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

Pronounced on: 04.03.2024

+ **CS(OS) 667/2023**

MAHUA MOITRA

..... Plaintiff

Through: Mr. Samudra Sarangi, Ms. Shruti Raina, Ms. Saloni Jain, Ms. Nitya Jain and Mr. Akash Jaini, Advs.

versus

NISHIKANT DUBEY & ORS.

..... Defendants

Through: Mr. Abhimanyu Bhandari, Mr. Rishi K. Awasthi, Ms. Roohe Hina Dua, Ms. Shreya Arora and Mr. Avinash Ankit, Advs. for D-1.

Mr. Sanjay Ghose, Sr. Adv. alongwith Mohd. Tasnimul Hassan, Mr. Siddharth Sharma, Mr. Martin G. George, Mr. Pulkit Agarwal, Mr. Rohan Mandal, Mr. K. P. Jayaram, Mr. Jai Anant D., Mr. Raghav Sehgal and Mr. Sagar Sharma, Advs. for D-2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

IA.24255/2023 (on behalf of the plaintiff under Order XXXIX Rule 1 and 2 of CPC, 1908 seeking temporary injunction against the defendants on account of ex-facie false and per se defamatory statements made/endorsed/propagated/circulated against the plaintiff)

1. The instant suit has been filed by the plaintiff seeking the following prayers :-



“A. A decree and an order of permanent injunction restraining the Defendants and all others acting for and on their behalf from making, posting, publishing, uploading, writing, speaking, distributing and/or republishing any false defamatory content against the Plaintiff on any platform whether online or offline in any media, including electronic media and social media, or publishing in any manner or form any content and/or material which is defamatory about the Plaintiff which can bring disrepute and tarnish Plaintiff’s goodwill and reputation;

B. An order against the Defendants and all others acting for and on their behalf to remove/withdraw all the defamatory and scurrilous content posted, published, uploaded, written or spoken by them about the Plaintiff which has brought disrepute and tarnish Plaintiff’s goodwill and reputation from all platforms whether online or offline;

C. A decree and an order directing Defendant No. 1 and 2 to make and publish a retraction and an apology to the Plaintiff in three English newspapers, three Hindi newspapers and three Bengali newspapers for the false and defamatory statements / allegations made by Defendant Nos. 1 and 2 against the Plaintiff;

D. Defendant No. 2 may be ordered by a decree of mandatory injunction to withdraw the Letter dated 14 October 2023 issued by Defendant No. 2 to Defendant No. 1;

E. The Defendant be directed to pay damages suffered by the Plaintiff, that shall be quantified at a later stage on account of the defamatory, derogatory and baseless statements made by Defendant No. 1 and 2;

F. Cost of the suit be awarded to the Plaintiffs; and

G. Any other relief which this Hon’ble Court thinks fit and proper in the circumstances of the case is allowed in favour of the Plaintiffs and against the Defendants.”

2. The prayers in the instant application are as under :-

“a. An order of ex-parte ad-interim injunction restraining the Defendants and all others acting for and on their behalf from making, posting, publishing, uploading, distributing and/or republishing any false and defamatory content as mentioned in the accompanying suit and the application against the Plaintiff on any platform whether online or offline which results which can bring disrepute and tarnish the to the Plaintiff’s goodwill and reputation;



b. Pass an ex parte ad-interim injunction against Defendant No. 2 by way of a decree of mandatory injunction to withdraw the Letter dated 14 October 2023 issued by Defendant No. 2 to Defendant No. 1;

c. Pass an ex parte ad-interim injunction in favour of the Plaintiff and against the Defendant no. 1 and 2, directing to provide a written apology for the false and defamatory content published, propagated, shared and circulated by them and also publish their written apology in the public domain;

d. Any other/directions/ reliefs which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case may also be granted in favour of the Plaintiff and against the Defendant.”

3. The suit is predicated on the averment that the defendants are guilty of defaming the plaintiff on account of (i) making false and defamatory statements which impinge upon the plaintiff's reputation; (ii) the said statements specifically refer to and make imputations against the plaintiff; (iii) publishing of the said defamatory statements.

4. The plaintiff is stated to be a member of Lok Sabha elected from the constituency of Krishnanagar, West Bengal in 2019. The plaintiff claims to be a prominent and well respected politician holding an unblemished, untarnished and impeccable reputation of being an honest and upright public figure. There have been prior disputes/discord between the plaintiff and the defendant no.2. The plaintiff and the defendant no.2 are stated to have been in a relationship for several years and are stated to have parted ways on acrimonious terms in 2023, following which certain police complaints were also filed by the plaintiff against the defendant no.2 in March, 2023 and September, 2023.

5. It is the contention of the plaintiff that the defendant no.2 entered into a conspiracy with the defendant no.1 to defame the plaintiff with a view to



destroy her reputation and career. It is alleged that in pursuance of the said conspiracy, defamatory letters were allegedly addressed by the defendant no.2 to the CBI and also to the defendant no.1 on 14.10.2023. The said defamatory letters addressed by the defendant no.2, in addition to containing *per se, ex-facie* defamatory allegations against the plaintiff also enclosed the complaint submitted by the defendant no.2 to the CBI.

