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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 29th May, 2019

Date of decision : 23rd October, 2019

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CS (OS) 27/2019

SWAMI RAMDEV & ANR.

.....Plaintiffs

Through: Mr. Darpan Wadhwa, Sr. Advocate with Mr. Simranjeet Singh, Mr. Rohan Ahuja, Ms. Sonali Dhir, Mr. Aadhar Nautiyal and Ms. Cauveri Birbal, Advocates (M: 9205109664).

versus

FACEBOOK, INC. & ORS.

.... Defendants

Through: Mr. Parag P. Tripathi, Sr. Advocate with Ms. Richa Srivastava, Mr. Aditya Nayar, Ms. Mishika Bajpai & Ms. Nayantara Narayan, Advocates, for D-1.

Mr. Arvind Nigam, Sr. Advocate with Mr. Mehtaab Singh, Mr. Prathishth Kaushal, Ms. Shruttima Ehersa & Ms. Sakshi Jhalani, Advocates for D-2&3 (M-8814048526)

Mr. Sanjeev Sindhwani, Sr. Advocate with Mr. Deepak Gogia & Mr. Jithin M. George, Advocates for D-5 (M-9971766556)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

I.A. 855/2019

1. The Plaintiffs – Swami Ramdev and Patanjali Ayurved Ltd. have filed the present suit against the Defendants- Facebook Inc., (Defendant No. 1)

Google Inc., (Defendant No. 2) YouTube LLC, (Defendant No. 3) Google Plus, (Defendant No. 4) Twitter International Company, (Defendant No. 5) and Ashok Kumar (‘John Does’), (Defendant No. 6) seeking a permanent and mandatory injunction, as also damages. For the sake of convenience, the Defendants and their various websites, social media platforms, URLs, weblinks etc., are collectively referred to as “*Platforms*”.

2. The allegation of the Plaintiffs is that various defamatory remarks and information including videos, based on a book titled ‘*Godman to Tycoon – the Untold Story of Baba Ramdev*’ are being disseminated over the Defendants’ platforms. The Plaintiffs submit that the defamatory content contained in the said book was subject matter of a judgment passed in CM (M) 556/2018, wherein a Id. Single Judge of this Court had restrained the publisher and author from publishing, distributing and selling the book without deleting the offending portions. The allegations contained in the videos, which have been uploaded on the Defendants’ platforms are in fact the defamatory allegations contained in the book which have already been directed to be removed. The said judgment was challenged by the publisher before the Supreme Court and the same is pending. It is however submitted that there is no stay of the order/judgement.

3. The suit was listed on 21st January, 2019, on which date, notice was directed to be served on the Defendants. On 24th January, 2019, after hearing Id. Counsels for the parties, the following order was passed:

“6. A perusal of the transcript of the video shows that similar allegations as contained in the offending portions of the book which were directed to be deleted, are also contained in the video. The said judgment has been appealed against in the Supreme Court. However,

there is no stay as per the Ld. Counsels for the Plaintiffs. Considering that the allegations made are similar to the allegations which were directed to be deleted by the said order, a prima facie case is made out for grant of injunction. Balance of convenience is in favour of the Plaintiff and irreparable injury would be caused if the interim order as prayed for is not granted. The Ld. Senior Counsel for the Defendants 1-3, submit that the Defendants are willing to block the said URLs/disable them from the India domain. Till the next date, the Defendants are directed to remove/block/disable the URLs and weblinks connected to the offending video for the India domain. The URLs are mentioned at pages 19 to 24 of the documents filed by the Plaintiff. The blocking/disabling be given effect forthwith and, in any event, no later than 72 hours.

7. The question as to whether the said URLs also deserve to be blocked globally, would be heard on the next date. A short reply on this issue be filed by the Defendants within two weeks.

8. The basic subscriber information for the entity/person/s, which/who has uploaded the said video be placed in a sealed cover.”

Thus, an interim order was granted directing removal of the offending URL and weblinks for the India domain. The platforms submitted that insofar as global blocking of the videos is concerned, they wish to make submissions on this issue. The above order of injunction continues to operate and parties have been heard on the issue of global blocking.

