

O.S.3281/2024  
4/05/2024

Perused the records.

Since the plaintiffs are contending that, the defendants have been repeatedly telecasting fake news in the news channels and other social media with an intention to tarnish their image before the public at large, the suit is entertained before the Vacation Court. Accordingly, IA No.1 is allowed.

Perused IA No.2, the supporting affidavits, and the entire records.

The plaintiffs being the Former Prime Minister of India, and Former Chief Minister, Government of Karnataka, have filed the suit for permanent injunction, contending that, they have earned very good reputation by discharging their public responsibilities. It is contended that, on the basis of certain allegations of alleged obscene videos, allegedly involving Mr. Prajwal Revanna, sitting MP from Hassan Constituency, State Government has constituted SIT. It is further contended that, certain news items / articles are being published by the defendants, in social media platforms depicting and making reference to the plaintiffs to the aforesaid alleged issue pertaining to Mr. Prajwal Revanna.

In this regard, it is relevant to refer the latest Judgment on the point passed by the Hon'ble Supreme

Court of India in **SLP (C) 6696 / 2024 (Bloomberg Television Production Services India Private Limited & Ors. Vs. Zee Entertainment Enterprises Ltd.,)** dated **22/3/2024.**

The Hon'ble Supreme Court has issued guidelines to the trial courts, as to in what manner, interim injunction application in a case of this nature, shall be considered. In paras 5 to 12, the Hon'ble Supreme Court held which reads as under:

**“5. The three-fold test of establishing (i) a prima facie case, (ii) balance of convenience and (iii) irreparable loss or harm, for the grant of interim relief, is well-established in the jurisprudence of this Court. This test is equally applicable to the grant of interim injunctions in defamation suits. However, this three-fold test must not be applied mechanically, 3 to the detriment of the other party and in the case of injunctions against journalistic pieces, often to the detriment of the public. While granting interim relief, the court must provide detailed reasons and analyze how the three-fold test is satisfied. A cursory reproduction of the submissions and precedents before the court is not sufficient. The court must explain how the test is satisfied and how the precedents cited apply to the facts of the case.**

**6. 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, 4 in the following terms:**

**“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—**

**(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 sometime 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.”**

**7. 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. 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*. 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. The**

**Court of Appeal in Bonnard (supra) held as follows:**

**“...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.”**

**(emphasis supplied)**

**8. In Fraser v. Evans, the Court of Appeal followed the Bonnard principle and held as follows:**

**“... in so far 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. Fryer 1891 2 Ch. 269). '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)**

**9. In essence, the grant of a pre-trial injunction against the publication of an article may have severe ramifications on the right to freedom of speech of the author and the public's right to know. An injunction, particularly ex-parte, should not be granted without establishing that the content sought to be restricted is 'malicious' or 'palpably false'. Granting interim injunctions, before the trial commences, in a cavalier manner results in the stifling of public debate. In other words, courts should not grant ex-parte injunctions except in exceptional cases where the defence advanced by the respondent would undoubtedly fail at trial. In all other cases, injunctions against the publication of material should be granted only after a full- fledged trial is conducted or in exceptional cases, after the respondent is given a chance to make their submissions.**

**10. Increasingly, across various jurisdictions, the concept of 'SLAPP Suits' has been recognized either by statute or by courts. The term 'SLAPP' stands for 'Strategic Litigation against Public Participation' and is an umbrella term used to refer to litigation predominantly initiated by entities that wield immense economic power against members of the media or civil society, to prevent the public from knowing about or participating in important affairs in the public interest. We must be cognizant of the realities of prolonged trials. The grant of an interim injunction, before the trial commences, often acts as a 'death sentence' to the material sought to be published, well before the allegations have been proven. While granting ad-interim injunctions in defamation suits, the potential of using prolonged litigation to prevent free speech and public participation must also be kept in mind by courts.**

**11. The order of the trial Judge does not discuss, even cursorily, the prima facie strength of the plaintiff's case, nor does it deal with the balance of convenience or the irreparable hardship that is caused. The trial Judge needed to have analysed why such an ex parte injunction was essential, after setting out the factual basis and the contentions of the respondent made before the trial Judge. The trial Judge merely states, in paras 7-8, that the court has "gone through the record available as on date" and noticed certain precedents where an ad-interim injunction was granted. Without even cursorily dwelling on the merits of the plaint, the ad-interim injunction granted by the trial Judge amounts to unreasoned censorship which cannot be countenanced.**

**12. Undoubtedly, the grant of an interim injunction is an exercise of discretionary power and the appellate court (in this case, the High Court) will usually not interfere with the grant of interim relief. However, in a line of precedent, this Court has held that appellate courts must interfere with the grant of interim relief if the discretion has been exercised "arbitrarily, capriciously, perversely, or where the court has ignored settled principles of law regulating the grant or refusal of interlocutory injunctions." The grant of an ex parte interim injunction by way of an unreasoned order, definitely falls within the above formulation, necessitating interference by the High Court. This being a case of an injunction granted in defamation proceedings against a media platform, the impact of the injunction on the constitutionally protected right of free speech further warranted intervention."**