6. It is contended that the false and baseless allegations contained in these communications are entirely uncorroborated by any evidence and have been made with malicious disregard for the truth. It is contended that immediately upon receipt of defendant no.2's letter dated 14.10.2023, without any due diligence, inquiry of any manner or follow up to ascertain the veracity of defendant no.2's allegations, the defendant no.1 in his letter dated 15.10.2023 addressed to the Speaker of the Lok Sabha, claims to have "meticulously gone through all papers/documents" and has concluded that "there is no iota of doubt" about the accuracy of the allegations made against the plaintiff. It is contended by the plaintiff that the said letter dated 15.10.2023 addressed by the defendant no.1 to the Speaker of the Lok Sabha was instantaneously leaked to members of the media and was virally circulated on social media. It is contended that the contents of the said letter are *per se ex-facie* defamatory and were made by the defendant no.1 with the sole objective of extracting a political vendetta against the plaintiff.

7. A perusal of the letter dated 14.10.2023, addressed by the defendant no.2 to the defendant no.1, read with the defendant no.2's complaint to the CBI, reveals that the same seeks to level various allegations against the plaintiff, *inter-alia*, that the plaintiff handed over "complete and unfettered access" to her online Lok Sabha account to one Shri Darshan Hiranandani,



who posted questions in the the name of the plaintiff using her account or got the same posted by her on his behalf. The said communication also contained allegations of the plaintiff receiving multiple valuable gifts from Shri Darshan Hiranandani, and further alleged the same constituted a bribe or was in a nature of a *quid pro quo*.

8. It is stated that the defamatory letters dated 14.10.2023 and 15.10.2023 were both wilfully and maliciously published. The letter dated 14.10.2023 is stated to have been published on account of the same being sent by the defendant no.2 to the defendant no.1. The letter dated 15.10.2023 is stated to have been published by the defendant no.1 by leaking the same to the media.

9. It is alleged on behalf of the plaintiff that the allegations against the plaintiff are false, uncorroborated, unsubstantiated and made with a reckless disregard towards the truth. It is stated that there is no basis for the allegations of *quid pro quo* and bribery against the plaintiff and that the same have been made in furtherance of a political conspiracy and to tarnish the plaintiff's reputation, image and career. It is submitted that the defendant no.2 continues to make social media posts against the plaintiff almost on a daily basis and offers his comments to media channels on the matter, thus, continuing to damage and impact the plaintiff's reputation with his deliberate and malicious falsehood.

10. In the above background, learned counsel for the plaintiff strenuously submits that the plaintiff has made out a strong *prima facie* case. The balance of convenience is also stated to be entirely in favour of the plaintiff inasmuch as her reputation would be irreparably damaged if injunctory reliefs are not granted.



11. It is submitted that the plaintiff has expressly denied the allegations contained in the defamatory letters including allegations of bribery/*quid pro quo* on her part. It is submitted that the defendants have not brought out any material on record till date to justify or offer any basis for making such wild, malicious, false and defamatory allegations against the plaintiff. It is further submitted that the defendants have defamed the plaintiff to further their own malicious designs and with abject disregard towards the truth. It is submitted that the injunctive reliefs are liable to be granted to the plaintiff inasmuch as the plaintiff will continue to face irreparable injury and damage at the hands of the defendants if injunction is not granted, which cannot possibly be compensated in terms of money and damages.

12. Learned counsel for the plaintiff has relied upon the following judgments to buttress the point that an injunction is liable to be granted when the defendants have made defamatory statements with reckless disregard for the truth involving a public figure:-

- a. *Vinai Kumar Saxena v. Aam Aadmi Party & Ors.*¹
- b. *Smriti Zubin Irani v. Pawan Khera & Ors.*²
- c. *Hanuman Beniwal v. Vinay Mishra*³
- d. *Naresh Kumar v. Wire & Ors.*⁴
- e. *Yusuffali Musaliam Veetil Abdul Kader v. Shajan Skariah & Ors.*⁵

¹2022 SCC Online Del 309

²2022 SCC Online Del 2310

³2022 SCC Online Del 4882

⁴2023 SCC Online Del 7314

⁵Order dated 26.05.2023 passed by this Court in CS (COMM) 360/2023



13. Further, learned counsel for the plaintiff has relied upon the following judgments to contend that the defendants were required to exercise due diligence and care while making the above allegations against the plaintiff:-

- a. *Sukra Mahto v. Basdeo Kumar Mahto & Anr.*⁶
- b. *Lakshmi Murdeshwar Puri v. Saket Gokhale*⁷
- c. *Shree Maheshwar Hydel Power Corporation Ltd. v. Chitroopa Palit & Anr.*⁸
- d. *Housing Development Finance Corporation Ltd. & 3 Ors. v. Sureshchandra V Parekh & Anr.*⁹

14. On behalf of the defendant no.1, it has been contended that the letter dated 15.10.2023 was not written with any malicious intent to lower or make any harm to the reputation of the plaintiff. It is submitted that the said letter was addressed to the Speaker of the Lok Sabha so that immediate action could be taken on the unethical conduct of a parliamentarian. Reliance is placed upon Rule 233A of “*Rules of Procedure and Conduct of Business in Lok Sabha*” to contend that it is the duty of the defendant no.1 to immediately report to the relevant authority in case it comes across any information disclosing unethical conduct or behaviour by any other Member of Parliament. It is submitted that the actions of the defendant no.1 in writing the said letter are within the contours of his duties as a parliamentarian and the same cannot be hindered. In this regard, reliance is