4. Thereafter, the platforms have placed on record the Basic Subscriber Information (*hereinafter* ‘BSI’) relating to the uploading of the videos. Pleadings have also been completed by the parties. On 23rd May, 2019, while the matter was part heard, the Court had directed the platforms to seek

instructions in respect of the following:

*“(i) Whether the identity of a person uploading the video is shown on YouTube at the beginning or end of the video and if not—for what reason?
(a) Can any video which is uploaded on YouTube be edited by YouTube?”*

On 5th April, 2019, in view of the technical submissions made, the parties were directed to keep one technically qualified person to be present in Court during the arguments. On 28th, May, 2019, Id. Counsel appearing for Defendant No. 2- Google Inc. was also directed to clarify as to in what manner geo-blocking is effected on the YouTube platform.

5. Pursuant to the orders passed by the Court, some written notes have been placed on record by Facebook, Google LLC and Twitter in respect of geo-blocking. The note filed by Facebook was referred to during oral submissions. The remaining defendants have however filed the same only along with their written submissions and no reference was made during arguments to the same. For the sake of completeness, the same are however being considered.

6. None of the Defendants have any objection to blocking the URLs and disabling the same, insofar as access in India is concerned. However, all the Defendant platforms have raised objections to removal/blocking/disabling the impugned content on a global basis. On the other hand, the Plaintiffs argued that blocking merely for the Indian territory alone is not sufficient as the content would be accessible through international websites, which can be accessed in India. Thus, according to the Plaintiffs, for the remedy to be effective, a global blocking order ought to be passed.

7. It is on the question or whether geo-blocking is sufficient, under these

circumstances, that counsels have primarily addressed the Court. Further, none of the Defendants have any objection for blocking the URLs for the territory of India i.e., the India domain.

Submissions on behalf of the Plaintiff

8. On behalf of the Plaintiffs, Mr. Darpan Wadhwa, Id. Senior Counsel submits that if a defamatory article, book or any other content is printed or published, then the publisher of the same is liable for defamation. The Defendants are seeking protection under Section 79 of the Information Technology Act, 2000 (*hereinafter 'the Act'*) on the ground that they are intermediaries. Since they claim that their role is that of passive intermediaries, they are bound to follow the due diligence required under law. As per the judgment in *Shreya Singhal v Union of India AIR 2015 SC 1523*, the phrase “actual knowledge” in Section 79 is a Court order, thus, once the Court passes an order, they are bound to disable the content globally and cannot raise objections to the geographical extent of implementation of the injunction. It is Mr. Wadhwa’s submission that if the Defendants claim that they do not have an obligation to comply with the orders of the Court, then they are no longer entitled to safe harbour under Section 79 of the Act. He relies on the definitions of “computer resource”, “computer system”, “computer network” and “data” in Sections 2(1)(k), 2(1)(l), 2(1)(j) and 2(1)(o) respectively to submit that the Act does not provide that the blocking has to be restricted to the territory of India. Thus, a Court of competent jurisdiction can pass effective orders directing global blocking. He further submits that an intermediary’s role cannot be to adjudicate as to whether the content is defamatory or not, but to remain

passive and obey the orders of the Court. An intermediary cannot argue on behalf of the person who has uploaded the content. It is submitted that the harm that is being caused by continued accessibility to the content is irreparable to the Plaintiffs, whereas there is neither any inconvenience nor harm caused to the Defendants if they are to effect global blocking. The platforms have the technical capability to carry out such blocking.

9. Mr. Wadhwa further submits that under the Information Technology (Intermediaries Guidelines) Rules, 2011 ('2011 Rules') it is not for the intermediaries to decide what is defamatory. They are to merely follow the law, including orders of the Court. They have to appoint a grievance officer to take care of the users' grievances. The Plaintiffs cannot be forced to avail of legal remedies in every country to ensure that content is taken down. That would be a very high order, inasmuch as it would make the remedy granted by this Court completely ineffective.

