

\$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5608/2023 & CM APPLs. 21997-98/2023**

Mr. SJ

..... Petitioner

Through: Mr. Prashant Katara & Mr. Soin
Khan, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr.
Sunil & Mr. Abhishek Khanna,
Advocate for R-1 (M:9811549455)
Ms. Mamta Jha, Mr. Rohan Ahuja,
Ms. Shruttima Ehersa, Ms. Amishi
Sodani, Mr. Vatsalya Vishal,
Advocates for R-2. (M: 9502321779)
Mr. Sahil, Advocate for R-3. (M:
9910837060)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 01.05.2023

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner seeking directions to the Respondents to remove online publications and articles against Petitioner.
3. In view of the nature of the relief sought in the present case, the name of the Petitioner in the cause list and orders shall henceforth be reflected as 'Mr. SJ'.
4. The Petitioner is a 33-year-old [REDACTED] graduate who unfortunately got embroiled in a criminal case in relation to which [REDACTED]

███ was registered under Section 384 of the Indian Penal Code, 1860, Section 66A and 67A of the Information Technology Act, 2000. The said FIR resulted in a settlement and the same was quashed in ***Criminal Miscellaneous Petition 1207/2022*** vide order dated 2nd June, 2022. The said order records that the Petitioner and Respondent No.2 therein, had friendly relations for the last 18 years and due to an immature prank of the Petitioner, the FIR got to be registered. The relevant portion of the order quashing the FIR is set out below:

“6. This petition is filed for quashing of FIR No. 293/2021 under Section 384 IPC registered at PS Chittranjan Park, Delhi and the proceedings emanating therefrom. Although, the FIR was initially registered under Section 384 IPC but later on Sections 66C and 67A of the Information and Technology Act were also invoked while filing the chargesheet.

7. The brief facts of the case are that the petitioner and respondent no. 2 are childhood friends and have good/friendly relations since 18 years, however an immature prank went out of hand and led to filing of the present FIR on 23.09.2021. The complainant and the present petitioner have settled the dispute vide settlement dated 29.09.2021. The petitioner has remained in custody for about a week before he was bailed out on the strength of the said settlement. The petitioner undertakes not to repeat the act in future. The affidavit of the complainant is also on record, which stands verified.

8. The complainant/respondent No.2 is present through Video Conferencing and has been duly identified by the Investigating Officer, who states the matter has been settled with the petitioner and she has no objection if the FIR is quashed against the petitioner. The learned APP for the State has also no objection, if this petition is allowed.

9. *Considering the above settlement between the parties and chances of conviction of the petitioner are bleak, there is no use to continue with the proceedings of the present FIR as complainant has settled all the disputes and has received the settled amount from the petitioners.*

10. **Accordingly, the petition is allowed. Consequently, [REDACTED] under Section 384 IPC registered at [REDACTED] Delhi and the proceedings emanating therefrom are quashed, subject to payment of cost of Rs. 10,000/- in Lawyers' Welfare Fund, [REDACTED] ar Association and the receipt be handed over to the IO within one week from today. Pending application(s), if any, also stands disposed of.**

5. The Petitioner is working with [REDACTED] as an [REDACTED] [REDACTED] The said employer is stated to have come across various articles which were published by Respondent No.3 to 10 in respect of the above incident, which continue to remain on the internet. In view of the said articles, the Petitioner has been suspended from his employment until those articles are not removed.

6. Mr. Rakesh Kumar, Id. Counsel appears for Respondent No.1, Ms. Mamta Jha appears for Respondent No.2, and Mr. Sahil appears for Respondent No.3. Issue notice to the remaining Respondents.

7. This Court, in a matter relating to removal of a court order from the internet, observed as under:

“8. The question as to whether a Court order can be removed from online platforms is an issue which requires examination of both the Right to Privacy of the Petitioner on the one hand, and the Right to Information of the public and maintenance of transparency in judicial records on the other hand. The

said legal issues would have to be adjudicated by this Court.

