

CS NO. 1346/22

GAURAV TANEJA Vs. HINDUSTAN TIMES/MINT

02.06.2022

Present :- Sh. Vivek Kumar Gaurav And Sh. Shubham Prajapati,
Ld. Counsels for plaintiff a/w plaintiff in person.
Sh. Naman Joshi and Sh. Guneet Sidhu, Ld. Counsels for
defendants no. 1 and defendant no. 2 a/w AR of
defendant no. 1.
Sh. Soutik Banerjee and Sh. Harsh Jain, Ld. Counsels for
defendant no. 3.
Sh. Deepak Gogia and Sh. Aadhar Nautiyal, Ld. Counsels
for defendant no. 4.

Arguments heard on application under Order 39 Rule 1
and 2 CPC.

Put up for orders on the above said application on
06.06.2022.

(ANURAG CHHABRA)
CIVIL JUDGE-03-C/THC
02.06.2022

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ORDER

1. Vide this order, I shall dispose of the application under Order 39 Rule 1 and 2 CPC and I shall also decide the maintainability of the present suit.

2. Brief facts necessary for adjudication of the present application are as follows:-

Plaintiff no. 1 and 2 are husband and wife respectively. The plaintiffs run, manage and operate social media accounts including Youtube, Instagram, Twitter etc. and they have a huge fan following on the social media platforms. The plaintiff no. 1 runs a youtube channel named “Flying Beast” which has more than 7.5 million subscribers. The plaintiff no. 1 also runs another youtube channel namely “Fit Muscle TV” which has more than 2.8 million subscribers. It is because the popularity of the plaintiffs, renowned brands are working in collaboration with the plaintiffs because of faith, trust and return they get from the plaintiffs in the digital space. Plaintiff no. 1 is also pursuing LLB from the Faculty of Law, University of Delhi. Plaintiff no. 2 is a commercial pilot by profession and has a fan following of 1.5 million and 175 thousand followers on instagram and twitter respectively. Recently, plaintiff no. 2 was selected by Google India as a role model for its “Search for Change Campaign on International Women’s Day’ in March 2022. Plaintiffs have also been awarded with many awards as detailed in para no. 6 of the plaint.

3. Defendant no. 1 i.e. Hindustan Times/Mint is an Indian Financial Newspaper published by HT Media. The defendant no. 2 is currently working with defendant no. 1 as Senior Assistant Editor. On 08.05.2022, defendant no. 2 had posted an article online, available on the official website of defendant no. 1 which was highly scandalous, vexatious and defamatory in nature without any iota of truth and it was posted with an intention to malign the public image of the plaintiffs. Defendant no. 2 and 3 have approached the popular brands which were collaborating with the plaintiffs and their sole purpose was to target the brands and diminish the credibility of the plaintiffs in the eyes of popular brands. Defendant no. 4 i.e. twitter is a social media platform where defamatory article was written by defendant no. 2. Defendant no. 5 i.e. LinkedIn is a social media platform where the defamatory article written by defendant no. 2 was posted.

4. On 01.05.2022, plaintiff no. 1 posted a picture on twitter wherein he was seen performing havan as per the Hindu Rites and Traditions. The plaintiff no. 1, in the said picture, had elaborated the importance of havan as a natural antidote to pollution. The defendant no. 3 downloaded the said picture from the twitter account of the plaintiff no. 1 along with the tweet and malafidely posted the same on the platform of defendant no. 4 and wrote derogatory and disparaging words about the plaintiffs which has lowered the image and reputation of the plaintiffs in the eyes of millions of people on social media. Plaintiffs have also preferred a complaint against defendants regarding the same to the Press Council of India for practicing unethical journalism. On 01.05.2022, defendant no. 3 retweeted the same post of plaintiff no. 1 and used derogatory words as

mentioned in para no. 15 of the plaint.

5. On 08.05.2022, defendant no. 2 published an article in Hindustan Times i.e. defendant no. 1 and posted it on her twitter account/defendant no. 4 and LinkedIn/defendant no. 5 with a clear intention of defaming the plaintiffs without any documentary proof whatsoever.

6. Hence, the present suit has been filed by the plaintiff and it is prayed before the court that:-

(a) A decree of mandatory injunction be passed in favour of the plaintiffs and against the defendants, its employees or agents directing them to forthwith delete/take down defamatory article from their profile or from any other website where the defamatory material were published against the plaintiffs by the defendants.

(b) A decree of permanent injunction be passed in favour of the plaintiffs and against the defendants thereby restraining defendant no. 2 and defendant no. 3 from making any defamatory broadcast against the plaintiffs and/or its businesses.

7. During the course of the arguments, Ld. Counsel for plaintiff stated before the court that plaintiffs are pressing the present application only against defendant no. 1, 2 and 3 and at present they are not claiming any relief against defendant no. 4 and 5.

8. In the present application, plaintiffs have sought the following relief against defendant no. 1, 2 and 3:-

(a) Defendant no. 1, 2 and 3 be restrained from publishing any

content related to the issues in hand till the final disposal of the present suit.

