



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.399 OF 2024
IN
SUIT (L) NO.398 OF 2024**

Khanjan Jagadishkumar Thakkar] .. Plaintiff
vs.
Waahid Ali Khan & Ors.] .. Respondents

Mr.Mayur Khandeparkar i/b Sanket Mungale for the Plaintiff.

Mr.Rozwan Merchant i/b Ali Kaashif Khan Deshmukh a/w
Hitanshi Gajaria for Defendant No.1.

Mr.Akash Manwani a/w H. Shukla i/b ELP for Defendant No.2.

Mr.Alankar Kirpekar a/w Ayush Tiwari, Shekhar Bhagat i/b
Shekhar Bhagat and Neelaja Kirpekar for Defendant no.3.

CORAM : BHARATI DANGRE, J

DATE : 2nd April, 2024.

ORDER :

1] The Suit filed by the Plaintiff, engaged in the business of gold trading in Dubai and India, with acclaimed turn over of around Rs.13,50,00,000/-, project a classic case of investigative journalism, where under the guise of bringing truth before the public at large, what is attempted is publication of a false,

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derogatory and misleading information, and to prevent the damage, an injunction and other reliefs are prayed for.

The Defendant No.1, a Journalist is alleged to have circulated/uploaded various posts, his own video interview on distinct platforms including You Tube, Twitter and on Meta Platform Inc.

It is this information, in form of videos, post interviews/comments, which is alleged by the Plaintiff, to be defamatory in nature and for this cause of action, the Suit is filed by the Plaintiff against the Defendant no.1 seeking damages and compensation in the sum of Rs.100 Crores, apart from relief, of an order of permanent injunction restraining the Defendant No.1 by himself and/or through his servants, agents , company, partnership or any other person, claiming through or under him, from printing, publishing, selling and/or exhibiting, circulating the defamatory Articles and streaming and sharing the Videos on any social media platform, in public domain and from doing any other acts, deed or thing that may amount to defamation of the Plaintiff.

The Plaintiff has impleaded Google LLC, a Company incorporated in the United States of America as well as X Corp,

San Francisco as well as Meta Platform Inc. as Defendants, as direction is sought against them, for removing/deleting the defamatory Articles from their web site/web page.

2] I have heard Advocate Mr.Mayur Khandeparkar for the Plaintiff, who has also taken out an Interim Application seeking temporary injunction against Defendant No.1, pending the hearing and final disposal of the Suit and for issuance of order and directions against Defendant No.1 to forthwith remove/delete the defamatory Articles being published via the links provided, thereunder.

I have also heard Mr. Rizwan Merchant, who represent the Respondent/Defendant No.1, Mr. Akash Manwani for Defendant No.2 and Mr. Alankar Kirpekar for Defendant No.3. Defendant No.4, has not marked its presence.

3] On 07.11.2023, FIR No.0473 is registered with Matunga Police Station, on the basis of the information received from one Prakash Bankar, in respect of the occurrence of events from 01.01.2019 to 06.11.2023, which resulted in invocation of Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code,

Section 12(a) of the Maharashtra Prevention of Gambling Act, 1887 and Section 66(d) and 66(f) of the Information Technology Act, 2000.

The complaint was filed against 31 named persons and other unknown persons, spread over the globe, including various places in India, Dubai, UAE, London etc.

The Applicant is also arraigned as an accused No.10 in the FIR, with his permanent address being cited as Girgaon, Mumbai, P Road, Greater Mumbai City, Maharashtra, India.

The total value of the property involved is indicated to be Rs.1,50,00,00,00,000/- .

4] Mr.Prakash Bankar, claiming to be a social worker, in the city of Mumbai and involved in Philanthropy and charity work , reported about a web site/web portal www.khiladi.com, designed for OnLine betting/ gambling on Cricket, Football, Tennis, card games and various other Sports advertised by accused No.1 Rohit Kumar Murgai and others. The complainant claim that, he gathered information about it, through various social networking sites like Facebook, Instagram, Google Ads etc. and claim that the online betting did not involve any intelligence.

