

HIGH COURT OF ANDHRA PRADESH : AMARAVATI**MAIN CASE: W.P.No.9166 of 2020****PROCEEDINGS SHEET**

S. No	DATE	ORDER	OFFICE NOTE
19	29.10.2021	<p data-bbox="641 532 1226 569" style="text-align: center;"><i>(Hybrid hearing through Video-Conferencing)</i></p> <p data-bbox="511 604 922 642"><i>(Per Justice Lalitha Kanneganti)</i></p> <p data-bbox="795 677 1063 715" style="text-align: center;"><u>I.A.No.1 of 2021</u></p> <p data-bbox="511 752 1347 1639">The Registrar General has lodged a complaint with respondent No.5 against some unknown persons who had posted defamatory material against learned Judges of this Court making wild, baseless and untenable statements on social media and sought for immediate action to trace the said culprits and to take steps for removal of defamatory material. As the defamatory comments on social media platform were continued unabated, another report was lodged, which was registered as F.I.R No.17 of 2020 for the offences punishable under Sections 505 (2) and 506 of IPC. Posting of defamatory and abusing comments on social media platforms increased multi-fold, as there is no progress in the investigation, the present writ petition came to be filed.</p> <p data-bbox="511 1674 1347 2494">Internet and social media have become vital communication tools for exercising freedom of speech, expression and exchange of information and ideas. Social Media platforms have the ability to spread the communication globally. Absence of pre-screening and control of the intermediaries enable the users to successfully upload any material. In this process, fake, harmful, even hate speeches are uploaded. The aggrieved are left helpless, as the intermediaries do not pull down the content unless there is a Court order or on the complaint by the prosecution agency. In several cases, there is undue delay in registering the complaint by the prosecution agency, further delay in addressing the</p>	

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		<p>intermediaries. By the time the content is removed, the targeted goal of tarnishing the image of the person/spreading the fake news is achieved. The Judges and the institution of Judiciary are no exception to this phenomenon.</p> <p>In a politically polarized environment the Judges and the institution of Judiciary have become soft targets for the organized campaigns. Political rivals become active on social media, attempts are made to influence the proceedings and intimidate the Judges. After the Judgments/orders are passed, the aggrieved party vigorously starts a vilification campaign by imputing motives to the Judges and attempts are made to malign the institutional reputation. Legitimate criticism is always welcomed in a democracy. But there is a thin line between legitimate criticism and making abusive, irrational, scandalous, unsavoury personal attacks undermining the Majesty of the institution and the authority vested in the Judges. If these kind of imputations are left unanswered over a period of time common man who is unconnected with these unscrupulous elements will start believing that there is something thoroughly wrong with the system and his faith in the system will erode. It will ultimately lead to undermining the confidence of the people in the sacred institution and interference with the course of administration of justice. As rightly said the silence of law men will do more harm than the violence of layman. Criticism must not be double sided sword, which aims at creating distress in the society.</p> <p>“Judge Bashing” and using derogatory and contemptuous language against Judges has become a favourite pass time of some people. These statements tend to scandalize and lower the authority of the Courts</p>	

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		<p>and cannot be permitted because, for functioning of democracy, an independent judiciary to dispense justice without fear and favour is paramount. Its strength is the faith and confidence of the people in that institution. That cannot be permitted to be undermined because that will be against the public interest. Judiciary should not be reduced to the position of flies in the hands of wanton boys. Judge bashing is not and cannot be a substitute for constructive criticism. [Haridas Das Vs. Usha Rani Banik and Ors. (2007) 14 SCC 1].</p> <p>The Constitution of India guarantees to its citizens freedom of speech and expression which is sacred to individual liberty and democracy. But the founders of the Constitution are aware about the co-existence of conflicting rights and restriction and enacted Article 19 with reasonable restriction. Liberty of one individual should not outrage the liberty of any other individual.</p> <p>Man, as a rational being, desires to do many things, but in a civil society his desires have to be controlled, regulated and reconciled with the exercise of similar desires by other individuals. [A.K.Gopalan Vs. The State of Madras (AIR 1950 SC 27)].</p> <p>If the Court considers the attack on the Judge/ Judges scurrilous, offensive, intimidatory or malicious beyond condonable limits the strong arm of the law must in the name of public interest and public justice, strike a blow on him, who challenges the supremacy of the rule of law by fouling its source and stream. The judiciary cannot be immune from criticism. But, when that criticism is based on obvious distortion or gross mis-statement and made In a manner which seems designed to lower respect for the judiciary and destroy public confidence in it, it cannot be ignored. [In Re: S. Mulgaokar (1978) 3 SCC 339].</p>	