Defendants' submissions

10. On the other hand, it is submitted by Mr. Parag Tripathi, Id. Senior Counsel appearing for Facebook – Defendant No. 1, that no effort has been made by the Plaintiffs to implead the persons whose details have been provided in the BSI. He relies upon the judgments in *Google Inc. v Equustek Solutions, Robert Angus and Clarma Enterprises Inc*¹ (hereinafter, "Equustek-I") and *Google LLC v Equustek Solutions Inc., et al.* (hereinafter, "Equustek-II")² and submits that the question as to what

¹*Google Inc. v Equustek Solutions, Robert Angus and Clarma Enterprises Inc* 2017 SCC 34 (Supreme Court of Canada)

² *Google LLC v Equustek Solutions Inc., et al.*, United States District Court, Northern District of California, San Jose Division, case No. 5:17-cv-04207-EJD, December 14, 2017

constitutes defamation differs from country to country. For example, in the U.K., the onus is upon the Defendants to show that the content is not defamatory. However, in the U.S., the onus on the Plaintiff in a defamation action is very high. Defamation laws differs from jurisdiction to jurisdiction, and therefore, passing of a global disabling order would be contrary to the principle of comity of Courts and would result in conflict of laws.

11. Mr. Tripathi further submits that the issues raised could have far reaching impact, and Section 79 of the Act is a work in progress. Dissemination of views on the internet is an essential ingredient of freedom of speech and expression and the integrity of national judicial systems has to be maintained. In fact, the injuncted book is itself available on various platforms internationally, which itself shows that the injunction has to be restricted to India alone. Plaintiff No.1, being a public figure, should be open to criticism. He submits that an injunction would not be liable to be granted *inter alia* on the following grounds:

- i) The main Defendants i.e. the persons who have uploaded the video have not been impleaded;
- ii) Though the Court has jurisdiction to pass a global injunction order, which is clear from a reading of Articles 244 and 246 of the Constitution, which provide for implicit long arm jurisdiction, the Court ought to be reluctant to pass a global blocking order;
- iii) In order to ensure that access is disabled, the platforms have resorted to geo-blocking which is more than sufficient to take care of the Plaintiffs' interests;
- iv) The Plaintiffs have not brought on record any evidence to show as to whether anyone has viewed the content globally;

- v) There are no extreme circumstances, that require a global injunction order to be passed;
- vi) The order to be passed by the Court has to be proportionate to the danger or harm that is alleged. There is greater harm in passing a global injunction order in such circumstances;
- vii) The publisher of the book has also not been impleaded in the present case and no effective order can be passed in the absence of the publisher;
- viii) The Defendants are intermediaries and cannot be compelled to run foul of the law in jurisdictions such as the U.S. where they are headquartered.

12. He further submits that a global ban on content ought to be the last resort of the Court. Such an order results in muzzling dissent. Reliance is placed on the *Equustek* litigation, wherein an order to remove content was passed by the Courts in Canada and when Google brought an action before a US District Court to prevent enforcement of the Canadian Court's order, the U.S. Court restricted the application of the Canadian court's order only to Canadian territory. Such judgments could severely undermine the dignity of Indian courts if global injunction orders are passed. He relies upon the judgment of the Supreme Court of New York County in *Ajitabh Bachchan v India Publications 154 Misc. 2d 228 (N.Y. Misc 1992) decided on 13th April, 1992* to support this argument. Further reliance is placed on the judgment of the Supreme Court of New South Wales in *Macquarie Bank Ltd. & Anr. v. Berg [1999] NSWSC 526*. Reliance is also placed on the opinion of the Attorney General of the Court of Justice of the EU given in the case of *Google Inc. v. CNIL Case C-507/17*. Since public interest differs

from one country to another, an Indian court's perception of public interest ought not to bind other jurisdictions. He further submits that the right of freedom of speech and expression in India ought to be at least as much as in the U.S., and the principles of territoriality ought to be applicable in these cases. A decision of the Sao Paulo State Court of Appeal, Brazil in ***Twitter Brasil Rede de Infromacao Ltda v. Tim Cellular S/A, Interlocutory Appeal No. 2055830-58.2016.8.26.0000*** is relied upon in support of the principle of territoriality. Reliance is also placed on an article written by Marc P. Epstein published in the Fordham Law Review titled *Comity Concerns Are No Joke: Recognition of Foreign Judgments Under Dormant Foreign Affairs Preemption*³ which severely criticized what was termed as "libel tourism." Further reliance is also placed on a publication by Alex Mills titled "*The Law Applicable to Cross-Border Defamation on Social Media: Whose law governs free speech in 'Facebookistan'*"⁴ published in the Journal of Media Law, wherein the author raises the question as to whose laws govern free speech on social media platforms. It is argued that if orders can be passed by national Courts which would result in global removal of content, then law of free speech on internet would be reduced to the lowest common denominator.