The complainant reported that amongst the icons on the web site, icon "Get ID Now", takes Web Portal visitors to various games like poker, cyber sport, fantasy, on completion of online registration process and offer options to choose the form of online betting. The complainant provided information that Khiladi Book Portal claims to be the world's largest online betting exchange and claim to be the fastest connecting bet, providing live online gaming experience. It is also alleged that the web site is operated by the Never Ending Gaming NV, with a dishonest intention of avoiding compliance with Indian Law.

Reference is made to a Company incorporated under laws of CURACAO and it is alleged that Accused No.1, is considered to be one of the top 5 match fixers (Cricket) in India and he is investing money acquired from betting in Crypto currency and parking it in the said Company.

The Complainant also provided the names of his associates and it is reported, that it has come to his knowledge that there are many web sites/web portals, providing online betting and gambling services and all of them are connected/controlled/operated in a complex and systematic way and there exist a nexus, between more than 100 such

subsidiaries, which operate under distinct names.

5] The complainant, in detail provided information about the modus operandi of the accused, named by him through the alleged network and the connection is being established between the Accused, particularly Accused Nos.2, 5, 6, 7, 9.

The longish complaint contain only the following statement, (running into 24 pages), as regards the Plaintiff, :-

“I am shocked to learn that Accused namely Saurabh Rameshwar Chandrakar, Ravi Uppal, Shubham Soni, Atul Aggarwal, Lalla (Dubai), Abhishek (full name now known) and Khanjam Jagdishkumar Thakkar, Address : 714, 7th Floor, Plot CS-1487, Prasad Chamb, Tata Road No.2, Roxy Cinema, Opera House, Girgaon, Mumbai City, Maharashtra, and other unknown persons have committed the crimes of cheating, forgery, defrauding of valuable security in a well planned and systematic criminal conspiracy.”

“I was shocked to learn that in order to prevent such illegal transfer of funds by the Law Enforcement Agencies, funds are transferred through illegal hawala channels, in cash or USDT, before disposal to specific individuals or specific accounts with the help of Accused namely Atual Aggarwal, Lala(Dubai) and Khanjam Jagdish Kumar Thakkar who coordinate and organize hawala transactions.”

6] The complaint has narrated that the accused Saurabh Chandrakar and Ravi Uppal, who have head offices in Dubai,

create profiles of panel owners, who in turn create profile of players, who are induced to deposit money into certain designated bank accounts and it is further alleged that 20% of proceeds are remitted either through dubious banking channels or through hawala transactions, irrespective of final outcome of betting/gambling games, and the remaining 80% is retained by accused Saurabh Chandrakar, Ravi Uppal and their associates.

The lengthy complaint has narrated modus operandi of Saurabh Chandrakar, who is alleged to have received huge amounts in crypto currency and the details of certain transactions and accounts, in which the accused persons received money, also form part of the complaint. It is alleged that the transactions involving 100 of crores of rupees and obviously the transactions made by Saurabh Chandrakar in his crypto wallet are of astronomical amounts and, therefore, it is important to thoroughly investigate several aspects of these transactions through crypto currency.

The complainant in the complaint has also suggested the manner in which these transactions can be unearthed, as according to him all the funds are transferred to the finance wallet and it would be relevant to obtain KYC documents linked to

various accounts/addresses, to receive IP logs, contact details, email accounts etc. to further investigate the transactions on crypto channel.

The complainant further make assertion that Accused Saurabh Chandrakar has strong connection with underworld persons as he is closely related to Accused No.2 and 3 and it is learnt that he had met Mushtaqeen, at his residence in UAE in connection with the Agreement and it is widely talked amongst the sport lovers, that due to influence and connections with him, the management of IFFA 2022 decided to enter into a sponsorship deal with Sports Buzz.

Accused Nos.2 and 3 are alleged to be in partnership with Mushtaqeen who is described as brother of underworld Don, Dawood Ibrahim and it is alleged that their money is being invested in some major developments in Mumbai and Mira Road.

7] On reading of the complaint in its entirety, barring the reference of the Applicant at two places, which I have reproduced, in 24 pages of the complaint, no other material is provided.

