disposed of.

30. Needless to mention that any observation made hereinabove are prima facie in nature and only for the purpose of disposal of the captioned application and will not tantamount to an expression of opinion on the merits of the case.

MANMEET PRITAM SINGH ARORA, J

APRIL 04, 2025/sk/AM