⁶(1971) 1 SCC 885

⁷2021 SCC Online Del 3675

⁸2003 SCC Online Bom 702

⁹2014 SCC Online Guj 1975



placed upon the judgment of the Supreme Court in ***R. Rajagopal v. State of Tamil Nadu***.¹⁰

15. It is further contended that there is no false averment in the letter dated 15.10.2023. It is submitted that the said letter was written on the basis of the evidence which forms part of the letter dated 14.10.2023 of the defendant no.2 addressed to the defendant no.1. It is further submitted that apart from addressing the said letter dated 15.10.2023 to the Speaker of the Lok Sabha, the defendant no.1 did not disseminate the said letter to the media or anyone else. It is submitted that as such, it is wholly incorrect on the part of the plaintiff to allege “publication of defamatory remarks” by the defendant no.1.

16. Learned counsel for the defendant no.1 places reliance on the judgment of this Court in ***Kailash Gahlot v. Vijender Gupta & Ors.***¹¹ to contend that the rights of representatives of the people and politicians to question the actions of their counterparts in a political set up, ensures a healthy balance of power and the same cannot be curtailed by filing a suit for defamation.

17. It is further contended that although the plaintiff has filed the present suit on the basis that the aforesaid letter dated 15.10.2023 contains false allegations and imputation, as a matter of fact, the plaintiff, after filing of the present suit, has given statements to media publications to the effect that the plaintiff had in fact entrusted her Lok Sabha login credentials with Shri Darshan Hiranandani, who then posted specifically curated questions as per his own requirements.

¹⁰(1994) 6 SCC 632

¹¹2022 SCC OnLine Del 679, paras 49-50



18. It is contended that the same clearly amounts to an admission as to the truth of the allegations levelled against the plaintiff in the letter dated 15.10.2023. Further, the same, according to the learned counsel for the defendant no.1, also constitutes an admission as to the serious transgression of parliamentary privileges and duties by the plaintiff. In the circumstances, it is contended that the contents of the letter dated 15.10.2023 cannot be termed to be untrue in any manner. Reliance is placed upon the judgment of the Supreme Court in *Subramanian Swamy v. Union of India*¹², to contend that defamation occurs only if an untrue statement is made with an intent to defame a person, which is not the case in the present case at all.

19. It is further contended that the veracity of the allegations regarding pecuniary benefits enjoyed by the plaintiff for sharing her Lok Sabha login credentials is substantiated by the affidavit submitted by Shri Darshan Hiranandani which is in the public domain, and which has been filed in these proceedings. It is contended that the same is also corroborated by the report of the Ethics Committee of the Lok Sabha which was tabled in the winter session of the Parliament on 08.12.2023. In this regard, reliance is placed on the findings given in paras 65-69 of the Ethics Committee Report which has been placed on record in these proceedings.

20. In the circumstances, it is contended that the necessary ingredients for constituting the thought of defamation are not satisfied in the present case and as such, the plaintiff is not entitled to any injunction.

21. Learned counsel for the defendant no.2 has also placed strong reliance on the aforesaid Report of the Ethics Committee of the Lok Sabha, in particular, paras 64 to 69 thereof, which read as under :-

¹²(2016) 7 SCC 221



“64. The Committee further note that Smt. Mahua Moitra allegedly demanded favours including cash, expensive luxury items, providing support on renovation of her officially allotted bungalow in Delhi, travel expenses, holidays, etc., apart from seeking secretarial and logistical help for her travels within India and to different parts of the world.

65. As a matter of fact, quite recently, Smt Mahua Moitra, MP, while giving an interview to one, Shri Rajdeep Sardesai, which was widely telecast by India Today and available on You Tube, Smt Mahua Moitra had accepted that Shri Darshan Hiranandani had gifted her 'Hermes Brand' Scarf, 'Bobbi Brown Brand' Lipstick & Eye Shadow, Makeup articles. Whenever, she was visiting Mumbai or Dubai, Shri Hiranandani also provided her Car and while renovating her official bungalow [9-B, Telegraph Lane, New Delhi], Shri Hiranandani also provided her layout drawings.

66. As a matter of fact, Shri Darshan Hiranandani, at paragraph 12 of his notarized affidavit, had corroborated gifting of these articles and providing amenities and various other facilities, by stating the following:-

"Over a period, my friendship with Ms. Mahua Moitra grew, I also felt that, through her, I would get support in other States ruled by the Opposition, because she bonded extremely well with other leaders of the Opposition like Shri Gandhi, Shri Shashi Tharoor and Shri Pinaki Mishra, with whom also she shared close relations. Importantly, she also made frequent demands of me and kept asking me for various favours, which I had to fulfil in order to remain in close proximity with her and get her support. The demands that were made and favours that were asked included, gifting her expensive luxury items, providing support on renovation of her officially allotted bungalow in Delhi, travel expenses, holidays, etc, apart from providing secretarial and logistical help for her travels within India and to different parts of the world ... "

67. It is also a matter of record of the deposition Smt Mahua Moitra made before the Committee on Ethics on 2 November, 2023, that she accepted taking a few gifts, use of his car and getting the layout plans of her official bungalow prepared by Shri Hiranandani. On this aspect, the Committee have also take note of the contradiction between the versions of Smt Mahua Moitra and Shri Darshan Hiranandani, as the former had claimed that these gifts, amenities and facilities were given by the latter, whereas, Shri Hiranandani, in his notarized affidavit had worded this as "she also made frequent demands of me and kept asking me for various favours".