Taking this complaint as the basis resulting into an FIR being registered with Matunga Police Station, Respondent No.1

Mr. Waahiid Ali Khan, a Journalist by profession, started running a story/ series on social platforms owned by Defendant Nos.2 to 4, by circulating his own views/opinions derived from the complaint.

On 29.11.2023, Wahiid uploaded a post naming the Plaintiff which reads thus:-

“Kaha hai hawala king Khanjan Thakkar? Does he has a D company person as a partner? Who is his uncle who handles India networks? Where is he bought 900 cr. Property? Kaha kaha hai Khanjan ka India mey office? Many more new information Soon only on Sshaawn. TV.”

He also posted the identity card of the Plaintiff, with his photograph thereon.

On 30.11.2023, he uploaded another post, which was accompanied with the resident identity card of the Applicant of UAE. The post received 264 views and evidently the projection of the person described, is in a bad sense.

On 15.12.2023, Waahiid Khan circulated a write up about issuance of summons to Actor Sahil Khan and three others in connection with Mahadev App Online betting scandal, alleging a scam of 15,000 crore illegal betting operation and the act involved him and his brother, into connecting it with the FIR of Matunga Police Station, he report that 32 accused are named by Mumbai Police including the Applicant, who is described by the post as

Hawala Operator.

8] Mr. Waahiid Khan did not stop at this, but he engaged himself into an activity of relaying his video on YouTube channel and also circulating it on Facebook.

The video running into 6 minutes 40 seconds, is captioned as 'Betting App ka Instagrammers Aur Bollywood Connection watch with Waahiid Ali Khan'.

The transcript of the said clipping is annexed with the Plaint in which Mr. Waahiid Khan introduce the promotion of cricket betting apps. He posed a question about who sponsor the budget of advertising these Apps and he connect this with the answer which was offered by Hon'ble Shri. Devendra Fadnavisji, on a question being posed by a Legislative Assembly member from Aachalpur, Maharashtra.

The question put by Mr. Bacchu Kadu is about prohibition of Online gaming in the State of Maharashtra, to which the response is received from Shri. Devendra Fadnavis, that steps need to be taken to regulate the same and this aspect shall be duly examined.

Thereafter. Mr. Waahiid Khan connect this response,

without any basis and offer his own comments on, who is providing money for promotion of such games and he name Ravi Uppal, he name Jagdish Thakkar, the Applicant, by accusing them of running Hawala Racket. He also make accusation that the Country is put to a loss of Rs.40 Crores minimum per day by transmitting the money to Dubai, on which Dubai is flourishing.

9] The Defendant No.1 Waahiid Khan continued this series further by telecasting another interview on 16.12.2023 for 11 minutes 28 seconds, again offering some inputs on Mahadev App, connecting some response offered by Hon'ble Shri. Devendra Fadnavis, responding to the question put by one Ashish Shelar, a senior leader from BJP and once again he name the Applicant by saying that his name is surfacing time and again, as he runs Hawala and transferring crores of rupees from India to Dubai.

The transcript of the aforesaid videos is placed alongwith the Plaint with the necessary certificate from one Kissamago Services.

10] Apart from the above, there are posts from Mr.Waahiid Khan, on his Facebook page, which has mention of Applicant's

name in connection with the special investigating team issuing summons to Sahil Khan and others in connection with Mahadev App OnLine.

11] It is these posts which are objected, as being defamatory and on 09.12.2023 the Advocate of the Plaintiff issued a cease and desist notice to Defendant No.1, asking him to withdraw the defamatory information propagated by him OnLine, as well as through print media and strangely received a reply dated 09.12.2023 denying each and every averment and allegation in the notice and to the contrary alleging that the notice contain false and baseless allegations and insinuations, which appear to have been made with ulterior motive of mentally harassing him, and in an attempt to extort money or to gain publicity.

There is no denial of publication, circulation of the alleged defamatory information, but what is important to note is the response, which is reproduced hereunder :-

“4. My client wish to clarify that he has taken the matter seriously, as he is committed to conducting his journalistic endeavours with the highest ethical standards and in full compliance with the law.

