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

% Judgment delivered on: 28.11.2024

+ CS(OS) 940/2024

VIVEK GAURPlaintiff

Through: Mr. Shahrukh Ejaz, Mr. Abhishek
Kukkar, Ms. Palak Singh Parihar,
Advs.
Plaintiff through VC

versus

ARG OUTLIER MEDIA PRIVATE LIMITED AND ORS

.....Defendants

Through: Mr. Gaurav Dudeja and Mr. Rahul
Tyagi, Advs. for D-1
Mr. Sahil, Adv. for D-3
Mr. Rahul Ahuja, Ms. Ashika Daga,
Mr. Raunak Das Sharma, Advs. for
D-4
Mr. Aditya Gupta and Ms. Aishwarya
Kane, Advs. for D-8

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J. (ORAL)

I.A. 46425/2024 (filed by plaintiff under Section 151 CPC seeking exemption from filing typed and translated copies and true copies of the articles/publications alongwith supporting affidavit)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.



CS(OS) 940/2024

3. The plaint be registered as suit.
4. Issue summons to the defendants. Learned counsel appearing on behalf of defendant nos.1, 3, 4 and 8 on advance service accept summons and waive formal service of summons. They submit that a copy of the plaint, I.A.s and documents have been received by them.
5. Let written statements be filed by the said defendants within a period of 30 days from today.
6. On plaintiff taking steps, issue summons to the unrepresented defendants by all permissible modes. The summons shall indicate that written statements must be filed within 30 days from the date of receipt of summons.
7. 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.
8. 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.
9. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
10. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.
11. List before the learned Joint Registrar for completion of service,



pleadings, admission/denial of documents and marking of exhibits on 25.02.2025.

12. List before Court after completion of pleadings on 07.04.2025.

I.A. 46424/2024 (filed by plaintiff under Order XXXIX Rules 1 & 2 CPC seeking ad interim, ex parte injunction against the defendants)

13. The present suit has been filed by the plaintiff seeking permanent and mandatory injunction, compensation and damages for defamation.

14. In a nutshell, plaintiff is aggrieved by news articles published by defendant nos.1 to 7 and the defendant no.9 [hereinafter referred to as the 'defendants'] on their respective news media websites reporting that plaintiff has been arrested in connection with a 'cheating / fraud' case.

15. The facts which are borne out from the plaint are that the plaintiff is a graduate from Delhi College of Engineering in Mechanical Engineering and also holds a PGDM from IIM, Lucknow. It is stated in the plaint that the plaintiff has held senior positions in media giants such as HindustanTimes Media and Living Media India Limited (India Today). The plaintiff also remained as a Business Head (North & East) in Hindustan Times Media and was an Executive Director in Living Media India Limited. It is further stated that, at present, plaintiff is serving as a Co-Founder of 'Mom Superfoods Products and Services Private Limited', which is a health and nutrition brand.

16. Whereas, defendant no.1 is 'ARG Outlier Media Private Limited', which disseminates news under the name of 'Republic'. The defendant no.2 is 'Bennett, Coleman & Co. Ltd.', which publishes 'The Times of India' newspaper. The defendant no.3 is 'The India Express [P] Ltd.'. The defendant no.4 is 'ABP Network Pvt. Ltd.'. The defendant no.5 is 'Jagran



Prakashan Limited'. The defendant no.6 is 'BW Businessworld Media Pvt. Ltd.'. The defendant no.7 is 'CMYK Printech Ltd.', a media house which publishes online and offline publications under the name 'Daily Pioneer'. The defendant no.8 is 'Google' and the defendant no.9 is 'Ushodaya Enterprises Pvt. Ltd.', which runs a news channel under the name and aegis of 'ETV Bharat'.

17. Mr. Shahrukh Ejaz, the learned counsel appearing on behalf of the plaintiff submits that despite no case in connection with cheating or financial fraud is filed or pending against the plaintiff, the defendants have published new articles reporting about the arrest of the plaintiff in connection with a cheating / fraud case.