68. *In view of the totality of the facts and circumstances of the case, the Committee are of the opinion that the allegations of accepting illegal gratification by Smt. Mahua Moitra from Shri Darshan Hiranandani have been clearly established which are undeniable and based on systematic deliberations of the Committee on Ethics. At this juncture, the Committee would also like to emphasise that taking gifts and other facilities from a Businessman to whom she had even handed over her official login credentials so that this Businessman could directly operate her Members' Portal and post parliamentary questions on his own choice, may be in small quantity/numbers or on a few occasions, amounts to illegal gratification and a 'quid pro quo', which is not only unbecoming of Member of Parliament but also grossly an 'Unethical Conduct'.*

69. *As regards taking 'Cash' from Shri Darshan Hiranandani as a sequel to 'quid pro quo', the Committee wish to candidly point out that they do not have the technical wherewithal and expertise to criminally investigate and unearth the 'money trail', which is invariably the task of Central Government Institutions. The Committee, therefore, recommend that the cash transaction between Smt Mahua Moitra and Shri Darshan Hiranandani as a part of 'quid pro quo' could be investigated by the Government of India in a time-bound manner."*

22. It is contended on behalf of defendant no.2 that in view of the truth of the allegations contained in the letter dated 14.10.2023 addressed by the defendant no.2, it is evident that the present suit is nothing but an attempt to silence the defendant no.2. It is further contended that a statutory complaint to the CBI does not amount to defamation. Further, the complaint addressed by the defendant no.2 to the defendant no.1 is stated to be under Rule 233A of the Rules of Procedure and Conduct of Business in Lok Sabha, and cannot also be held to be defamatory in nature.

23. Emphasizing upon the admissions made by the plaintiff and in the light of the factual position elucidated in the affidavit of Shri Darshan Hiranandani, it is contended that substantial truth in the allegations levelled by the defendant no.2, stands established. Reliance is placed on the judgment of the Supreme Court in **Ram Jethmalani v. Subramaniam**



*Swamy*¹³ to contend that the truth or justification is a complete defence to the present suit and the instant application. Further, it is contended that “the standard of proof of truth is not absolute but is limited to establishing that what was spoken was substantially correct”.

24. Reliance is placed by the defendant no.2 on the following judgments to contend that a statutory complaint, even if false, does not amount to defamation.

- a. *A.N. Shanmugam v. G. Saravanan*¹⁴
- b. *Vijay Gulati v. Radhika & Ors.*¹⁵
- c. *Prof. Imtiaz Ahmad v. Durdana Zamir*¹⁶
- d. *Mahavir Singh v. Surinder Singh*¹⁷

25. Reliance is also placed on the judgment of the Bombay High Court in *ESSEL Infraprojects Limited v. Essel Infraprojects Limited*¹⁸, to contend that even if only the defendant honestly believes the statement to be true, no injunction can be granted. Further, reliance is placed on *Kishore Balkrishna Nand v. State of Maharashtra*¹⁹, to contend that any complaint made in good faith against a public servant is not defamation.

26. It is further contended that the CBI complaint of the defendant no.2 was in public interest and cannot be termed as defamatory. In this regard, reliance is placed on the following judgments:-

- a. *Sasikala Pushpa v. Facebook India and Ors.*²⁰

¹³2006 SCC OnLine Del 14, Para 95

¹⁴2015 SCC OnLine Mad 728, Para 13

¹⁵2010 SCC OnLine Del 3514, Para 27

¹⁶2009 (109) DRJ 357, Para 11

¹⁷2010 SCC OnLine P&H 9094

¹⁸2014 SCC OnLine Bom 1780

¹⁹(2023) 8 SCC 358

²⁰2020 SCC OnLine Del 618, Para 23(XVII-XIX)



- b. *Sanj DailyLokopchar, Khamgaon v. Gokulchand Govindlal Sananda*²¹
- c. *Mr. Mohanadevi v. Dr. CV. Ranjan*²²
- d. *Indian Potash Ltd. v. Media Contents and Communication Services (India) Pvt. Ltd.*²³

27. The defendant no.2 has also contended that there was a clear link in the questions asked by the plaintiff in Parliament and the business interests of Shri Darshan Hiranandani. Relying upon and referring to the affidavit of Shri Darshan Hiranandani and the Report of the Ethics Committee of the Lok Sabha, the defendant no.2 contends that the truth and veracity of the allegations in his complaints repel and negate the plaintiff's plea alleging defamation on the part of the defendant no.2.