5. My client states that as journalists, he understands the significant responsibility that comes with reporting on matters of

public interest, and he is fully aware of his rights to freedom of speech and expressions, as well as the right to disseminate information that is in the public interest.

6. It is on this basis that he assert his right to address and discuss the facts related to the case in which you are involved, without engaging in any form of defamation or malicious intent.

7. My client states his coverage of the case has been grounded in a commitment to accuracy, fairness, and the pursuit of truth. He has diligently verified his sources and strived to present a balanced and unbiased perspective to his audience. At no point have he sought to defame or harm the reputation of any individual, including yourself. Furthermore my client states that you are alleged as accused no.10 in the same case which is pending and sub-judice before the competent Court.

8. My client states it is essential to underscore that the right to freedom of the press is fundamental to a democratic society, and it serves as a cornerstone of transparency, accountability, and the public's right to know. His reporting has aimed to serve these principles, and we firmly believe that it is in the public interest to provide accurate and comprehensive information on matters that impact our community.”

12] It is the case of the Plaintiff, that Defendant No.1 has circulated defamatory statements against him with malafide intention and ulterior motive and its circulation, is causing irreparable loss and injury to his esteem and reputation. It is the claim of the Plaintiff that the Articles/write ups are clearly baseless, motivated and defamatory in nature and as per the Plaintiff, the Defendant No.1, by using the platform of Defendant

Nos.2, 3 and 4 has widely circulated the defamatory Articles, with specific intention of lowering the image of the Plaintiff, in the estimation of the public at large and also in the social circles and this act is actuated by malice and amount to blatant scandal mongering and is *per se* defamatory, and causing harm to his impeccable reputation in public estimation.

It is also alleged that Defendant No.1 is not entitled to form his opinion and pre-judge the matter and pronounce the Judgment before the public without being backed up by cogent evidence.

It is in this background, Mr.Khandeparkar has pressed for the reliefs in the Interim Application.

13] Defendant No.1 has filed his Reply, adopting a broad stand of he being a journalist and being conscious of the freedom of speech and expression and that he consider distribution of information in the public interest, as his fundamental duty.

In Para 4 of the Reply, Defendant no.1 has justified his action by stating as under :-

“That his reporting on any case has been based on a dedication to truth-seeking, impartiality, and correctness. He has worked hard to ensure that his sources are reliable and has made an effort to give

his audience an objective, fair viewpoint. He has never attempted to discredit or damage the reputation of anyone, including the Plaintiff. The Defendant No.1 further states that he had published a video on his Youtube channel named 'Waahidd Ali Khan' about a month ago wherein he had interviewed a Mr. Amit Majithia.”

That the Plaintiff was then arraigned as an accused in the FIR registered at Matunga Police Station under Section 420, 465, 467, 468, 461 and 120-B of the Indian Penal Code, 1860, u/s 12(a) of the Maharashtra Prevention of Gambling Act, 1887 and u/s 66(d) and 66(f) of the Information Technology Act, 2000 which is still pending and under review by the appropriate court.”

14] The Defendant No.1, being represented by Mr. Rizwan Merchant has adopted a clear stand, that since the FIR is registered in which the Plaintiff is arraigned as an accused, the ongoing investigation conducted by Enforcement Directorate against the illegal betting App syndicate has been broadcasted by various media and channels and journalists have covered the news across the spectrum.

It is the specific stand of Defendant No.1, that the Plaintiff has falsely and maliciously filed the present Suit for damages, in order to inflict serious damage to the media spokesperson and he has emphasized on the freedom of press, as the basic component of democracy and the basis for responsibility and public's right to information.

Defendant no.1 claims that, he believes that it is in public interest to provide accurate and thorough information on matters, that impact the society and his reporting has attempted to serve these principles and there is no statement made against the Plaintiff which is defamatory in nature, but it has been published by him to create public awareness.

15] In words of Cave, J in *Scot vs. Samson* , 1882 (8) QBD,

“The Law recognizes in every man a right to have the estimation in which he stands, in the opinion of others, uneffected by false statement to his discredit.”

Every man possesses an inherent personal right to have his reputation reserved inviolate.

