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

+ CS(OS) 371/2021 & I.As. 9991-9994/2021

XAVIER S EDUCATION TRUST ... Plaintiff

Through Mr.Rajeev Virmani, Sr. Adv. with
Mr.Sandeep Kapur, Ms.Meghna
Mishra, Mr.Ankit Rajgrahia,
Ms.Apoorva Pandey, Mr.Gudipati G.
Kashyap, Mr.Tarun Sharma,
Ms.Deveshi Madan, Mr.Romy
Chacho and Mr.Ashwin Romy, Adv.

versus

MAYURICA BISWAS & ORS. ... Defendants

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **10.08.2021**

This hearing is conducted through video conferencing.

CS(OS) 371/2021

Let the plaint be registered as suit.

Issue notice to the defendants by speed post and e-mail, returnable for
22.10.2021.

I.A. 9992-9993/2021(exemptions)

Allowed subject to just exceptions.

I.A. 9991/2021(exemption from filing court fees)

Court fees be filed within three weeks.

Application stands disposed of.

I.A. 9994/2021(under Order 39 Rules 1 and 2)

1. This is an application under Order 39 Rules 1 and 2 CPC seeking an *ex parte* injunction to restrain the defendants, their servants, agents etc. from marketing, broadcasting, streaming, telecasting and making available in any form or in any medium for sale, publishing, distributing etc. the documentary titled “A Big Little Murder” and / or its trailers or abridged versions and to take down the same from the website and social media platforms.
2. The case of the plaintiff is that it is a prestigious school located in Gurugram, Haryana. The plaintiff have four decade of experience in providing quality education.
3. It is stated that on 05.08.2021 the plaintiff came across information on the internet pertaining to the streaming / screening / showcasing of a documentary titled “A Big Little Murder”. The said documentary has been produced by defendant No.1 and is available for viewers on the website of defendant No.2. It is also available on the platform of defendant No.3 since August, 2021. The documentary pertains to an unfortunate tragic death of a seven year old student in the school washroom on 08.09.2017. It is stated that currently the matter is sub judice pending before the Additional Sessions Judge, Gurugram.
4. The grievance of the plaintiff is that the name of the plaintiff school has been used elaborately and frequently in the documentary of the defendants without having obtained permission from the plaintiff. It is stated that this is in contravention and in violation of the order dated 08.01.2018 of the court of Id. ASJ, Gurugram. Further, the case of the plaintiff is that the

documentary contains visuals of the school building without having obtained permission from the plaintiff. The said act is also in violation of the order of the Ld. ASJ, Gurugram dated 08.01.2018. Reliance is also placed on an order of the co-ordinate bench of this court in **CS (OS) 51/2021** being “*St. Xavier’s Education Trust Vs. Leena Dhankar & Ors.*” dated 22.01.2021. This case was related to release of the book pertaining to the same issue.

5. I may look at the said order of the co-ordinate bench dated 22.01.2021 passed in CS (OS) 51/2021. The relevant portion reads as follows:

“17. While dealing with the case of a child in conflict with law, the Supreme Court held that the name, address, school or other particulars which may lead to the identification of the child in conflict with law cannot be disclosed in the media. No picture of such child can be published. [Ref: Nipun Saxena & Another v. Union of India and Others reported as **(2019) 2 SCC 703**].

18. Keeping in line with the law, it is apparent that the learned ASJ, Gurugram passed the following order on 08.01.2018 in Criminal Appeal No.15 of 19.12.2017/22.12.2017 (CNR number-HRGR01-015916-2017) titled as ‘Bholu’ (an imaginary name as actual name/parentage/address withheld) v. CBI:

“02. Section 74 of the Act imposes a prohibition on disclosure of identity of children and makes the person contravening this provision liable for punishment of imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both. It postulates that no report in any newspaper, magazine, newsheet or audio-visual media or other forms of communication regarding any enquiry or investigation or judicial procedure, which may lead to the identification of a “child in conflict with law” or “a child in need of care and protection” or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published. Therefore, to sensitize all the stakeholders regarding provisions of Section 74 of the Act and with the objective of

*preventing social victimization of the victim, witnesses and the Appellant/"Child in conflict with Law", this court has chosen to describe them with some imaginary names in this judgment. **Parties to the proceedings as well as the public at large including the media persons are hereby directed to use imaginary names given in this judgment wherever they have to refer the persons or facts of this case. Staff of the court is also directed to take care that henceforth present case has to be mentioned in the cause-list with the imaginary names given in this judgment.***"

19. While passing the abovesaid order, the learned ASJ referred to the child victim with an imaginary name 'Prince', the CCIL as 'Bholu' and the 'School' as 'Vidyalya'. In fact, the charge sheet filed by the CBI also refers to above mentioned imaginary names.

...

21. Consequently, till further orders, the defendants No. 1 to 4, their associates, sister concerns, agents, representatives, correspondents, officers, employees and/or any other person entity are restrained from publishing, packaging, releasing, offering for sale, selling and displaying on their website the 'Book' or any portion thereof. Further, the defendants No. 5 & 6 are also restrained from accepting any purchase orders and/or executing any pending orders for sale of the 'Book'."

6. I may note that despite service of advance copy none has appeared for the defendants.

7. In my opinion, the impugned act is contrary to the orders passed by the Ld. ASJ, Gurugram and the co-ordinate bench of this court. Plaintiff has made out a prima facie case.

8. The defendants are restrained from streaming, broadcasting, telecasting etc. the documentary titled "A big Little Murder" or any of its abridged versions.

9. I may clarify that the defendants may stream the said documentary

after deleting all references to the plaintiff school in question and deleting the portion where the building of the school is depicted.

10. Plaintiff to comply with Order 39 Rule 3 CPC within four days.

11. A copy of this order be given dasti under the signatures of the Court Master.

12. Issue notice to the defendants by speed post and e-mail, returnable for 22.10.2021.

AUGUST 10, 2021/st

JAYANT NATH, J.