18. He submits that in 2008 the plaintiff founded 'Vas Data Services Private Limited' ['VDSP'], a private limited company, alongwith Anand Jadhav and Sandeep Sharma. VDSP, however, was subsequently declared as insolvent by the National Company Law Tribunal ['NCLT'] vide its Order dated 09.04.2019 and is currently undergoing CIRP.

19. He further submits that in 2017, two complaints under Section 138 of the Negotiable Instrument Act, 1881 ['Act of 1881'] were filed against VDSP and the plaintiff was impleaded as one of the accused persons along with other directors viz. Sandeep Sharma and Sonali Sethi. Thereafter, three more complaints under Section 138 of the Act of 1881 were filed by the same complainant against the same accused persons including the plaintiff.

20. It was claimed in the complaints that cheques totalling to Rs. 96,00,000/- were issued by VDSP, however, the same on presentation got dishonoured. Mr. Ejaz submits that though the plaintiff was impleaded as a director of VDSP, as a matter of fact, the plaintiff had resigned from his



duties as a director from 2016 and was a nominee director thereafter.

21. He adds that in complete disregard to settled position of law, the learned MM issued process under Section 82 of CrPC and as such, on 05.03.2024, statement of process server was recorded and the plaintiff was declared as a proclaimed offender and a further direction was passed to concerned SHO to arrest plaintiff as well as register an FIR against him under Section 174A of IPC. The plaintiff, however, challenged the aforesaid order before this Court, and this Court, vide order dated 22.07.2024, set aside the order dated 05.03.2024.

22. He further submits that, thereafter, an application seeking restoration of complaints under Section 138 of the Act of 1881 was filed by the plaintiff before the learned MM, however, vide order dated 07.09.2024 non-bailable warrants ['NBWs'] were issued against the plaintiff. Consequently, plaintiff was arrested on 15.10.2024 and on the same day itself, the bail application filed by the plaintiff was allowed and he was enlarged on bail. He adds that the plaintiff has already challenged the order dated 07.09.2024 before a session's court.

23. He submits that though the plaintiff was enlarged on bail on 15.10.2024, the impugned articles were published by the defendants making imputations that the plaintiff has been arrested by Delhi Police after being declared as a proclaimed offender in connection with a cheating / fraud case and therefore, the impugned articles have caused irreparable damage to the reputation of the plaintiff.

24. He has drawn the attention of the Court to the impugned articles published between 16.10.2024 and 17.10.2024 which have been appended with the plaint to submit that in the impugned articles, it has been stated that



the plaintiff in one cheating related cases has been declared as a 'proclaimed offender / fugitive' and has been arrested 'in connection with a cheating case / financial fraud', without verifying the facts that plaintiff has neither been arrested in connection with a cheating case and nor plaintiff was a proclaimed offender at the time of reporting of the impugned articles.

25. Therefore, he prays that an *ad interim* order be passed against the defendants directing them to remove / delete the impugned articles from their respective websites.

26. I have heard the learned counsel for the plaintiff and also gone through the material placed on record, especially, transcripts of all the impugned articles which are reproduced in paras 39 (defendant no.1's article), 43 (defendant no.2's article), 46 (defendant no.3's article), 49 (defendant no.4's article), 51 (defendant no.5's article), 53 (defendant no.6's article), 55 (defendant no.7's article) and 57 (defendant no.9's article).

27. Specifically, in the impugned article dated 17.10.2024 published by the defendant no.1, it has been reported in the headline itself that Delhi police has arrested plaintiff in a cheating case. It further reports that the defendant no.1 has been informed by Deputy Commissioner of Police (South-West Delhi) that staff of PS RK Puram has made a significant breakthrough by apprehending a criminal i.e., the plaintiff a resident of Gurugram. It also reports that the plaintiff was involved in many incidents of financial fraud in Delhi and other states and, in one of the cheating cases, a Delhi Court on March, 05, 2024 had declared two persons including the plaintiff as a proclaimed person.

28. Similarly, in the impugned article dated 17.10.2024, published by defendant no. 2, it has been reported that the plaintiff has been arrested in



connection with a cheating case.