As per the above said law laid down by the Hon'ble Supreme Court, the court has to see whether there is a clear prima facie case, whether irreparable or serious mischief will ensue to the plaintiff, whether the refusal of ex parte injunction would involve greater injustice than the grant of it, 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, the court will consider whether the plaintiff had acquiesced for some time and in such circumstances, it will not grant ex parte injunction. The court would expect a party applying for ex parte injunction to show utmost good faith in making the application, even if granted, the ex parte injunction would be for a limited period of time.

In the light of the said Judgment passed by the Hon'ble Supreme Court, I have perused the material placed by the plaintiffs. It is seen that, article in business standard was published sometimes ago, because specific date is not mentioned. Further, another photo by marping the faces of plaintiffs 1 and 2 was also published sometimes ago. The other articles by showing the faces of plaintiffs 1 and 2 and others must have been published sometime ago and not immediately before filing the suit. Another article was published in India Today News Desk dated 29/4/2024.

It is to be noted that the fact that SIT has been constituted by the State Government to conduct the investigation with regard to the alleged obscene videos

published in News Channels, social media channels, is not in dispute. It is also not in dispute that Mr. Prajwal Revanna is the grandson of plaintiff no.1 and brother's son of plaintiff no.2. The time of filing the suit would prima facie shows that there is some sort of acquiescence on the part of the plaintiffs. Because, they have not approached the court immediately. However, it is noticed that, even though there are serious allegations have been made against Mr. Prajwal Revanna, in the absence of making specific allegations to connect these plaintiffs to the alleged incidents, it is not correct on the part of media to show the marped faces of the plaintiffs 1 and 2, either in articles or in news channels.

Keeping in mind the observations made by the Hon'ble Supreme Court in the aforesaid paras with regard to the right of Journalist to publish any article against a public servant and also with regard to the right of a citizen to know about the conduct on the part of public servants, I have examined the material placed. If, in the opinion of media, they have a substantial material to publish any article, and to show any photograph, by contending that truth is their defence, they cannot be prevented from publishing any article. However, they are duty bound to examine the truthfulness of any videos, photos, or informations before publishing the same. Because, if false and fake news are published in news papers, and shown in news channels, including social media channels, definitely it will harm to the reputation of any public servant. The public servant is also having right to protect his dignity and decorum and human



rights. But, at the same time, a public servant should also conduct himself / herself keeping in mind the positions they held and the reputation of the society at large.

Here in this case, the plaintiffs alleged that, there is no allegations made against them in the alleged videos and in the complaints. But, their pictures are being shown by marping and in other manner. Of course, they cannot prevent the media from showing them as close relatives of Mr. Prajwal Revanna, because it is a fact. But, they can only make request to restrain the defendants from unnecessarily depicting and making their references, by showing their marped photos and in any other ugly manner. Having regard to the sensitivity of the matter involved and the fact with regard to their relationship with Mr.Prajwal Revanna, keeping in mind the Judgment of Hon'ble Supreme Court, I am of the opinion that, the right of defendants from publishing articles under the right of defence, cannot be fully restricted. However, to the extent of showing the fake and fabricated news items against these plaintiffs, without any admissible and substantive material, can be prevented by granting TI order for a limited period. So, at this stage, based upon the material placed and having regard to the aforesaid discussion, the court holds that, only to some extent, the plaintiffs have made out prima facie case. If, without any substantive and truthful material, the articles are published depicting the plaintiff unnecessarily either by showing the photographs, videographs, by way of marping, except with regard to their statements given to the medias,

the reputation and the dignity in the public at large may be tarnished. Therefore, to that effect, I am inclined to grant interim order. In the result, I proceed to pass the following:

### **ORDER**

It is ordered that, the defendants are temporarily restrained from publishing any news item by falsely depicting the plaintiffs, by showing their marping photos, without any substantive evidence against them, with an intention to unnecessarily tarnishing their image and reputation in the public at large, till next date of hearing.

However, it is made clear that the defendants are not totally restrained from publishing, telecasting any news, if they think that, truth is their defence, and they have substantial piece of evidence to defend themselves.

Accordingly, issue TI order in terms of the said order to the defendants, along with suit summons, subject to the compliance, as per Order 39 Rule 3 A CPC returnable by 29/5/2024.

Office to send the records to the jurisdictional court after vacation period is over.

(H.A.Mohan)  
XXXII Addl.C.C. & S.J. and  
Special Judge for CBI Cases,  
and **Vacation Judge,**  
Bengaluru.