9. The Right to Privacy is well recognized by the Supreme Court in the Constitution Bench judgment in **K.S. Puttaswamy v. Union of India (2017) 10 SCC 1**. In **Zulfiqar Ahman Khan v. Quintillion Businessman Media Pvt. Ltd & Ors.** this Court had examined this issue and while granting an interim order, this court had held as under:

“8. In fact, it is the submission of ld. counsel for the Plaintiff that the Plaintiff’s personal and professional life has been hampered irreparably and further damage is likely to be caused if appropriate relief is not granted against the republication of these two articles. The original publisher having already agreed to pull down the same, this Court having directed that the same ought not to be republished, the Plaintiff, thus, has a right to ensure that the articles are not published on multiple electronic/digital platforms as that would create a permanent atmosphere of suspicion and animosity towards the Plaintiff and also severely prejudice his personal and professional life. The printouts of the articles from www.newsdogapp.com, which have been shown to the Court, leave no doubt in the mind of the Court that these are identical to the articles published on www.thequint.com, which have already been pulled down. 9. Accordingly, recognising the Plaintiff’s Right to privacy, of which the ‘Right to be forgotten’ and the ‘Right to be left alone’ are inherent aspects, it is directed that any republication of the content of the originally impugned articles dated 12th October 2018 and 31st October 2018, or any extracts/ or excerpts thereof, as also modified versions thereof, on any print or digital/electronic platform shall stand restrained during the pendency of the present suit.

10. The Plaintiff is permitted to communicate this order to any print or electronic platform including various search engines in order to ensure that the articles or any excerpts/search results thereof are not republished in any manner whatsoever. The Plaintiff is permitted to approach the grievance officers of the electronic platforms and portals to ensure immediate compliance of this order”

10. Recently, the Orissa High Court in **Subhranshu Rout v. State of Odisha [BLAPL No.4592/2020, decided on 23rd November, 2020]**, has also examined the aspect and applicability of the “Right to be forgotten” qua Right to Privacy, in a detailed manner including the international law on the subject.

11. It is the admitted position that the Petitioner was ultimately acquitted of the said charges in the case levelled against him. **Owing to the irreparable prejudice which may be caused to the Petitioner, his social life and his career prospects, inspite of the Petitioner having ultimately been acquitted in the said case via the said judgment, prima facie this Court is of the opinion that the Petitioner is entitled to some interim protection, while the legal issues are pending adjudication by this Court.**

12. **Accordingly, Respondent Nos. 2 and 3 are directed to remove the said judgment dated 29th January 2013 in Crl.A.No. 14/2013 titled Custom v. Jorawar Singh Mundy from their search results. Respondent No.4 – Indian Kanoon is directed to block the said judgement from being accessed by using search engines such as Google/Yahoo etc., till the next date of hearing. Respondent No.1 to ensure compliance of this order.”**

8. In the opinion of the Court, the fact that the entire career of the Petitioner, who is a young executive, is likely to be jeopardized due to the continued presence of the impugned articles on the internet would weigh in favour of directing the removal of these publications. Moreover, the court

has to draw a balance between the right to access information, in general on the one hand and the Petitioner's well-being, mental health, career prospects and prospects in life and family on the other hand. The fulcrum of any society following the Rule of law would be to reform a person and not condemn a person permanently. While bearing these factors in mind and considering the order extracted above, it is deemed appropriate to direct all the publishers i.e., Respondent No.3 to 10 to remove the articles which have been collectively attached to the petition as **Annexure P-1**.

9. In addition, access to the said articles shall also be blocked by Respondent No.2/ Google LLC.

10. MeitY shall also issue directions for blocking of any articles relating to the Petitioner and the FIR which has been quashed, within 48 hours. The present order shall be communicated by Mr. Rakesh Kumar Id. CGSC, to MeitY for necessary compliance.

11. Id. counsel for the Petitioner shall provide Id. Counsel for the Respondents all the specific URLs of the articles of which removal is sought. The list shall be communicated by the end of day to the Respondents.

12. The said URLs shall be removed within 48 hours and the access to the same shall be blocked by the Respondents.

13. Insofar as the Indian Express is concerned, one week's time is granted to the said Respondent to remove the articles.

14. List along with connected matters on 15th May, 2023.

PRATHIBA M. SINGH, J.

MAY 1, 2023

dj/sk