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

% Judgment delivered on: 22.07.2024

+ CS(OS) 560/2024

.....Plaintiff

Through: Mr. Sri Ram Verma and Mr. Sanjeev Babbar, Advocates

versus

THE INDIA TODAY GROUP & ORS.Defendants

Through: Mr. Rishi K. Awasthi, Mr. Rahul Mishra, Mr. Abhigyat Chatanya and Mr. Jasmeet Singh Bindra, Advocates for D-2

**CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN**

JUDGMENT

VIKAS MAHAJAN, J. (ORAL)

I.A. 33710/2024 (exemption)

1. Allowed, subject to all just exceptions.

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2. The plaint be registered as a suit.

3. On filing of process fee, summons be issued to the defendants by all permissible modes.

4. Mr. Rishi K. Awasthi, learned counsel for the defendant no.2 appearing on advance service accepts summons and waives issuance of formal summons to defendant no. 2. He submits that the defendant no. 2 has



received a copy of the plaint, IAs and documents. Let written statement be filed by the defendant no. 2 within thirty days.

5. The summons to other defendants shall indicate that written statements must be filed within thirty days from the date of receipt of summons. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

6. The plaintiff is at liberty to file replication thereto within thirty days after filing of the written statements. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.

7. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

8. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

9. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 27.09.2024.

10. List before the Court after completion of pleadings 29.10.2024.

I.A. 33709/2024(u/O.XXXIX R.1&2 CPC)

11. This is an application filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking grant of ad-interim *ex parte* injunction.

12. Issue notice.

13. The learned counsel for the defendant no.2 who appears on advance service accepts notice. Let notice be issued to other defendants by all



permissible modes.

14. This is a suit for permanent and mandatory injunction and damages. The pleaded case of the plaintiff is that plaintiff was falsely implicated in a case under Sections 176/201/202/336/334 of IPC and Sections 3 & 25 of the Arms Act, which was registered in Mumbai on 24.06.2018.

15. Learned counsel appearing on behalf of the plaintiff invites the attention of the Court to the judgment dated 15.10.2019 passed by the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai, to contend that the plaintiff was acquitted after full dressed trial on the ground that the prosecution failed to prove the guilt of plaintiff.

16. He submits that at the time when the criminal case was originally registered in June 2018, certain news items were posted by various media houses including the defendant nos.1 to 4 i.e. the India Today Group, INDIADOTCOM Digital Pvt. Ltd., Mid day info media Ltd. and The Indian express, respectively, on their websites alleging plaintiff's involvement in crime.

17. Even after the acquittal of the plaintiff, the said posts were not removed thus, the plaintiff served legal notice dated 03.05.2024 to the various media houses. Some of the media houses as mentioned in para 17 of the plaint, who had published / circulated the news, removed the offending contents from their respective platforms after receipt of notice. However, the defendant nos. 1 to 4 have not deleted the defamatory news/articles against the plaintiff.

18. On the contrary, the defendant no. 1, the defendant no. 2 and the defendant no.4 have updated the old posts mentioning the fact of plaintiff's acquittal which has revived and brought to the fore allegations as originally



made against the plaintiff.

19. Elaborating on his submissions, the learned counsel for the plaintiff invites the attention of the Court to Document No. 2 annexed with the plaint, which is an updated post published by defendant no.1 on 28.05.2024, updating its previous post of 27.06.2018. Besides giving the update of plaintiff's acquittal, the updated post also says – “The original story follows” and then original post has been extracted containing allegations which are defamatory *per se* and in respect of which an order of acquittal has already been recorded in the year 2019. Thus, the contents of original posts are still available to the public at large for reading.

20. Attention of the Court was also drawn to a similar update published by defendant no.2 on 07.05.2024 in respect of its original post dated 27.06.2018 and the said original post containing contents that are defamatory *per se* is also available as a trail to the updated post.

21. Likewise, attention has been drawn to the post published by the defendant no.3 on 28.06.2018 as well as to the post updated by the defendant no.4 on 11.07.2024, to contend that the said posts containing similar defamatory allegations are still available on the internet and are thus, viewed by thousands of people even after the acquittal of the plaintiff.