13. Mr. Tripathi also cites the order of this Court dated 14th January, 2019 in ***Sasikala Pushpa v. Facebook & Ors. CS (OS) 510/2016*** and order dated 25th April, 2019 passed by this Court in ***Patanjali Ayurved Ltd. v Facebook Inc. & Ors. CS (OS)449/2018***.

³ Marc P. Epstein, *Comity Concerns Are No Joke: Recognition of Foreign Judgments Under Dormant Foreign Affairs Preemption*, 82 Fordham Law Review 2317 (2014)

⁴ Alex Mills, *The Law Applicable to Cross-Border Defamation on Social Media: Whose law governs free speech in 'Facebookistan'*, Journal of Media Law 7 (2015) 1-35

14. Mr. Arvind Nigam, Id. Senior Counsel appearing for Google Inc. and YouTube LLC takes the following preliminary objections:

- i) That the suit has been filed by a Power of Attorney – Mr. Gyandeep Sharma. Since an action for defamation is an action *in personam*, the Plaintiff ought to have personally verified and filed the plaint.
- ii) That the suit lacks cause of action as there is nothing offensive contained in the video.
- iii) That the plaint does not refer to the judgment of the Id. Single Judge in CM(M) 556/2018, which has only been placed before the Court during the course of arguments, and only the closure report of the CBI was relied on.
- (iv) That the plaint relies upon four pages of URLs, however, there is no mention as to which is the one which is extracted in the Plaint.
- (v) That none of the persons who have uploaded the video have been impleaded.
- (vi) That there is no mention as to which is the offensive part in the video. It is the settled position that the specific words which are defamatory have to be pointed out, as held in the judgment of the Supreme Court in ***R. Rajagopal v. State of Tamil Nadu 1994 SCC (6) 632***. Since the entire plaint is mere paraphrasing and is only alleging innuendo, the plaint ought to be rejected.
- (vii) That the necessary party i.e. the uploader of the video having not been impleaded, the suit would be liable to be dismissed. He relies upon the judgments in ***ABC Laminart v AP Agencies, Salem (1989) 2 SCC 163*** and ***Ramesh Hirachand Kundanmal v Municipal Corporation of Greater Bombay and Others (1992) 2 SCC 524*** to

argue that if a necessary party is not impleaded, the suit would be liable to be dismissed.

15. It is further submitted by Mr. Nigam that the order of Id. Single Judge in CM(M) 556/2018, which is in the public domain, itself contains the offending parts, and thus firstly, as Courts have to consider as to whether the content is vexatious or scandalous, the judicial record itself becomes defamatory. He relies on a judgment passed in the case of *HPS Chawla v NPS Chawla and Ors. FAO (OS) No. 55/2005 (Decided on 22nd September, 2005)* to submit that redaction was directed in the judicial order to ensure that offensive content is not made public. Since the Plaintiff is in public life and runs a business organization for crores worth of business, the Plaintiff ought to be open to criticism.

16. Insofar as the Act is concerned, it is submitted that under Section 1(2), it applies to only to the territory of India. Though under Section 75 it is clear that the Act applies to any offence or contravention committed outside of India if the same is committed through a computer, computer system or computer network located in India, the contraventions as contemplated under the Act are provided for in Sections 43, 43A, 66A, 66B, 66 66E and Section 66F. However, defamation is not covered in these provisions. Reliance is also placed on the decision in *Playboy v. Chuckleberry 939 F. Supp. 1032 (S.D.N.Y. 1996)* to argue that a U.S. court in the said case had held that there could not be an injunction by a U.S. Court against publication of a magazine titled 'Playmen' in Italy. It is further argued that the grant of a global injunction at the interim stage is like decreeing the suit. Since the Plaintiff's reputation is restricted and localised in India, the Plaintiff is adequately protected by geo-blocking. If the uploader himself removes the

offending material, then the removal takes effect globally.