Analysis and conclusion

28. I have anxiously considered the submissions of respective counsel for the parties.

29. At the outset, it is necessary to take note of the averments made by the plaintiff as regards the communication dated 14.10.2023 addressed by the defendant no.2 to the CBI. As noticed hereinabove, the said communication contains the following specific allegations:

- (i) that the plaintiff handed over "complete and unfettered access" to her online Lok Sabha account to one Shri Darshan Hiranandani;
- (ii) Questions were either posted directly by Shri Darshan Hiranandani in the name of the plaintiff using her account or

²¹2014 SCC OnLine Bom 1492, Para 17

²²2015 SCC OnLine Mad 3395, Para 9;

²³2019 SCC OnLine Del 11991, Para 54



were posted by her on his behalf, as per his liking and to further his agenda of profit and business rivalry;

(iii) that the plaintiff has received multiple valuable gifts from Shri Hiranandani²⁴ including extensive designing and technical support from the Mumbai 'Hiranandani Construction Department' for building her official Residence at 9-B, Telegraph Lane, New Delhi;

(iv) the receipt of the above valuable gifts constituted bribe/s or *quid pro quo* in lieu of the access granted by her to her online Lok Sabha account.

30. It was the above letter dated 14.10.2023, which was enclosed by the defendant no. 2, with its communication sent to the defendant no. 1 on the same date. In the plaint, it has been specifically averred with regard thereto as under :

*“3.14. On 14 October 2023, Defendant No. 2 issued a letter to Defendant No. 1 making wild, false, baseless, vindictive, malicious and unfounded allegations against the Plaintiff. A copy of Letter dated 14 October 2023 issued by Defendant No. 2 to Defendant No. 1 is annexed herewith and marked as Document No. 4. **The contents of the letter dated 14 October 2023 are denied by the Plaintiff in toto and allegations made therein are ex facie false, baseless and per se defamatory and were the first step in the conspiracy hatched by Defendant Nos. 1 and 2 to cause damage to the Plaintiff's reputation of being a clean, upright and a politician with integrity and morals.**”*

²⁴ iPhones, diamond and emerald jewellery, luxury items such as scarves from Hermes and Louis Vuitton, about 35 pairs of shoes from Salvatore Ferragamo, dozens of bottles of expensive French and Italian wines, packets of luxury cosmetics from Dubai, bags of Gucci and crocodile leather bags from Berluti, regular delivery of packets of cash, both in Indian Rupees and Pound sterling [para 2 of letter dated 14.10.2023 addressed by the Defendant 2 to the CBI; Document 4 of the documents accompanying the plaint]



31. By an additional affidavit filed by the defendant no.1 *vide* diary no.2243263 (filed on 12.12.2023), the defendant no.1 has sought to place on record a sworn affidavit of Shri Darshan Hiranandani, which also refers to the present proceedings initiated by the plaintiff. Paragraph 10 of the said affidavit clearly states that plaintiff provided her parliamentary login and password to Shri Darshan Hiranandani so that he could post questions directly on her behalf when required. Para 12 of the aforesaid affidavit specifically avers as under :-

“12.Importantly, she also made frequent demands of me and kept asking me for various favours, which I had to fulfil in order to remain in close proximity with her and get her support. The demands that were made and favours that were asked included, gifting her expensive luxury items, providing support on renovation of her officially allotted bungalow in Delhi, travel expenses, holidays, etc, apart from providing secretarial and logistical help for her travels within India and to different parts of the world. I could ill-afford to displease her. Many a times I felt that she was taking undue advantage of me and pressurising me to do things I didn't want to, but I had no choice, because of the aforementioned reasons.”

32. The aforesaid affidavit of Shri Darshan Hiranandani has also been filed as Annexure D/2 to the reply filed on behalf of the defendant no.2 to the instant application. It has also been brought in the aforesaid additional affidavit filed on behalf of defendant no. 1, and in the reply filed on behalf of the defendant no.2 to the instant application, that the factum of the plaintiff sharing her parliamentary login credentials with Shri Darshan Hiranandani has been admitted by the plaintiff herself in various statements made to the media by her after filing of the present suit. The details/particulars of the same have been elaborated in para 12 of the reply filed by the defendant no.2 to the present application and also in the documents filed as document D/1 (colly) of the said reply.



33. Further, the Ethics Committee Report of the Lok Sabha dated 09.11.2023 has concluded as under with respect to the use of the plaintiff's Lok Sabha portal:

“Conclusion

57. All the above documentary evidence as well as facts shared by the aforementioned Ministries of the Government of India have been meticulously examined/analysed by the Committee and the following irrefutable conclusions have been drawn:-

(i) During the period from 1 January, 2019 to 30 September, 2023, Smt. Mahua Moitra, MP had visited United Arab Emirates on four occasions [7 November, 2021, 15 April, 2022, 20 November, 2022 and 11 August, 2023), whereas, her login credentials, i.e., Members Portal had been operated from Dubai, United Arab Emirates on 47 occasions.

(ii) During her visits to Dubai, United Arab Emirates on four dates, i.e., on 7 November, 2021, 15 April, 2022, 20 November, 2022 and 11 August, 2023, the login credentials of Smt Mahua Moitra were not operated/accessed which go on to establish that some other unauthorized person has done it.

(iii) The IP address, while logging into the login credentials, i.e., Members Portal and also operating the same from Dubai, United Arab Emirates on all the 47 occasions always remained the same, i.e., 94.200.247.138.