22. Apart from the posts published by defendants nos. 1 to 4, attention of the Court is also invited to various posts dated 06.03.2024, 07.03.2024, 21.03.2024 and 23.03.2024, on the defendant no.5's platform i.e., 'X', wherein, some unknown persons have castigated the plaintiff and have called for awarding punishment to him notwithstanding plaintiff's acquittal.

23. He submits that the plaintiff is an established businessman, with a family comprising of a daughter aged about 23 years and a son aged about



21 years, who are of marriageable age. The disparaging and defamatory contents of the posts referred to above have caused serious damage and injury to the reputation and image of the plaintiff in the corporate world as well as amongst his relatives, friends and family members. It is thus, urged that necessary directions be given to the defendants to remove the impugned libelous posts / news articles from their respective websites as well as from 'X'.

24. The learned counsel for the plaintiff has relied upon the decisions of - the Hon'ble Apex Court in - *K.S. Puttaswamy (Retd.) vs. Union of India, (2017) 10 SCC 1*; the High Court of Himachal Pradesh in *State of HP Vs. 'X', 2024 SCC OnLine HP 3169* and the High Court of Karnataka in *XXXX vs. Registrar General, High Court of Karnataka, represented by State Public Prosecutor and Others, 2024 SCC Online Kar 18*, to contend that the right to be forgotten is an inherent aspect of right to privacy and thus, the plaintiff cannot be seen as an accused and chastised for all his life, especially when he has been honourably acquitted by the court of law.

25. Having heard the learned counsel for the plaintiff, at the outset it is to be noted that the acquittal of the plaintiff is not in dispute. The posts have though been updated by the defendant nos. 1, 2 and 4 to state that the plaintiff has been acquitted, however, the fact remains that the updated posts still have the trail of original posts containing allegations against the plaintiff which are disparaging, defamatory and libelous and portrays the plaintiff in bad light.

26. Therefore, the question which confronts this Court at this stage is whether any direction to the defendants is warranted to remove the posts / articles containing libelous and defamatory contents against the plaintiff in



respect of a criminal case in which the plaintiff has secured honourable acquittal, which has attained finality.

27. The answer is not far to seek. In *Registrar General, High Court of Karnataka* (supra) the High Court of Karnataka dealing with somewhat similar situation has observed that after the accused gets blame-free by a process of law, he cannot be seen to be carrying the sword of him being accused on his head for all his life. The Court further noted that right to oblivion; right to be forgotten are the principles evolved by the democratic nations, as one being a facet of right to informational privacy.

28. After considering *dicta* in the Hon'ble Supreme Court's decision in *K.S. Puttaswamy (Retd.)* (Supra); this Court's decision in *SJ vs. Union of India, (2023) 2 HCC (Del) 520* as well as decision of the Queen's Bench in *NT 1 vs. GOOGLE LLC, [2018] EWHC 799*, the High Court of Karnataka observed that even an accused who has been discharged or acquitted honourably by a competent court of law has a right to live with dignity. The relevant paragraphs of the decision read thus:

“18. The Queen's Bench declines to accept the contentions of Google for delisting the name of the accused therein. The claim of the appellant before the Queen's Bench, on an allegation of misuse of private information succeeded. The distilled essence of the judgments rendered by the Apex Court and the judgment of the Delhi High Court, as also that of the judgment of Queen's Bench all quoted supra would mean that, even an accused who has been discharged or acquitted honourably by a competent Court of law has a right to live with dignity.

19. Article 21 of the Constitution of India mandates that no person shall be deprived of his life or liberty except in accordance with law. The expression 'life' cannot be seen to connote a mere animal existence, it has a much wider meaning.



It takes within its sweep right to live with dignity. In the crime, once the accused gets acquitted - honourably, discharged by a competent Court of law, or this Court would quash those crimes in exercise of its jurisdiction under Section 482 of the Cr. P.C. and those orders become final, the shadow of crime, if permitted to continue in place of shadow of dignity, on any citizen, it would be travesty of the concept of life under Article 21 of the Constitution of India. Every citizen born in this nation, governed by the Constitution, has a right to live with dignity. What is being sought for, is masking of the name of the petitioner in the cause title of the case found in the records of this Court.

