

28.9.2020

**CORAM : HIS HONOR JUDGE, CITY CIVIL COURT
SHRI. V.V. VIDWANS (Court Room No. 03)**

**Stamp(S) No.
4660/2020**

Adv. Parag Khandhar I/b DSK Legal for plaintiff present.
Adv. Charushila More for deft. No. 11 present and filed VR
Adv. Dinesh Pednekar and C. Keswani I/b ELP for Deft. No. 9 and 10 present.
Adv. Bryan Pillai I/b Shardul Amarchand Mangaldas & Co. for Deft. No. 4 and 5 present.

I have heard Ld Counsel Mr. Gandhi on behalf of the plaintiff and Ld. Counsels for the defendants no.4 to 5 and 9 and 11 on 25.9.2020 regarding grant of inerm relief to the plaintiff in term of draft N/M filed before the court. Defendants no.2 and 3 as well as defendants no.7 and 8 have been served by email but are absent before the court.

Ld. Counsel for the plaintiff submitted that, the plaintiff has approached this court seeking perpetual injunction in the suit and temporary injunction against the defendants restraining them from publishing defamatory contents in the social media during the pendency of the suit. It is submitted that, the plaintiff is a well known film actor, producer and director. He is a person with reputation and is a known celebrity in the film industry. Defendant no.1 Ashok Kumar / John Doe are representing unknown persons whose co-ordinates and their identities address etc. are unknown to the plaintiff. These persons along with defendants no.2 and 3 have been publishing false and defamatory material on social media causing grave and irreparable harm and loss to the reputation of the plaintiff and his family members. It is causing grave injury to the legal rights of the plaintiff in the sense of loss of goodwill and reputation in the society due to the false, derogatory and libellous posts, messages, tweets, videos, interviews, communications published on social media platforms which are run and operated by the defendants no.4 to 11.

Defendant no.2 is a practicing advocate at New Delhi, registered with Delhi Bar Council under registration no.D/3454/2016 and defendant no.3 has worked for several news channels in the past as per profile maintained by her in the social media account. Defendants no.4 and 5 are social media conglomerate corporation which provides an online platform 'Facebook'. Defendants no.6 to 8 provide popular microblogging and social networking services on its platform "Twitter". Defendant no.9 is a wholly owned subsidiary of Google LLC. Defendant no.10 operates the popular website- www.youtube.com. Defendant no.9 allows users to upload, view, rate, share, add to playlists, report, comment on videos, and subscribe to

other users. Defendant no.10 runs the world's most popular search engine Google. Defendant no.11 is a wholly owned subsidiary of defendant no.7.

Ld. Counsel for the plaintiff referred to the pleadings in the plaint and documents filed on record along with list of documents at pg.43, 44 to 124 (Exhs.A to E), supported by an affidavit of the plaintiff, pg.125, and submitted that the plaintiff is seeking interim protection during the pendency of the N/M and the suit primarily against defendants no.1 to 3, seeking order/ direction from the court asking for withdrawal of all the defamatory contents including the one which are described in Exh.A filed with the plaint. The plaintiff is further seeking temporary injunction/ restraining order against the defendant no.3 in mandatory form, prohibiting them from directly or indirectly posting, reposting, tweeting, re-tweeting, giving interviews, corresponding, communicating, printing and publishing any further or other defamatory contents on the social media platforms, during pendency of the N/M and the Suit, including social media platform run and operated by defendants no.4 to 11 as per prayer clauses(a) and (b) of the prayers of the draft N/M.

Ld. Counsel took me through the various defamatory contents vide Exh.A filed with the plaint and argued that, the nature and gravity of the contents and allegations specifically revealed against the plaintiff are very grave and serious in nature causing loss of reputation and are explicitly defamatory and needs to be dealt with with strong hand by the court. Ld Counsel for the plaintiff specifically argued that, if the interim protection is not granted and if the activities of the defendants no.1 to 4 are not stopped by the court it will result in medial trial of the plaintiff, without any recourse available to the plaintiff to defend himself.

In this regard, Ld. Counsel for the plaintiff referred to the various defamatory allegations narrated in para 3.11 of the plaint. He submitted that, in view of the defamatory contents published in the social media platforms, the plaintiff has filed a complaint with Dy. Commissioner of Police, Cyber Crime, Cyber Cell, Mumbai on 17.9.2020 for taking action against the defendants u/s. 499 of IPC vide Exh.B filed with the plaint. He further submitted that, the plaintiff has also served a notice u/s.79(3)(b) of IT Act, 2000 to the defendants no.6 to 11 in respect of the defamatory contents, through his advocate, letter dated 21.9.2020 vide Exh.C colly. The plaintiff has issued notices to the defendants no.4 and 5 on 22.9.2020 calling upon them to forthwith take down the defamatory contents against the plaintiff, vide Exh.D colly. All these notices