Any imputation which may tend to lower the image of a person, in the estimation of right thinking members of society generally or to expose him to hatred, contempt or ridicule is defamatory to him. The publication of words defamatory of the Plaintiff, give rise to prima facie cause of action and the law presume in favour of such a party, that the words are false unless the Defendant proves to the contrary.

16] The Tort of Defamation, may be committed either by way of

writing or by way of utterances, and the term 'libel' is used to describe the former, kind of utterances, whereas, the term 'slander' is for the later.

A libel is defamation in some permanent form, for eg. a written or printed defamation, whereas, slander is defamation in transient form for eg. spoken words, gestures etc.

Cyber defamation is an emerging challenge in the digital era, it refers to an act of defaming someone online through social medial, websites, or any other available digital platform.

17] The Law of Defamation, like every other branch of Law of Torts , expect balancing of interest, between the right of a person to enjoy his reputation being juxtaposed against freedom of speech and expression, available to another. The Law of Defamation protects reputation and the defences to the wrong namely the truth and privilege stand protected by exercising the freedom of speech.

Words are prima facie defamatory, if their natural, obvious and primary sense is defamatory. However, words prima facie innocent are not actionable unless their secondary or lateral meaning is proved by the Plaintiff to be defamatory and then the

burden is cast on the Plaintiff to make out the circumstances, which make them actionable and he shall establish, the defamatory statement attributed to these words. Such explanatory statement, referred to as innuendo, is created where the imputation is made in an oblique way or by way of question, exclamation or conjecture.

The cause of action based on a true or legal innuendo arises when reliance is placed on some special circumstances, which convey to some particular person or persons knowing the circumstances a special defamatory meaning. In such a cause of action, there is no exception in case of a publication in media, because the words would not be so understood by the world at large, but only by the particular person or persons who know the special circumstances.

18] The present case is presented by Mr. Khandeparkar, as the matter, to create a stir in investigative journalism, by adopting innuendo.

When the write ups by Waahid Khan on his website are perused by me, the identity of the Plaintiff is clearly established, as alongwith the write ups his identity card is also displayed.

The Articles/write ups pose a question, as to who is Khanjan Thakkar and in the series run by Mr. Khan, he himself offers the information, which unfortunately is not supported by any material, but is purely based on the FIR, to which I have made reference in the as above paragraphs.

Very pertinently, Mr. Merchant representing Mr. Waahid Khan would submit that, the Article, is based on an FIR which is presently under investigation by the SIT. Though he make a tall claim about the information being disclosed in public interest, with an avowed object of deterring the public at large from investing money with some fraudsters, when I asked Mr. Merchant to point out to the material, to establish that the Plaintiff is also part of the scam, Mr. Merchant make a statement that his knowledge is restricted to the FIR.

Unfortunately, the FIR has attributed a limited role to the Plaintiff and that too in a collective manner by alleging that the Accused Atual Agarwal, Lala (Dubai) and Khanjan Jagdishkkumar Thakkar, co-ordinate and organise Hawala transactions.

Leaving at that, the complainant expected an action against 31 named accused and some unknown persons and these

accusations are under investigation.

19] Under the Law of Defamation, the test of defamatory nature of a statement is its tendency to insight an adverse opinion on feeling of other persons towards the Plaintiff. The words must result in the Plaintiff to be looked upon with the feeling of hatred, contempt, ridicule, dislike or to convey an imputation to him or disparaging him or his office, profession, calling, trade or business.

In India, like most other common law countries the burden is proof is on the Defendant to show that the statement is true or the publication was not intentional.

In *S. Puttaswamy vs. Union of India*¹, a 9 Judge Bench of the Highest Court has authoritatively held that right of privacy is a fundamental right and the only permitted exception is where, there is counter veiling public interest, which in particular circumstances is strong enough to outweigh it.

20] What the Defendant No.1 is attempting, is investigative journalism, which is definitely not in the interest of general public

¹(2017) 10 SCC 1

at large, as a Journalist, though he may be duty bound to appraise the public, of the facts and data which is in their interest, it definitely cannot be attempted at the cost of defaming the Plaintiff. The freedom of press, which is being evolved as a species of speech, definitely will have to be balanced against a right, which an individual has to his reputation.