.....

(vii) The sworn affidavit has been made by Shri Darshan Hiranandani. He signed the said affidavit in the presence of Ms. Urmil Asiwal, Vice Consul (Attestation) on 20 October, 2023; both he seal and the signature of Ms.Urmil Asiwal, Vice Consul (attestation) are genuine.

.....

61. The Committee had also taken cognizance of the allegation made by the complainant to the effect that Smt. Moitra asked approximately 50 questions in Parliament, out of total 61, posted by her, which shockingly seek information, with the intent of protecting or perpetuating business interests of Shri Darshan Hiranandani and his Company [Annexure – VIII].

62. A threadbare examination of this aspect, therefore, go on to establish, beyond doubt, that Smt. Mahua Moitra had deliberately shared her Lok Sabha login credentials with Shri Darshan Hiranandani, a Business Tycoon, based in Dubai, United Arab Emirates, thereby, facilitating him to operate the same from Dubai



for raising the Parliamentary questions in Lok Sabha. Therefore, Smt. Mahua Moitra is guilty of “Unethical Conduct”, ‘Breach of her privileges available to Members of Parliament’ and ‘Contempt of the House’.

.....

65. As a matter of fact, quite recently, Smt. Mahua Moitra, MP, while giving an interview to one, Shri Rajdeep Sardesai, which was widely telecast by India Today and available on You Tube, Smt. Mahua Moitra had accepted that Shri Darshan Hiranandani had gifted her ‘Hermes Brand’ Scarf, ‘Bobbi Brown Brand’ Lipstick & Eye shadow, Makeup articles. Whenever, she was visiting Mumbai or Dubai, Shri Hiranandani also provided her Car and while renovating her official bungalow [9-B, Telegraph Lane, New Delhi], Shri Hiranandani also provided her layout drawings.

66. As a matter of fact, Shri Darshan Hiranandani, at paragraph 12 of his notarized affidavit, had corroborated gifting of these articles and providing amenities and various other facilities, by stating the following:-

“Over a period, my friendship with Ms. Mahua Moitra grew, I also felt that through her, I would get support in other States ruled by the Opposition, because she bonded extremely well with other leaders of the Opposition like Shri Gandhi, Shri Shashi Tharoor and Shri Pinaki Mishra, with whom also she shared close relations. Importantly, she also made frequent demands of me and kept asking me for various favours, which I had to fulfil in order to remain in close proximity with her and get her support. The demands that were made and favours that were asked included, gifting her expensive luxury items, providing support on renovation of her officially allotted bungalow in Delhi, travel expenses, holidays, etc, apart from providing secretarial and logistical help for her travels within India and to different parts of the world ... ”

34. The details of the use of login credentials have been given in the Annexure VI of the Ethics Committee Report dated 09.11.2023 (reproduced in the reply of defendant no. 2 to IA 24255/2023), which are as follows:



Information regarding place/venue, date, time and the IP (Internet Protocol) address from where the Member Portal of Smt. Mahua Moitra were operated for raising the Parliamentary questions in Lok Sabha during the period from 2019 to 2023

S. No.	Question raised	Login date	Login time	IP address	ISP	Login Place / venue	Country
1	8.7.2019	No online submission					
2	18.11.2019	29.10.2019	13:34	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		29.10.2019	13:47	165.22.214.60	Digital Ocean	Bangalore	India
		31.10.2019	09:53	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
3	19.11.2019	29.10.2019	13:34	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		29.10.2019	13:47	165.22.214.60	Digital Ocean	Bangalore	India
		31.10.2019	09:53	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		31.10.2019	10:42	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
4	20.11.2019	1.11.2019	09:11	116.212.182.34	Microsense Private Limited	-	India
		29.10.2019	13:34	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
5	21.11.2019	29.10.2019	13:47	165.22.214.60	Digital Ocean	Bangalore	India
		4.11.2019	10:12	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
6	3.12.2019	No online submission					
7	9.12.2019	19.11.2019	00:00	49.36.0.248	Reliance Jio Infocomm Limited	Mumbai	India
		19.11.2019	16:00	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
8	6.2.2020	20.1.2020	16:48	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		20.1.2020	18:46	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
9	7.2.2020	20.1.2020	16:48	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		20.1.2020	18:46	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
10	3.3.2020	14.2.2020	17:35	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
		14.2.2020	18:23	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
11	11.3.2020	14.2.2020	17:35	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
		14.2.2020	18:23	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
12	12.3.2020	14.2.2020	17:35	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
		14.2.2020	18:23	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
13	13.3.2020	14.2.2020	17:35	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
		14.2.2020	18:23	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
14	16.3.2020	14.2.2020	17:35	2.50.83.195	DU Telecom	Dubai	United Arab Emirates
		29.2.2020	11:31	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
15	18.3.2020	29.2.2020	11:31	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		19.3.2020	11:31	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
17	2.2.2021	15.1.2021	11:55	10.21.212.124	NIC	Parliament House	India
		15.1.2021	22:03	103.219.47.231	Wish Net Private Limited	Kolkata	India
		15.1.2021	22:04	149.28.61.52	Choopa, LLC	Piscataway, New Jersey	USA
18	3.2.2021	15.1.2021	11:55	10.21.212.124	NIC	Parliament House	India
		15.1.2021	22:03	103.219.47.231	Wish Net Private Limited	Kolkata	India
		15.1.2021	22:04	149.28.61.52	Choopa, LLC	Piscataway, New Jersey	USA
19	4.2.2021	15.1.2021	11:55	10.21.212.124	NIC	Parliament House	India
		15.1.2021	22:03	103.219.47.231	Wish Net Private Limited	Kolkata	India
		15.1.2021	22:04	149.28.61.52	Choopa, LLC	Piscataway, New Jersey	USA
20	5.2.2021	15.1.2021	11:55	10.21.212.124	NIC	Parliament House	India
		15.1.2021	22:03	103.219.47.231	Wish Net Private Limited	Kolkata	India
		15.1.2021	22:04	149.28.61.52	Choopa, LLC	Piscataway, New Jersey	USA
21	19.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
22	22.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
23	23.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
24	26.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
25	27.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
26	28.7.2021	3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India



