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

+ CONT.CAS(C) 183/2016 & CM APPLs. 22297/2016, 12135/2018

DR. RAJENDRA KUMAR PACHAURI ..... Petitioner

Through: Mr. Ashish Dixit, Advocate for the  
deceased Petitioner

versus

INDU JAIN & ORS. .... Respondents

Through: Mr. Ashish Verma for R-1 to R-3  
Ms. Malvika Trivedi, Sr. Advocate  
Mr. Aman Avinav, Mr. Rahul Tyagi,  
Advocates for R-5  
Mr. Siddharth Aggarwal, Sr.  
Advocate with Mr. Milanka  
Chaudhury, Ms. Naina Dubey, Mr  
Ravneet Singh, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

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**22.05.2023**

1. This petition has been filed stating that Respondent Nos. 1 to 5 have published articles and aired interviews in violation of the ad-interim order dated 17.02.2015 issued by a Coordinate Bench of this Court in CS (OS) No. 425/2015, as clarified *vide* order dated 18.02.2015.

2. The learned counsel for Respondent Nos. 1, 2 and 3 states that the said Respondents have been impleaded in their capacity for being associated with the Bennett & Coleman Company Ltd.

2.1. He states that Respondent No. 1 has since passed away during the pendency of this petition on 13.05.2021 and therefore, the said petition has abated as regards, Respondent No. 1. He states that in fact, the Petitioner as

well has passed away on 13.02.2020 and in view of the said fact, the civil suit CS (OS) No. 425/2015 has been disposed of as abated by the Coordinate Bench *vide* its order dated 04.03.2020. He states that the ad-interim order dated 17.02.2015 and 18.02.2015 as well have ceased to exist with the abatement of the suit.

2.2. He states that after the passing away of the Petitioner, the counsel for the deceased Petitioner cannot represent him in these proceedings.

2.3. He states that however, without entering into the merits and maintainability of the allegations made against the surviving Respondent Nos. 2 and 3 in this petition; he states that Respondent Nos. 2 and 3 have filed their affidavit dated 24.04.2023 and 12.04.2023 respectively, tendering their unconditionally apology to this Court.

2.4. He states that the impugned articles were published under the *bona fide* belief that the same were permitted in terms of the Court's clarification order dated 18.02.2015.

2.5. He states that even after the filing of the present petition the Respondents have continued to publish news articles with respect to the allegations made by complainant against the deceased Petitioner; however, the Petitioner has never raised any grievance of any further violation of the order dated 18.02.2015 by the Respondents during his lifetime.

3. The learned senior counsel appearing on behalf of Respondent No. 5 states that at the relevant time Respondent No. 5 as well, was associated with Bennett & Coleman Company Ltd and is similarly, placed as Respondent Nos. 2 and 3.

3.1. She states that Respondent No. 5 as well has filed his affidavit dated 28.04.2023 tendering unconditional apology. She states that the broadcasts,

which have been complained of in the present petition were aired under a *bona fide* belief that the same are not prohibited as per order dated 18.02.2015 passed in CS (OS) No. 425/2015.

4. This Court has pursued the aforesaid affidavits.

5. The civil suit as noted above has since abated. The operation of the ad-interim order dated 17.02.2015 and 18.02.2015 have also come to an end with the termination of the suit proceedings. There is no allegation of any further alleged violation of the said orders by the said Respondents after the filing of the contempt petition.

5.1. Considering the fact that the Respondent Nos. 2, 3 and 5 have at the outset tendered their written unconditional apology by way of their respective affidavits and have admittedly not published any further articles or aired broadcasts in contravention of the ad-interim orders, this Court accepts the said apology.

6. Accordingly, the Respondent Nos. 2, 3 and 5 are discharged and the present petition is disposed of with respect to the said Respondents.

***Respondent No. 4***

7. The Respondent No. 4 has been impleaded in his capacity as the Executive Co-Chairperson of New Delhi Television Ltd. ('NDTV Ltd'). The basis for impleading the Respondent No. 4 is an article dated 14.02.2016 published on the official website of 'NDTV.com'.

8. The learned senior counsel appearing on behalf of Respondent No. 4 has made the following submissions: -

8.1. He states that NDTV Ltd. was admittedly not arrayed as a Defendant in CS (OS) No. 425/2015.

8.2. He states that in the present petition, the Petitioner has relied upon an

email dated 21.05.2015 issued by the Petitioner's counsel, which as per the Petitioner; were addressed to the Chief Editor and Legal correspondent of NDTV Ltd. He states that the said mail was purportedly sent to inform the Respondent No. 4 about the ad-interim order dated 17.02.2015.