17. Mr. Sanjeev Sindhvani, Id. Senior Counsel appearing for Twitter submits that the grant of a global injunction can have a regressive effect even on India. He relies upon Section 13 CPC to submit that India also prescribes various conditions to recognize judgments of foreign Courts. He further relies upon the Sections 3 and 4 of the IPC to argue that if there are extra territorial offences, an order of an Indian Court would not be enforceable abroad. The principles of comity of courts and comity of nations requires Courts to respect the territoriality of their jurisdiction. The contraventions under the Act cannot be dealt with by a Civil Court as they are criminal offences. The High Court of Justice in Northern Ireland, in *George Galloway v. William Frederick Frazer & Ors. [2016] NIQB 7* has held that no global injunction can be granted. The Defendants have already complied with the orders on a pan-India basis and geo-blocking has been done. The Plaintiffs have not complained of any violations of the order that has already been passed, and under the provisions of Order VI Rule 4 CPC, pleadings are required to be specific and in the absence thereof, no injunction can be granted. The mere apprehension of use of VPN and proxy servers to access global websites cannot be sufficient to presume that the data is likely to be transmitted and accessed in India. In *Suresh Jindal v. Rizosli Corriere Della Sera Prodzioni T.V. S.p.a. and Ors [1991] Suppl. (2) SCC 3*, the Supreme Court, being conscious of the limitations, granted an injunction against dissemination only in India. In view of the fact that the global standard to protect free speech could be very low in various jurisdictions, Indian Courts, which have a higher standard for free speech, should not impose the said standards internationally. In *Shreya Singhal*

(*supra*), it has been held by the Court that the injunction, if any, has to be in the narrowest terms.

Rejoinder submissions by the Plaintiffs

18. In rejoinder submissions, Mr. Darpan Wadhwa, Id. Senior Counsel submits that the plaint is not lacking in material particulars. In various paragraphs, the manner in which the content uploaded in the video is defamatory has been set out. Specific reliance is placed on pages 31, 33, 38, 39 and 53 of the plaint. Reliance is also placed on the judgment of the Id. Single Judge, specifically, pages 91, 118, 119, 121, 178, 179 and 201 where the very same content, as contained in the video, has been dealt with as part of the book. It is further submitted by Mr. Wadhwa that the right of reputation is a Right under Article 21 of the Constitution. Thus, the Court has to balance the Plaintiff's rights enshrined in Article 21 as against the rights under Article 19, which are being claimed by the platforms

19. Insofar as the argument of mis-joinder and non-joinder is concerned, he submits that the BSI does not give any details except the IP addresses. Only in some cases, mobile numbers and e-mail addresses have been given. It is not clear if those individuals are even identifiable.

20. He relies upon the pleadings i.e. written statements filed by the platforms wherein the platforms are attempting to justify as to why global blocking orders ought not to be granted. He submits that the apprehensions of conflict of laws and violation of the principle of comity of courts are all theoretical. He relies upon the judgment in *Equustek-I (supra)*, especially paragraphs 20 and 27, to argue that Google Inc. is subject to personal jurisdiction before this Court and hence any injunction order granted by the

Court has to have full effect. Plaintiffs, citizens and individuals cannot be forced to go courts in each country to protect their reputation.