*20. In the peculiar facts of the case, no fault can be found with such a demand. I deem it appropriate to observe that when identical demands are made by those accused or victims, as the case would be, accused who come within the circumstances narrated hereinbefore, the Fourth Estate should also consider masking, delisting and deleting their names from their respective digital records and not drive them to this Court seeking such deletion. However, it is made clear that mere erasure of the name of the petitioner in the cause title, does not mean that he is entitled to seek such erasure from the police records. **The direction would be only to enable the internet forget, like the humans forget. If it is allowed to stay on record, the internet will never permit the humans to forget.***

21. For the aforesaid reasons, I pass the following:

ORDER

- (i) Writ Petition is allowed.*
- (ii) The Registrar General of the High Court of Karnataka is directed to mask the name of the petitioner in its digital records pertaining to Criminal Petition No. 8172 of 2021 forthwith.”*

(emphasis supplied)



29. Reference may also be had to the decision of this Court in *Zulfiqar Ahman Khan vs. Quintillion Business Media Pvt. Ltd. and Others, 2019 SCC OnLine Del 8494* wherein this Court while considering the question that whether defendants therein be restrained from republication of the contents which have already been pulled down by the original publisher has held as under:

“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.”

30. The decision in *Zulfiqar Ahman Khan* (supra) was subsequently relied upon by this Court in *Jorawer Singh Mundy vs. Union of India and Others, 2021 SCC OnLine Del 2306*. In latter case this Court was considering the grant of interim relief in writ petition seeking removal of judgment of acquittal of petitioner therein from various platforms like Google, Indian Kanoon, vLex.in etc. which was affecting the petitioner’s prospects of getting an employment as said judgment was available to any potential employer, who wanted to conduct petitioner’s background verification before employing him. In this backdrop, this Court held as under:

“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.”

31. Likewise, in one of the latest decisions of this Court in ***SJ vs. Union of India, 2023 SCC OnLine Del 3309***, whilst relying upon the judgment in ***Zulfiqar Ahman Khan*** (supra), it was held as under:

*“7. In the opinion of the court, the fact that the entire career of the petitioner, who is a young executive, is likely to be jeopardised 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. Respondents 3 to 10 to remove the articles which have been collectively attached to the petition as Annexure P-1.*

8. In addition, access to the said articles shall also be blocked by Respondent 2/Google LLC.



9. 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 learned CGSC, to MeitY for necessary compliance.

10. Learned counsel for the petitioner shall provide learned 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.

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

12. Insofar as the Indian Express is concerned, one week's time is granted to the said respondent to remove the articles.”

(emphasis supplied)

32. Recently, a Division Bench of the High Court of Himachal Pradesh in *State of HP Vs. 'X'* (supra) had an occasion to consider the “right to be forgotten” in the context of an acquittal in a criminal case wherein it was held as under:

“20. Thus, there can be no dispute that right of privacy of which the right to be forgotten and the right to be left alone are inherent aspects. Once that be so, obviously, the names of the prosecutrix as also the appellant need to be masked/erased so that they do not appear/visible in any search engine, least the same is likely to jeopardize and cause irreparable hardship, prejudice etc., not only to the respondent and the prosecutrix, but to their little daughter in their day-today life, career prospects etc. etc.

21. Article 21 of the Constitution of India mandates that no person shall be deprived of his life or liberty except in accordance with law. It is more than settled that the expression ‘life’ cannot be seem to connote a mere animal existence it has



a much wider meaning. It takes within its sweep right to live with dignity. In the crime, once the accused gets acquitted/honorably discharged by a competent Court of law or this Court, and the order becomes final, the shadow of crime, if permitted to continue and substitute its place for the shadow of dignity on any citizen, it would be a travesty of the concept of life under Article 21. Every person has a right to live with dignity.

22. In view of the aforesaid discussion, we not only do not find any merit in the instant application and accordingly reject the application for grant of leave to appeal, but also direct masking the names of the appellant and the prosecutrix from the data base of the learned Special Judge, Bilaspur and further direct the Registrar General of this Court to mask the names of the appellant in the digital records, pertaining to the instant appeal.”