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		<p>The abusive content on the social media has gone out of bounds lowering the Majesty of the Court. This Court by order 12.10.2020 has transferred the investigation from C.I.D to Central Bureau of Investigation (CBI) observing that while conducting investigation, it would be necessary to examine as to whether such attacks on Judiciary were made as a result of larger conspiracy or not. Further, CBI was directed to take steps to pull down all the defamatory posts on social media and to block such users in accordance with law. This Court has directed the CBI to submit report within eight weeks. Thereafter, several reports were submitted before this Court.</p> <p>In the order dated 06.10.2021, this Court directed the CBI to take prompt and effective steps for interrogating the accused persons, who are beyond the territory of India and for collection of evidence. It was observed that it is the duty of the investigating agency not only to investigate crime, but also to prevent commission of similar offences in future. CBI was further directed to submit reports with regard to the steps that are proposed to be taken to prevent circulation of such intimidatory threats, scurrilous and defamatory remarks which affect the administration of justice.</p> <p>On 28.10.2021, an I.A.No.1 of 2021 was filed seeking direction to the intermediaries to forthwith delete/ take down the offensive posts/comments/videos made against the Judges.</p> <p>Sri N.Aswnini Kumar, learned counsel for the petitioner has brought to the notice of this Court that CBI is continuously filing reports one after other, but there was no substantial development in investigation and they failed to pull down the defamatory and derogatory statements / comments/ remarks and videos.</p> <p>Learned Senior Counsel/Counsels appearing on</p>	

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		<p>behalf of intermediaries submitted that whenever judicial orders are passed or any communication is received from the prosecution agency, immediately the contents would be pull down from the social platform, but they would require URL numbers/IDs to remove these media contents.</p> <p>Mr.P.Subash, learned counsel appearing for CBI, submitted that they have sent notices to intermediaries to take down the social media posts/comments/videos, posted by the accused/suspects, which are abusive, life threatening, defamatory and scandalous nature against the Hon'ble Judges of Hon'ble High Court and the CBI deactivated the accounts of some of the accused and corrosive action has been taken against 11 accused persons named in the F.I.R. Further, they have submitted Mutual Legal Assistance (MLA) request to Ministry of Home Affairs, Government of India, New Delhi and the same is awaited.</p> <p>Learned counsel for the petitioner brought to the notice of this Court that one Mr. Punch Prabhakar is continuously posting scandalous, abusive and derogatory videos even after registration of FIR against him and after receiving contempt notices from this Court in Suo Motu C.C.No.501 of 2020, but the CBI has not taken any action against him.</p> <p>This Court directed the Superintendent of Police, CBI, Visakhapatnam to be present before this Court to apprise as to the efforts being made by the CBI and also directed the learned Counsel for the petitioner to furnish the list of URL numbers/IDs where abusive comments/videos or any other material is posted on the social media platform.</p> <p>Today when the matter came up for hearing Sri N.Ashwini Kumar, learned counsel for petitioner submits that Mr.Punch Prabhakar posted another defamatory and</p>	