21. He submits that Section 79 of the Act is the exception to the rule that every publisher is liable. The platforms are publishers and since they intend to seek protection and safe harbour under Section 79 upon being served with a Court order, they have a duty to implement the same. Rule 3(2) of the Rules has to be part of the user agreement, and if any content is defamatory, the same has to be taken down. Intermediaries cannot be judges in their own cause and cannot attempt to police content on their own. Since they do not claim any responsibility at the stage of uploading, the removal of content has to be without hesitation. If they question the orders of the Court, they no longer remain neutral intermediaries and are liable as publishers. He distinguishes the judgment in *Ajitabh Bachan (supra)*. He relies upon the judgment in *Niemela (supra)* to argue that global blocking was sought. He submits that on a VPN network, the video on global platforms is easily available in India. While the platforms are willing to protecting trademarks and copyrights on a global basis, they are refusing to protect a person's reputation. The platforms have not included defamation as part of their policies and hence where defamatory content is concerned, Court orders are required. While the platforms, based on their own policies, do remove content on a global basis, they refuse to do so on the basis of Court orders. The reason for such resistance by the platforms is because the advertising revenue of the platforms depends on the number of hits they get on the shared content. Controversial content gets more hits, and thus if the said content remains, the platforms earn greater revenues. He submits that the publication in the Journal of Media Law in fact states that intermediaries

ought to stay out of judging and leave the same to the Courts.

Analysis and findings

22. The following issues, which have been raised by the parties, are being decided at the *prima facie* stage:

- 1) Mis-joinder / non-joinder of parties;
- 2) Whether the content is defamatory;
- 3) Whether the Defendants are intermediaries and if so, what should be the form of injunction order that is to be passed?

1) Mis-joinder / non-joinder of parties

23. This objection has two dimensions. The first is the non-impleadment of the publisher and the author of the book. The second is the non-impleadment of the persons disclosed in the BSI.

24. Insofar as the first objection is concerned, the book is not directly in issue in the present case, though the offending videos is claimed to be derived from the book. Insofar as the publisher / author of the book is concerned, the Plaintiffs have already availed of their legal remedies against them and a detailed judgment has already been passed by the Id. Single Judge in CM(M) 556/2018. The subject matter of the present suit is the offending video and other related content, which is derived from the book and has been uploaded on various links on the Defendants' platforms. The details of the said links have been annexed to the plaint and run into four pages.

25. Insofar as non-impleadment of the individuals who have uploaded these videos and other allegedly offending content is concerned, a perusal of the BSI which has been filed by the platforms shows that the information is

in the form of account IDs along with IP addresses. Each of the platforms has disclosed the BSI-for example, the Twitter BSI runs into 145 pages, and shows details of from which IP address the user has logged in, and at what time date. There are no other details of the said user. In respect of some users, e-mail addresses have been given. However, no further details are available. The Plaintiffs having received these BSI details, would have to make detailed enquiries and investigations in order to identify the complete contact details of the individuals whose IP addresses or e-mail addresses, or in some cases, mobile numbers have been disclosed. The Plaintiffs may, after proper enquiries take proper steps to implead such uploaders as they deem appropriate, based on the BSI disclosed by the platforms. The suit is at the initial stage and it cannot be said that without impleadment of these subscribers, the suit is not maintainable. At the time when the suit was filed, the Plaintiffs had no way of ascertaining the details of these persons and even now, the subscriber information which the Court has glanced through, appears to be quite cryptic. This is owing to the nature of internet itself wherein users can upload information without disclosing their complete identities. In *X Vs. Twitter Inc.*,⁵ the Supreme Court of New South Wales has held that such circumstances would in fact justify granting of a *Norwich Pharmacal* order directing discovery of further details. However, the same could be done at a later stage. Thus, the objection that due to non-joinder of these parties, the suit is not liable to be entertained is not tenable at this stage. At the time of framing of issues, the question of mis-joinder or non-joinder can be considered by the Court. However, since these platforms are

⁵ [2017] NSWSC 1300

being used for directly disseminating the impugned content, they are undoubtedly necessary and proper parties in the present suit. In *Ramesh Hirachand Kundanmal v Municipal Corporation of Greater Bombay and Others (supra)*, the Supreme Court has laid down the law as to who necessary and proper parties are. This is a settled legal position, and does not require any repetition or reiteration, At the *prima facie* stage, this Court is of the opinion that the suit is not liable to be dismissed for non-joinder of the alleged uploaders of the information or the publishers / author of the book.