27	29.7.2021	3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
28	30.7.2021	3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
29	2.8.2021	3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
		3.7.2021	10:38	165.22.214.60	Digital Ocean	Bangalore	India
30	4.8.2021	3.7.2021	11:39	165.22.214.60	Digital Ocean	Bangalore	India
		7.7.2021	11:33	165.22.214.60	Digital Ocean	Bangalore	India
31	5.8.2021	7.7.2021	11:33	165.22.214.60	Digital Ocean	Bangalore	India
32	9.8.2021	7.7.2021	11:33	165.22.214.60	Digital Ocean	Bangalore	India
33	10.8.2021	21.7.2021	11:24	94.203.248.12	DU Telecom	Dubai	United Arab Emirates
		21.7.2021	11:30	94.203.248.12	DU Telecom	Dubai	United Arab Emirates
34	20.12.2021	1.12.2021	13:28	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
35	4.2.2022	18.1.2022	14:46	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
36	7.2.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
37	8.2.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
38	9.2.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
39	10.2.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
40	11.2.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
41	14.3.2022	18.2.2022	18:31	94.205.36.106	DU Telecom	Dubai	United Arab Emirates
42	15.3.2022	18.2.2022	18:31	94.205.36.106	DU Telecom	Dubai	United Arab Emirates
43	16.3.2022	18.2.2022	17:34	94.205.36.106	DU Telecom	Dubai	United Arab Emirates
44	17.3.2022	18.2.2022	17:34	94.205.36.106	DU Telecom	Dubai	United Arab Emirates
45	21.3.2022	18.1.2022	14:57	94.207.252.173	DU Telecom	Dubai	United Arab Emirates
46	19.12.2022	30.11.2022	13:23	165.22.214.60	Digital Ocean	Bangalore	India
47	20.12.2022	30.11.2022	13:23	165.22.214.60	Digital Ocean	Bangalore	India
48	21.12.2022	30.11.2022	13:23	165.22.214.60	Digital Ocean	Bangalore	India
49	22.12.2022	30.11.2022	13:23	165.22.214.60	Digital Ocean	Bangalore	India
50	3.2.2023	17.1.2023	14:58	165.22.214.60	Digital Ocean	Bangalore	India
51	6.2.2023	17.1.2023	14:58	165.22.214.60	Digital Ocean	Bangalore	India
52	7.2.2023	17.1.2023	17:40	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
53	8.2.2023	17.1.2023	17:40	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
54	9.2.2023	17.1.2023	17:40	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
55	13.2.2023	25.1.2023	15:09	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
56	13.3.2023	9.2.2023	07:56	94.204.158.172	DU Telecom	Dubai	United Arab Emirates
57	15.3.2023	17.1.2023	17:40	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
		24.2.2023	13:34	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
58	16.3.2023	15.2.2023	13:02	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
59	23.3.2023	1.3.2023	11:44	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
60	3.4.2023	13.3.2023	12:37	94.200.247.138	DU Telecom	Dubai	United Arab Emirates
61	5.4.2023	No online submission					

Note: The information regarding ISP and the place and country of login is based on information obtained from Maxmind database.

35. A perusal of the abovementioned findings of the Ethics Committee Report of the Lok Sabha dated 09.11.2023 and the table reproduced above clearly substantiate the fact that (i) the plaintiff's parliamentary login credentials were shared by her with Shri Darshan Hiranandani ; (ii) the said account was regularly and repeatedly accessed from outside India. This, coupled with the fact that that plaintiff publicly acknowledged receipt of certain gifts from Shri Darshan Hiranandani, as set out in paragraph 65 of the report of the Ethics Committee of the Lok Sabha, completely discredits



the plaintiff's "*denial in toto*" to the contents of the defendant no.2's communication dated 14.10.2023.