(b) Defendant no. 2 and 3 be restrained from approaching the brands having collaborations with the plaintiffs in respect to the dispute in the present suit.

9. Ld. Counsel for plaintiffs has argued before the court that freedom of speech and expression is not unbridled and it is subject to reasonable restrictions as mentioned in Article 19 (2) of the Constitution of India and defendants cannot be allowed to defame the plaintiffs in exercise of their fundamental right of freedom of speech and expression.

10. Plaintiffs have a prima facie case in their favour as is clear from the contents of the article dt. 01.05.2022 and 08.05.2022. Balance of convenience also lies in favour of the plaintiffs as serious prejudice shall be caused to the plaintiffs in case the present application is not allowed by the court in view of the popularity of the plaintiffs on social media platforms. Plaintiffs shall also suffer irreparable damage which cannot be compensated in terms of money as reputation of both the plaintiffs are at stake.

11. Defendant no. 1, 2 and 3 have argued before the court that plaintiffs have no prima facie case in their favour. The plaintiffs have not sought the relief of declaration from the court and plaintiffs, at first, shall prove before the court that the alleged articles dt. 01.05.2022 and 08.05.2022 were defamatory in nature qua the plaintiffs. The court cannot presume that the said articles were defamatory in nature qua the

plaintiffs. The said defendants can prove before the court that the said articles were not tainted with malice and defendants are also willing to face the consequences in the trial. The opinion expressed in the said articles are based on truth. The defendants have also relied upon numerous judgments of the Hon'ble Apex Court. One of such judgments is titled as *Harvest Securities Pvt. Ltd. & Anr. Vs. B P Singapore Pvt. Ltd. & Anr. 2014 SCC Online Del 2384*. It was observed by the Hon'ble court in para no. 4 of the judgment that:-

....without the plaintiffs in a plaint pleading the slanderous/libellous statement for which compensation, is claimed, the defendants have no opportunity to respond thereto. The defendants are required to file the written statement to the pleas in the plaint and not qua the documents even if served upon the defendants along with the plaint. I am also of prima facie view that such pleas would be a material fact within the meaning of Order 6 Rule 2 of the CPC and which are necessarily required to be as per Rule 4 of Order 6 of the CPC. The same would also be a fact constituting a cause of action within the meaning of Order 7 Rule 1 of the CPC.

12. Arguments heard. Case file perused.

13. It is a settled law that a party is entitled to an order of temporary injunction only if he is able to satisfy the Court that a strong prima facie case is made in his favour. The balance of convenience also lies in his favour and that refusal of the injunction will cause an irreparable injury to him.

(i) Prima facie case means that there is a likelihood of infraction of a

legal right of the plaintiff by the defendant. It means that case of the plaintiff raises a triable issue which requires, consideration, adjudication and investigation.

(ii) Balance of convenience connotes comparative mischief likely to cause to either party in case of grant or refusal of relief of injunction.

(iii) Plaintiff has also to satisfy the court that non interference by the Court would result in an irreparable injury and there is no other remedy available to him except one i.e. grant of injunction in his favour. Irreparable injury means an injury which is a material one and one that cannot be compensated by way of damages. Further, it is also duty of the plaintiff to satisfy the court that he has acted bonafidely to obtain the equitable relief of temporary injunction.

14. At the outset it is to be observed that plaintiffs ought to have sought the relief of declaration from the court in order to get the said articles declared defamatory in nature qua the plaintiffs. The plaintiffs, in the entire plaint, have not mentioned the portions of the said articles which are allegedly defamatory in nature qua the plaintiffs which are required to be mentioned as per the judgment *Harvest Securities Pvt. Ltd. & Anr. Vs. B P Singapore Pvt. Ltd. & Anr. (Supra)*. The plaintiffs have merely stated that the said articles are defamatory in nature qua the plaintiffs. It is not in dispute that fundamental right curtailed in Section 19 of the Constitution of India is not unrestricted. However, the plaintiffs shall prove before the court that the said articles are defamatory in nature and only then Article 19 (2) comes into picture. Moreover, it is difficult to segregate the private life of the public figures from their public life.

15. In view of my above discussion, the application under Order 39 Rule 1 and 2 CPC stands dismissed. Application disposed of accordingly.

16. The court is of the opinion that the plaint does not disclose cause of action as the plaintiffs have not sought the relief of declaration from the court and the relief of mandatory and permanent injunction sought by the plaintiffs are dependent upon the adjudication of the aspect whether the said articles are defamatory in nature or not. Further, the pleadings as mandated by judgment *Harvest Securities Pvt. Ltd. & Anr. Vs. B P Singapore Pvt. Ltd. & Anr. (Supra)* have not been incorporated in the plaint. Therefore, the court is constrained to reject the plaint under Order 7 Rule 11 (a) CPC.

File be consigned to Record Room after due compliance.

(ANURAG CHHABRA)
CIVIL JUDGE-03-C/THC
06.06.2022