2) **Whether the content is defamatory?**

26. The status of the Plaintiffs is well known and has already been subject matter of the earlier litigation. A perusal of paragraph 18 of the plaint shows that the Plaintiff has transcribed one of the videos, which it finds to be offending, defamatory and malicious. The said video clearly claims to be a summary of the book – ‘*Godman to Tycoon – The Untold Story of Baba Ramdev*’. The publishers of the book are mentioned. The video is also conscious of the fact that the book has been banned w.e.f. 11th August, 2017, which appears to be the date of one of the orders passed in the litigation between Plaintiff No.1 and the publisher. Interestingly, the video claims that the views in the video are of those of the author of the book and that the video channel itself has no relationship with the views expressed therein. Thereafter, the video proceeds to give a summary of the book. The relevant portion of the transcription is given below:

“Hello Friends! Today I am going to tell you the summary of the book “Godman to tycoon: The Untold Story of Baba Ramdev.” This book has been authored by Priyanka Pathak Narain who is a journalist and before publishing this book she used to cover

spirituality and religion for a newspaper called The Mint. She got the inspiration for this book from her work there. Priyanka interviewed more than 52 people while researching this book, which included Acharya Balkrishna, who is the Managing Director of Patanjali and owns 94% of the company's shares. You might know that this book has been banned with effect from 11th August 2017 and so the book is not available anywhere. A District Court in Delhi heard a petition from Baba Ramdev's legal team and issued a notice to the book's publisher Juggernaut Books ordering them to immediately cease the publication of the book. Baba Ramdev undertook this action because he believes the book is defamatory to him. Before watching this video please understand that the views expressed in it are of the book's author and our channel has no relation with the said views. Come, let us understand the summary of the book. Baba Ramdev was born Ramakrishna Yadav in a village called Saiyad Alipur in the state of Haryana. His family was very poor and his father was a farmer..."

27. The video does give a history of Plaintiff No. 1, as paraphrased from the book. There are various insinuations and allegations made against the Plaintiffs including the business of Plaintiff No.2. Various unverified allegations are also contained in the video. Allegations have also been made against the Plaintiffs in respect of monetary irregularities. There are insinuations that the Plaintiff is connected with the three deaths. The video concludes by saying:

"So friends this was a summary of Baba Ramdev's biography "Godman to Tycoon." I will reiterate that our channel does not have any relation to the views expressed in the book and the contents of the video are entirely based on the research and views of the book's Author."

Thus, the ultimate credit is being given to the author of the book – who may or may not be connected with the preparation of the video and uploading of the same.

28. The contents of the video are not being repeated in this judgment, in order to ensure that the same is not further published, as rightly contented by Mr. Nigam. There is no doubt that reading of the transcript, or a viewing of the video clearly attempts to give an impression to the viewers that the Plaintiffs have been involved in various murders, financial irregularities, misuse of animal parts, etc. However, all this information, as per the video, has been derived not independently, but as a summary of the book itself. Thus, the judgment in CM (M) 556/2018 dated 29th September, 2018 clearly becomes relevant. A perusal of the said judgment shows that the Id. Single Judge, after considering the law of defamation, including the balance between the Article 21 and Article 19(1)(a) has concluded that the content of the book is not justified. The implicit allegations have been held to be *prima facie* untrue. The Id. Single Judge has arrived at the following findings:

“139. In the instant case the avowed contentions of the petitioner have been that as regards the publication in “Chapter 16 Mystery 2 : The Guru’s Disappearance” in the BOOK to implicitly state that the petitioner was somehow involved or complicit in the disappearance of his Guru Shanker Dev Ji and that further he, the petitioner having used his influence with the Government was able to scuttle the investigation which was not handled in a fair and transparent manner, coupled with the factum that the said publication came to the knowledge of the petitioner on 29.07.2017 after the Special Judicial Magistrate (CBI)/ACJM(I) Dehradun vide order dated

13.02.2015 accepted the closure report filed by the CBI in this matter, which aspect was not adverted to by the author and thus in view of the order dated 13.02.2015 of the Special Judicial Magistrate (CBI)/ACJM(I) Dehradun in case No. 1428/14 vide which the closure report submitted by the CBI in relation to the missing report for Guru Shanker Devi Ji at PS Khankhan, Haridwar, which was registered on 16.07.2007 was closed, the publication in relation to this aspect in 2017 prima facie cannot be held to be justified.

...