8.3. He states that the said email dated 21.05.2015 was never received in the office of NDTV Ltd. as the said email addresses mentioned therein are invalid and do not exist on the domain name 'NDTV.com'. And therefore, Respondent No. 4 was personally not put to notice of the order dated 17.02.2015.

8.4. He states that even otherwise the orders passed in CS (OS) No. 425/2015 could only bind the parties thereto and were not issued against the world at large. And, since NDTV Ltd. was not a party to the said suit, the said order could not be binding on it.

8.5. He states that it is a matter of record that the Petitioner herein had filed an application under Order 39 Rule 2-A CPC in CS (OS) No. 425/2015 on the same alleged cause of action and seeking the same reliefs as prayed for in the present petition against NDTV Ltd., however, the said application was withdrawn *vide* order dated 23.02.2016, with a liberty to file a contempt petition; for precisely the reason that it was not maintainable.

8.6. He states that thereafter a substantive separate suit (2<sup>nd</sup> suit) was filed by the Petitioner against the NDTV Ltd. in April 2016 before the Patiala House District Courts ('District Court') numbered as CS No. 57510/2016. He states that in the 2<sup>nd</sup> suit, an interim direction dated 25.02.2017 was passed by the District Court, which permitted the defendants therein, to carry news reports with respect to the complaints filed against the Petitioner, however, with a disclaimer, which is mentioned in the said order. He states

that the said interim direction was also subsequently vacated by the District Court on 13.02.2018.

8.7. He states that the 2<sup>nd</sup> suit filed in the District Court as well has been disposed of as abated *vide* order dated 14.09.2021.

8.8. He states that there was therefore never any ban on the media or NDTV Ltd. from publishing articles about the Petitioner as regards the complaints filed against him.

8.9. He summarised to state that admittedly neither NDTV Ltd. nor Respondent No. 4 were parties in CS (OS) No. 425/2015. He states that there was no service of the ad-interim orders dated 17.02.2015 and 18.02.2015 upon the said Respondent No. 4 as required under Order 39 Rule 3 of CPC. He states that in these facts Respondent No.4 cannot be liable for violation, if any, of the orders dated 17.02.2015 and 18.02.2015. He states that the present contempt petition against the said Respondent No. 4 is not maintainable.

8.10. He states without prejudice to the aforesaid submission of non-maintainability, a bare perusal of the impugned article dated 14.02.2016 would evidence that the said article is in conformity with the orders dated 17.02.2015 and 18.02.2015 passed by this Court in CS (OS) No. 425/2015.

8.11. He states that the said article duly records that the charges made by the complainant have been denied by the Petitioner herein. He further states more significantly, that the report pertains to a complaint received from a second aggrieved person, which complainant was admittedly not the subject matter of the original CS (OS) 425/2015.

8.12. He concludes by stating that the Respondent No. 4 has the highest regard for the orders passed by this Court and neither NDTV Ltd. nor

Respondent No. 4 have taken any steps or action, which tantamount to violation of the ad-interim order dated 17.02.2015 as modified by the order dated 18.02.2015.

8.13. He states that therefore, the present petition be dismissed as against the Respondent No.4.

9. In reply, the counsel for the deceased petitioner has stated that the email dated 21.05.2021 as issued by him and the said email did not bounce back.

10. This Court has considered the submissions of the learned senior counsel for Respondent No. 4 and has perused the article dated 14.02.2016, which is the only article which has been relied upon for alleging the contempt against Respondent No.4

11. Upon a perusal of the contents of the said article, this Court is satisfied that there is no violation of the ad-interim order dated 18.02.2015. The stand of the deceased Petitioner as regards the complaint of the aggrieved person is duly reported therein. Pertinently, the content of the said article dated 14.02.2016 duly records the denial of the allegations by the deceased Petitioner. The contents of the article would fall within the realm of fair reporting. Accordingly, the present petition against Respondent no. 4 is dismissed.

12. The issue of maintainability of the petition as raised by the Respondent No. 4 has not been adjudicated upon since the petition is dismissed on merits.

13. In this regard it would be relevant to refer to the decision of the Supreme Court in *Ram Kishan v. Tarun Bajaj & Ors.*, (2014) 16 SCC 204, wherein the Supreme Court observed that the Court has to be satisfied

beyond reasonable doubt that a contempt has been committed by the Respondent. The relevant portion of the said judgment reads as under:

*“11. The contempt jurisdiction conferred on to the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities.”*

(Emphasis Supplied)

14. The present petition is accordingly dismissed alongwith pending applications, if any.

**MANMEET PRITAM SINGH ARORA, J**

**MAY 22, 2023/rhc/asb**