36. Learned counsel for plaintiff emphasises that regardless of whether the plaintiff shared her login credentials, and was in receipt of some gifts from Shri Darshan Hiranandani, there is no basis to the allegations of *quid pro quo* and bribery against the plaintiff. This submission cannot be countenanced by this Court for multiple reasons. Firstly, this submission is at variance with the case set out in the plaint. As noticed hereinabove, the plaint proceeds on the plaintiff's vehement denial "*in toto*" to the allegations contained in the communications dated 14.10.2023 addressed by the defendant no.2. There was nothing which prevented the plaintiff from making full disclosure in the plaint as regards the background of the sharing of her login credentials with Darshan Hiranandani, and explaining the receipt of gifts from him. However, the omission on the part of the plaintiff to do so is conspicuous, when viewed in the light of the material placed on record by the defendants in the form of (i) the public statements of the plaintiff herself; (ii) the aforementioned affidavit of Darshan Hiranandani ; (iii) the report of the Ethics Committee of the Lok Sabha.

37. Secondly, as regards the allegations that the bribe/gifts were received by the plaintiff as a *quid pro quo* for granting complete and unfettered access to her online Lok Sabha login access to Shri Darshan Hiranandani, it has been concluded by the Ethics Committee of Parliament as under:-

*"68. In view of the totality of the facts and circumstances of the case, the Committee are of the opinion that **the allegations of accepting illegal gratification by Smt. Mahua Moitra from Shri Darshan Hiranandani have been clearly established** which are undeniable and based on systematic deliberations of the Committee on Ethics. At this juncture, the **Committee would also like to emphasise that taking gifts and other***



facilities from a Businessman to whom she had even handed over her official login credentials so that this Businessman could directly operate her Members' Portal and post parliamentary questions on his own choice, may be in small quantity/numbers or on a few occasions, amounts to illegal gratification and a 'quid pro quo', which is not only unbecoming of Member of Parliament but also grossly an 'Unethical Conduct'.

69. As regards taking 'Cash' from Shri Darshan Hiranandani as a sequel to 'quid pro quo', the Committee wish to candidly point out that they do not have the technical wherewithal and expertise to criminally investigate and unearth the 'money trail', which is invariably the task of Central Government Institutions. The Committee, therefore, recommend that the cash transaction between Smt Mahua Moitra and Shri Darshan Hiranandani as a part of 'quid pro quo' could be investigated by the Government of India in a time-bound manner."

38. In the above circumstances, *prima- facie*, it cannot be said that the allegations contained in the communications dated 14.10.2023 addressed by the defendant no. 2 and in the communication dated 15.10.2023 addressed by the defendant no. 1, are wholly false and unsubstantiated, and/or made with reckless disregard towards the truth.

39. As held by this court in ***Ram Jethmalani v. Subramaniam Swamy*** (supra):

"95. Traditional defences to an action for defamation have now become fairly crystallized and can be compartmentalized in 3 compartments: truth, fair comment and privilege. Truth, or 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'. Fair comment offers protection for the expression of opinions. Standard of proof is not that the Court has to agree with the opinion, but is limited to determine whether the views could honestly have been held by a fair-minded person on facts known at the time. Unlike defence of truth, defence based on fair comment can be defeated if the plaintiff proves that the defamer acted with malice. Similar is the situation where the defence is of qualified privilege. Privilege is designed to protect expression made for the public good. Protection of qualified privilege is lost if actual malice is established. In public interest, absolute privilege is a complete defence. Rationale of absolute privilege being restricted to Court proceedings or proceedings before Tribunals which have all the



trappings of a Civil Court and Parliamentary proceedings is that if threat of defamation suits loom large over the heads of lawyers, litigants, witnesses, Judges and Parliamentarians it would prohibit them from speaking freely and public interest would suffer.”

40. It is undoubtedly true that Courts must come down heavily on defamatory statements made with reckless disregard for truth involving a public figure. In *Naresh Kumar v. Wire & Ors.* (supra), this Court after taking note of the judgment in *Institute of Chartered Accountants of India v. L. K. Ratna*²⁵, *Lakshmi Murdeshwar Puri v. Saket Gokhale* (supra), *Vinai Kumar Saxena v. Aam Aadmi Party & Ors.* (supra), *Hanuman Beniwal v. Vinay Mishra* (supra) and *Subromanium Swamy v. Union of India*²⁶, held that this Court must grant injunctive orders to prevent irreparable damage in cases where if the defamatory publications are allowed to be propagated/circulated, will sully the reputation earned over a period of several decades. However, in the present case, the matter acquires a completely different complexion on account of the aspects noted hereinabove viz., (i) the omission on the part of the plaintiff to disclose in the plaint her dealings with Shri Darshan Hiranandani and/ or the background and rationale of sharing of her login credentials; (ii) the plaintiff's own public statements/ admissions, as brought out by the defendants, regarding sharing of her login credentials with Shri Darshan Hiranandani and receipt of several gifts from him; (iii) the report of the Ethics Committee of the Lok Sabha; (iv) the affidavit of Shri Darshan Hiranandani himself, which has been placed on record in these proceedings,

²⁵(1986) 4 SCC 537

²⁶(2016) 7 SCC 221



and which has also been copiously referred to in the report of the Ethics Committee of the Lok Sabha.

41. In the circumstances, the plaintiff has failed to make out a case for grant of any interim injunction against the defendants. The present application is consequently dismissed.

42. It is made clear that the observations made in this order are only for the purpose of deciding the present application.

43. All rights and contentions of the parties are left open to be considered at the stage of final disposal of the present suit.

SACHIN DATTA, J

MARCH 04, 2024/r