140. As regards "Chapter 9 Mystery 1: The Ally's Murder" which relates to the death of Swami Yoganand, the key associate of the petitioner, it is contended by the petitioner that through the said chapter which reads to the effect ...

it has been insinuated against the petitioner that he had something to do with the murder of Swami Yogananda on account of a falling out between the petitioner and Swami Yogananda on account of a falling out between the petitioner and Swami Yogananda and the petitioner contends that it is been further represented as if the Investigating Officer had filed an extraordinary report by stating that the perpetrators were unknown and that the respondents had not clarified that such reports are called "Untrace Reports" and are common place and that the same had been done with the sole intention of creating an aura of suspicion so as to defame the petitioner and that in the light of the "Untraced Report" which has also been admitted by the author, it is contended on behalf of the petitioner that it is clear that there was no way for the respondents to prove that the allegations were true and accordingly no defence would succeed in relation to the same. Prima facie the factum that there was an "Untrace Report" in existence, there exists no

justification for creation of an aura of suspicion against the petitioner in relation to the murder of the Swami Yogananda rightly contended on behalf of the petitioner.

141...In this context, thus the contention of the petitioner seeking to contend that there were deliberate insinuations against him made by the author that he was not willing to get the post mortem conducted on the body of Rajeev Dixit to cover up a foul play, prima facie cannot be accepted.”

29. It was held that the fact that Plaintiff No. 1 is a public figure could not *ipso facto* constitute a license to defame him. Insofar as the interlocutory injunction is concerned, the Court in paragraphs 180 concludes as under:

“180. Thus as the petitioner about whom the BOOK is written about is living human being and thus entitled to be treated with dignity and has a right of social reputation as an ordinary citizen even if he be a public figure, and as reputation as a cherished value and an element of personal security, portions of the BOOK which make readers think that he is an ambitious villain, until so proved in the Court of Law are necessarily to be restrained from being published and distributed for sale till disposal of the suit bearing no. 619/2017 pending before the learned ACJ-CCJ-ARC(E), Karkardooma Courts, Delhi. This is so as the right to reputation of a living individual under Article 21 of the Constitution of India cannot be sacrificed and crucified at the altar of the right to freedom of speech and expression of another and both have to be harmonized and balanced in as much as no amount of damages can redeem the damage to reputation of any person and merely because there have been previous publications on the same issue, the same does not permit any repetitions of prima facie defamatory insinuations against him.

After holding as extracted above, the Court directed deletion of various portions in Chapter 9 – ‘Mystery 1’, Chapter 16 – ‘Mystery 2’, and Chapter 25 in the following terms:

“181. In view thereof, all the respondents in C.M.(M) 556/18 & C.M.(M) 557/18 are restrained from publishing, distributing and selling the BOOK i.e. “Godman to Tycoon” The Untold Story of Baba Ramdev, ISBN No. 9789386228383 in any manner, until they delete the following : -

(a) At Pages 69 to 70, Chapter 9 Mystery 1 : The Ally’s Murder (Entire Chapter 9).

"A day after the Asian tsunami swept up the shorelines of fourteen countries', killing nearly a quarter of a million people, an intriguing event occurred in Kankhal. In the darkening winter evening of 27 December 2004, a scuffle broke out in the single-storey Yogananda Ashram, home to Swami Yogananda, the man whose licence had enabled Divya Pharmacy to function and grow for eight years since its inception in 1995 till 2003.

Yogananda's neighbours are cagey about discussing it even today but they say they heard raised voices coming from his house that eventful evening. No one imagined, though,, that Yogananda — the lonely man who lived without a telephone or even electricity — was being knifed to death. One Vasant Kumar Singh discovered his lifeless body shortly after and called the police. Along his lifeless body shortly after and called the police. Along with other neighbours, the young Tarun Kumar went in with the police. 'I remember it still. He was there in that dark room when I went in ...

- lying in a pool of his own blood.*

As mentioned earlier, in 2003 Divya Pharmacy had abruptly changed the vaidya on its registration from Swami Yogananda to Sri Saty Pal Singh, Yogananda is said to have had a falling out with Ramdev’s increasingly powerful enterprise but the