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		<p>abusive video in Youtube, making derogatory comments on the proceedings that took place previous day in this Court. But the CBI has not taken any action against him. He submits that this person has no respect to the Rule of Law and to the constitutional Courts.</p> <p>Sri Sajan Poovayya, learned Senior Counsel for Twitter, Instagram and Google submits that whenever these kind of defamatory videos and messages are posted in social media, it is obligatory on their part to obey the orders of the Court to remove such videos/posts within 36 hours and they are ready to implement the orders passed by this Court. He submits that they can remove/pull down the abusive content either on the direction of the Court or basing on the complaint received from the investigating agency, but there is no mechanism in place whereby they can <i>suo motu</i> pull down. He submits that if this Court authorizes the Registrar General of this Court to directly send the information relating to derogatory content to them by furnishing URLs/IDs, it would be removed as expeditiously as possible. In case, where they are unable to remove the same, report to that effect would be sent to the Registrar General. Learned senior counsel, in all fairness, submits that they are not considering this matter as an adversarial litigation and each and every stakeholder has the responsibility to protect the Majesty of the Court and all the intermediaries are obliged to cooperate with the Court in the said process. He further submits that as already concerned of Twitter, Instagram, Google are respondents to this writ petition, respondent Nos.11, 13, 14, 18 and 20 to 26, who are employees of the intermediaries are not necessary parties for adjudication of the <i>/is</i> involved in this writ petition, hence their names may be deleted from the array of respondents.</p> <p>The Superintendent of Police, CBI, Visakhapatnam</p>	

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		<p>is present before this Court. He submits that though they have addressed letters dated 05.12.2020 and 07.01.2021 so far the respective intermediaries failed to give any details, in spite of their best efforts, there is no progress in the investigation. Replying to specific query of this Court regarding whereabouts of Mr.Punch Prabhakar, he submits that accused is a resident of USA and attempts are made through FBI to catch hold of him and so far they could not get any personal information about the said person. It is also submitted that because of laches on the part of intermediaries, there is no substantial development or progress in the case.</p> <p>The CBI is considered to be a premier investigating agency of the country. The Courts in India hold CBI as an organization in high esteem. It is important that it should never give impression that its working is lopsided. In spite of orders passed by this Court on number of occasions, neither there is development in the investigation nor efforts are made to remove the abusive content. We feel, attention from top level is warranted. Hence, an affidavit shall be filed by the Director, CBI as to what has transpired from December, 2020, what are the efforts made by CBI and the future course of action.</p> <p>Sri N.Harinath, learned Assistant Solicitor General has filed a memo on behalf of respondent No.9 furnishing the details of intermediaries and the same are confirmed by Sri Sajan Poovayya, learned senior counsel.</p> <p><u>FACEBOOK and INSTAGRAM Links:</u> https://help.instagram.com/contact/779201836048501 https://help.instagram.com/contact/779201836048501 Grievance Officer email ID: FBGOIndia@fb.com</p> <p><u>GOOGLE and YOUTUBE Links:</u> https://support.google.com/legal/troubleshooter/1114905 https://support.google.com/youtube/answer/6154230?hl=en&ref_topic=6154211&co=GENIE.CountryCode%3DIndia</p>	

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		<p>Email Support: support-in@google.com</p> <p>Grievance Officer: india-grievance-officer@google.com</p> <p><u>TWITTER:</u></p> <p>Grievance Officer Email: grievance-officer-in@twitter.com</p> <p><u>WHATSAPP:</u></p> <p>Grievance Officer Email: WAGOIndia@fb.com</p> <p>Majesty of law continues to hold its head high notwithstanding such insinuations by the unscrupulous elements. Judiciary is the hope of millions for protecting their rights.</p> <p>Hence, in the facts and circumstances of the case, we deem it appropriate to issue the following directions:</p> <ol style="list-style-type: none"> 1) The Registrar General shall forward URLs/IDs of the derogatory contents filed by learned counsel for petitioner by way of memo to the respective intermediaries by marking a copy to the learned counsel for CBI; 2) The intermediaries shall remove the content as expeditiously as possible, but not later than 36 hours. If there is any difficulty within 36 hours, it shall be brought to the notice of Registrar General. 3) The CBI in turn, shall examine the content and act in accordance with law. 4) Respondent representing Youtube shall block channel run in the Youtube in the name of 'Punch Prabhakar'. 5) The Registrar General shall continue the said process hereafter and shall act forthwith whenever derogatory content is found or brought to the notice of Registrar General. <p>The names of Respondent Nos.11, 13, 14, 18 and 20 to 26 shall be deleted.</p> <p>Post this matter on 02.11.2021.</p> <p>PRASHANT KUMAR MISHRA, CJ LALITHA KANNEGANTI, J</p> <p style="text-align: right;">PVD</p>	