33. Incidentally, the Hon’ble Supreme Court in ***K.S. Puttaswamy (Retd.)*** (supra) observed that the right of an individual to exercise control over his personal data encompass his right to control his existence on the internet, but the same is not an absolute right. The existence of such a right does not imply that a criminal can obliterate his past. The right to privacy has to be balanced against other fundamental rights like the freedom of expression, or freedom of media etc. The relevant part of the said decision reads as under:

629. The right of an individual to exercise control over his personal data and to be able to control his/her own life would also encompass his right to control his existence on the internet. Needless to say that this would not be an absolute right. The existence of such a right does not imply that a criminal can obliterate his past, but that there are variant degrees of mistakes, small and big, and it cannot be said that a person should be profiled to the nth extent for all and sundry to know.



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635. Whereas this right to control dissemination of personal information in the physical and virtual space should not amount to a right of total eraser of history, this right, as a part of the larger right to privacy, has to be balanced against other fundamental rights like the freedom of expression, or freedom of media, fundamental to a democratic society.

34. Thus, Courts will have to balance the competing rights in the facts and circumstances of each case. This Court is *prima facie* of the view right to freedom of expression of the press in the present case must give way to the right to privacy of the plaintiff especially when he has been exonerated of all the allegations leading to his honourable acquittal. Apart from the existence of old news articles / posts on the internet, the plaintiff's reputation has been injured on account of updation of such posts which has again brought plaintiff's accusation under public glare. Further, the posts made by unknown persons on the defendant no.5's / 'X' platform have also equally injured the reputation of the plaintiff. Therefore, it appears to be a fit case to invoke the right to be forgotten in favour of the plaintiff. The balance of convenience also lies in favour of the plaintiff. I am also satisfied that grave and irreparable damages will be caused to the plaintiff, if *ad interim* injunctive orders are not passed in his favour. Accordingly, it would be appropriate to grant *ad-interim* injunction in favour of the plaintiff and against the defendant nos. 1 to 4 as well as unknown persons (*John Doe*) who have made *per se* defamatory statements against the plaintiff on 'X'.

35. In view of the above, the defendant nos. 1 to 4 are hereby restrained from posting / updating any posts in respect of alleged criminal case from



which the plaintiff has already been honourably acquitted in the year 2019. The defendant nos.1 to 4 are also directed to remove / delete the impugned posts dated 28.05.2024, 07.05.2024, 28.06.2018 and 11.07.2024 respectively from their websites. The aforesaid directions shall be complied with, within a period of 15 days.

36. It is apposite to mention here that as the addresses / email IDs / contact numbers, of unknown persons (*John Doe*) are not available with the plaintiff and only their 'X' handles are available, as can be seen from the screenshots of the posts annexed at Document No.2 of the plaint, which are: (i) @AAMIRCRAZE; (ii) @swarup_x; (iii) @aruna_771; (iv) @bablu_250; (v) @mikux_124; (vi) @Miss_charmi... (vii) @munax_12; and (viii) @kadalodi04, the defendant no. 5 / 'X' is directed to disclose the contact details of aforesaid unknown persons, including their names, e-mail IDs, IP address and all other information which is at present available with defendant no. 5 to the plaintiffs within a period of 10 days.

37. It is further directed that the plaintiff on getting the requisite information as directed in paragraph 36 above, shall contact the unknown (*John Doe*) persons immediately for removing / deleting the posts dated 06.03.2024, 07.03.2024, 21.03.2024 and 23.03.2024 wherein the defamatory statements were posted against the plaintiff.

38. It is also directed that if the aforesaid posts made by unknown persons are not deleted within the period of 48 hours after the plaintiff having contacted them, the defendant no.5 / 'X', shall delete / remove the same within 48 hours from receipt of plaintiff's request.

39. Provisions of Order XXXIX Rule 3 of the CPC be complied with qua defendant nos. 1 to 5 within one week from today, and affidavit of



compliance be filed within three days thereafter. The defendant nos. 1 to 5 will be at liberty to apply for vacation, variation or modification of this order, if necessary.

40. The observations made herein are *prima facie* for the consideration of interim relief under Order XXXIX Rules 1 & 2 C.P.C by the plaintiffs.

41. List before Joint Registrar for completion of service and pleadings on 27.09.2024.

42. List the suit along with all pending applications on 29.10.2024.

VIKAS MAHAJAN, J

JULY 22, 2024
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