Justification by truth is a well accepted defence, which is available to answer the action, as truth of defamatory words, is accepted as defence to an action of libel or slander, though not in a criminal trial. However, what is important is, that the Defendant must make clear, the particulars of justification and the the case which he is seeking to set up and justify.

21] In the present case, Mr. Waahid Khan has not offered a single justification of truth, but what is asserted by him, is the right to give his audience an objective and fair view.

A reference is made to an interview with accused No.13 Amit Majethia, but in any case, such disclosure is merely hearsay.

In fact, in the reply filed, what is disclosed is the FIR registered with Matunga Police Station, where the Plaintiff is one of the accused and reference is also made to revelations by Mr.

Amit Majethia to him, where he exposed the Plaintiff as gambling tycoon of India and disclosed that the Plaintiff was in charge of the alleged criminal activities in Dubai and his uncle was in charge of the same in Mumbai.

22] It is highly surprising, that a responsible Journalist, without asserting the truthfulness of the statement, from Amit Majethia who was interviewed by him, has thought it fit to put the revelation on public platform and in public domain including Shawn TV, instagram account. Though a feeble attempt is made by Defendant No.1 to assert that he had no intention to defame or harm the reputation of the Plaintiff, but he has accepted to bring some important facts to light, burden is upon him to establish that the Plaintiff is associated with criminal activities or that he is involved in any sort of hooking. Obviously, the Defendant has not taken a reasonable precaution of ascertaining the truth before publication of the interview, by casting imputations which prima facie amount to defamatory statement.

23] The question as regards grant of interim relief in form of an

injunction restraining the Defendants from publishing the defamatory Article on the public platform, it is a trite position of law in India, that a mere plea of justification would not be sufficient for denial of interim relief and the Defendant No.1 apart from it will have to show that the statements were made bonafide and were in public interest and reasonable precaution was taken to ascertain the truth and the statements were based on sufficient material which could be tested for its veracity.

24] The above position of law is well settled in India and is at variance with the principles of law in England, where in an action for defamation once a Defendant raise a plea of justification, at interim stage, the Plaintiff is not entitled for an interlocutory injunction, but the same not being the position in India, where the Court is entitled to scrutinize the material tendered by the Defendant, so as to test its veracity and to ascertain, whether the statements are made bonafide and whether they are in public interest.

Thus, in India, even at the interlocutory stage, the Court is very much entitled to look at the material which is alleged to be defamatory in nature.

25] As a result of position of Law which has evolved in India, the truth of defamatory words is a complete defence to an action of libel and slander, but a Journalist or Reporter is not expected to transgress the limits of his right of speech and expression and cannot claim protection by simply stating that the information, was provided to him by someone and it is in public interest to divulge the same, on the pretext that duty lies in giving out that information to the public.

Investigative Journalism definitely does not enjoy any special protection and the umbrage of public interest definitely do not permit a publication, which would amount to lowering down the reputation of any person, in any manner particularly without justifying the publication on the basis of its truthfulness. Just because, the Defendant No.1 is interested in ascertaining the truth or is interested in going to roots of the complaint that is filed, resulting into an FIR, do not necessarily mean that the publication is in public interest and particularly when the complaint is under investigation.

26] A write up which contain imputations and insinuations

against the character of the Plaintiff, particularly when they are baseless and reckless, as in response to the Interim Application, except stating that it is based on the First Information Report and an interview of some third person, no justification is offered, by the First Defendant.

A publication by a Journalist who claim to have exposed many scams definitely do not authorize him to publish a column/article, which may result into hatred, ridicule or contempt of the Plaintiff and he may not escape the consequences, merely on the pretext that it is in public interest.

If a CR is registered on a complaint and it is under investigation, the Defendant No.1 has offered no justification for running a story, which according to the Plaintiff tends to lower his image in the public.

27] Reliance placed by Mr. Rizwan Merchant on the order passed by the Delhi High Court in the case of *Mahua Moitra vs. Directorate of Enforcement and others*², is a completely different situation and what is sought by the Plaintiff/Applicant is a

² 2024 SCC OnLine Del 1264

restraint order from publishing the false and defamatory statement/ writing, which tend to injure his reputation without lawful justification or excuse by using the platform on social media.