have been received by the defendants, copy of said letter is filed on record but no action has been taken by the defendants inspite of notices to them, except that, one of two tweeters account of the defendant no.2 have been suspended by the defendant no.6. However, the back up account of the defendant no.2 on twitter under the name @ivibhoranand remains there. Defendant no.2 is requesting people at large to follow him an alternate back up Twitter Account because his another twitter account is blocked. The plaintiff has filed on record email sent y one Ms. Deeksha Dadwal to the paintiff who had viewed the defamatory contents, who is resident of Colaba, Mumbai, copy of which is annexed with the plaint vide Exh.E. Considering the false allegations made against the plaintiff by the defendants no.1 to 3, there is urgency to pass an interim order by this court granting protection to the plaintiff.

In support of his submissions, Ld Counsel for the plaintiff has placed reliance on the various decisions of Hon'ble Supreme Court and Hon'ble Delhi High Court to show how the suit against unknown persons in the name of Ashok Kumar / John Doe is maintainable. These authorities are - (1) **Dr. Gaurav Dahiya V/s. Mrs Leenu Singh & Ors (CS (OS) 174/2020) (Delhi High Court), judgment and order dated 15.7.2020;** (2) **Pepsico India Holdings Pvt Ltd V/s. Facebook INC & Ors (CS(OS 291/2018) (Delhi High Court), order dated 1.6.2018** and (3) **Taj Television Ltd and Anr V/s. Rajan Mandal and Ors (Delhi High Court), order dated 14.6.2002.** The Ld. counsel for plaintiff submitted that Hon'ble Delhi High Court has passed an exparte interim orders in those matters. He has also placed reliance on the decision of Hon'ble Delhi High Court and observations made in the case of **Swami Ramdev and Anr V/s. Facebook INC and Ors, order daxed 23.10.2019** (paragraphs 39, 40, 41 and paragraphs 90, 92, 97, 98, 106 to 108) referred to the defence taken by the Facebook Inc., Google Inc., Youlube LLC, Twitter etc in that case with reference to the provisions of Information & Technology Act. Hon'ble Delhi High Court in its order has observed that, the competent courts are not remedyless in such matters and can pass appropriate orders and such orders need to be effecave and should not remain mere paper orders. It is also observed that, the law should keep pace with technology with moden age.

Under these circumstances, Ld. Counsel for the plaintiff urged that the interim relief in terms of prayer clause(a) and (b) of the draft N/M may kindly be granted.

Ld. Counsels for the defendants no.4 to 6 and 9 to 11 have strongly opposed the above submissions made by Ld. Counsel for the

plaintiff, regarding interim relief and submitted that, they want time to file their reply on merit of the draft N/M and also to take out necessary chamber summons for deletion them as defendants in the suit as they have been unnecessarily joined as parties.

Considering the submissions made by Ld. Counsels for the plaintiff and the defendants no.4 to 6 and 9 to 11, who are represented before the court, on the basis of prima facie material and documents filed on record and relied upon by the plaintiff, I am of the opinion that, the plaintiff has been able to make out a case for grant of interim protection as against defendant no.1 to 3 till the defendants no.1 to 3 appear before the court and defendants no.4 to 11 file their affidavit in reply to the N/M.

Defendants no.4 to 6 and 9 to 11 are granted two weeks' time for filing their reply.

In view of above circumstances and reliance on the authorities cited by Ld. Counsel for the plaintiff, the interim protection is granted in terms of prayer clause(a) of the draft Notice of Motion against the defendants no.1 to 3.

Defendants no.1, 2 and 3 representing the unknown persons are hereby restrained from posting, reposting, tweeting, sharing, sending messages and fcs on the social media platforms and including the platforms run and operated by defendants no.4 to 11, until further orders.

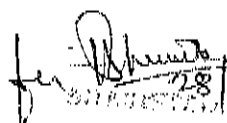
Defendants no.4 to 11 are hereby directed to communicate this order of the court to the concerned / competent authorities having its official address in India and abroad so as to make the court's order effective regarding interim relief granted to the plaintiff. They are further directed to report the compliance of the order of this court regarding communicating as directed above.

The plaintiff is directed to comply with the provisions of Order 39 Rule 3 of CPC so far as defendants no. 1 to 3 and 7 and 8 are concerned.

Authenticated copy of today's Roznama shall be provided to the Counsels for the plaintiff and defendants who are represented before the court for their information and compliance.

Ld Counsel for the plaintiff shall communicate this order of the court to the defendants no.2 and 3.

Matter stands adjourned for Reply and hearing to 12.10.2020


28/09/20

sd/-
Judge