28] Recently, the Apex Court in case of *Bloomberg Television Production Services India Pvt. Ltd. & Ores. vs. Zee Entertainment Enterprises Ltd.*³, observed in Para 7 and 8 as under :-

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 pretrial 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

³ 2024 SCC OnLine SC 426

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.”

8. In *Fraser vs. 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 Judge. But a better reason is the importance in the public interest that the truth should out.....”

29] The position in India, being evolved to the effect that it is open for the Court to pass a restraint order, but it shall be passed with great caution and the Plaintiff must prove that the words complained of, are untrue and any subsequent publication would be malafide.

The case of the Plaintiff falls within these four corners, as the defence of truth if permitted to be availed at the stage of trial, which in this country will be long wait, would have the desired effect of maligning the image of the Plaintiff and without any

sufficient cause/justification being offered by any supporting material.

30] For the above reasons, I am convinced to grant the reliefs in the Interim Application, to the following effect :-

(a) That pending the hearing and final disposal of the Suit, the Defendant No.1 is restrained by temporary injunction from printing, publishing, selling and/or exhibiting, circulating the said articles and streaming and sharing the video on any social medial platform or any other platform in public domain and from doing any other act, deed or thing that may amount to defamation of the Plaintiff.

(b) The Defendant No.1 is directed to forthwith remove/delete permanently the following defamatory Articles:-

(i) a video interview of Defendant No.1 uploaded on Defendant No.1's YouTube Channel having its link at <https://www.youtube.com/watch?v=qySBjaLqVhk>;

(ii) a post published and circulated by the Defendant No.1 on his official page on the Defendant No.3, having its link at <https://x.com/waahidalikhan/status/1730144934865613090?s=48&t=wDWnAKLJQrTgozpMSz3uKg>, titled as as "Kaun hai Ramesh Thakkar kya karta hai Khanjaan Kay Lea? Jald karegay kholasa only on @sshaawntv#khanjanthaakar @DubaiPoliceHQ @DXBMediaOffice@HHShkMohd @narendramodijii @dir_ed @FinMinIndia @ MOS_MEA@ DrSJaishankar" and publishing there the passport of the Plaintiff;

(iii) a post published and circulated by the Defendant No.1 on his official page on the Defendant No.3, having its link at <https://twitter.com/waahiidalikhan/status/1735508376048816335?s=48>;

(iv) a post published and circulated by the Defendant No.1 on his official page on the Defendant No.3, having its link at <https://twitter.com/waahiidalikhan/status/1729805595740631192?s=48&t=wDWnAKLJQrTgozpMSz3uK>, and publishing there the passport of the Plaintiff;

(v) a video posted on Facebook by the Defendant No.1, on his page on Facebook, having link at <https://www.facebook.com/watch/?v=3690756381204641>:

(vi) a video posted on Facebook by the Defendant No.1, on his page on Facebook, having link at <https://www.facebook.com/watch/?v=342976011697728>;

(vii) a post published on Facebook by the Defendant No.1, on his page on Facebook, having link at <https://www.facebook.com/waahiidaliKhan/posts/pfbid034yGBt9JGPp61juWYDlWA9MSakabvHL7VH21Q37A5QZ9E3s97nbymgWtT7YMvVdMI>;

(viii) a video posted on Facebook by the Defendant No.1, on his page on Facebook, having link at <https://www.facebook.com/watch/?v=350842644308916>:

(ix) a video posted on Facebook by the Defendant No.1, on his page on Facebook, having link at <https://www.facebook.com/watch/?v=879090960684387>:

(x) a video posted on Facebook by the Defendant No.1, on

his page on Facebook, having link at <https://www.facebook.com/watch/?v=1385018728801795>.

31] The exercise shall be undertaken by the Defendant No.1, within a period of one week from the date of uploading of the order. On failure to do so, liberty is given to the Plaintiff to seek further reliefs in the Interim Application.

[BHARATI DANGRE, J]