29. Whereas, in the impugned article dated 17.10.2024, published by defendant no.3, it is reported that plaintiff is held for a financial fraud by Delhi Police. It further notes that the plaintiff has been arrested seven months after being declared a proclaimed offender in an alleged case of financial fraud.

30. Likewise, in the impugned article dated 16.10.2024 published by the defendant no.4, it has been reported that plaintiff has been arrested in a fraud case and was declared a fugitive.

31. In the impugned article dated 16.10.2024 published by defendant no.5, it is reported that the plaintiff who is declared a fugitive by the Court has been arrested from Haryana in a financial fraud case.

32. In the impugned article dated 17.10.2024 published by the defendant no.6, it is reported that the plaintiff has been arrested by Delhi Police in a case of financial fraud. In like manner, in the impugned article dated 17.10.2024 published by the defendant no.7, it has been reported that the plaintiff has been arrested for financial fraud.

33. In a similar fashion, in the impugned article dated 17.10.2024 published by defendant no.9, it is reported that in an operation, the anti-fraud team in Delhi has arrested plaintiff who was declared a fugitive in financial fraud cases.

34. A perusal of the transcripts of the impugned articles would reveal that it has been portrayed before public at large that the plaintiff who is declared as a proclaimed offender has been arrested by Delhi Police in connection with a cheating / financial fraud case.

35. I have also gone through the order dated 05.03.2024 passed by the



learned MM in complaint cases filed under Section 138 of the Act of 1881 registered against VDSP. Vide said order, the plaintiff was declared as a proclaimed offender and a direction was passed to register an FIR under Section 174A IPC against the plaintiff. The said order was challenged by the plaintiff before this Court and *vide* order dated 22.07.2024, the same was set aside.

36. Thereafter, on 07.09.2024 while hearing an application filed by the plaintiff seeking restoration of proceedings under Section 138 of the Act of 1881, NBWs were issued against him. Consequently, the plaintiff was arrested on 15.10.2024 and on that very day, he was released on bail on furnishing of personal bond in the sum of Rs.1,00,000/- with two sureties of like amount.

37. It is clear from the orders passed by the learned MM as well as by this Court that the plaintiff was an accused in a case under Section 138 of the Act of 1881 filed against VDSP and not in connection with cases related to financial fraud / cheating. It is also clear that though *vide* order dated 05.03.2024 passed by the learned MM the plaintiff was declared as a proclaimed offender and a direction was passed to register an FIR under Section 174A of IPC against him, the said order was set aside by this Court *vide* order dated 22.07.2024. Hence, at the time of reporting of the impugned articles i.e., from 16th to 17th October, 2024, the plaintiff was neither involved in a cheating/fraud case nor he was a proclaimed offender. Therefore, the defendants should have reported, after due verification, true facts before public at large. No doubt that reporting of incorrect facts about the plaintiff, especially, putting before public that he was declared as a fugitive / proclaimed offender and has been arrested in connection with a



cheating / fraud case, has the potential of severally injuring his reputation.

38. It is trite law that personal rights of a human being include the right of reputation.¹ It is equally trite law that a particular fundamental right cannot exist in isolation in a watertight compartment. One fundamental right of a person may have to co-exist in harmony with exercise of another fundamental right by others and it is the Court's duty to strike a balance between competing claims of different interests.²

39. At this juncture, apt would be to refer to a decision of Hon'ble Supreme Court in ***Subramanian Swamy vs. Union of India (UOI) and Ors.***³ wherein, in para 140,158 and 186, it specifically held as under:-

*"144.We are in respectful agreement with the aforesaid enunciation of law. **Reputation being an inherent component of Article 21, we do not think it should be allowed to be sullied solely because another individual can have its freedom.** It is not a restriction that has an inevitable consequence which impairs circulation of thought and ideas. In fact, it is control regard being had to another person's right to go to Court and state that he has been wronged and abused. He can take recourse to a procedure recognized and accepted in law to retrieve and redeem his reputation. **Therefore, the balance between the two rights needs to be struck. "Reputation" of one cannot be allowed to be crucified at the altar of the other's right of free speech.....***

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161. The concept of fraternity under the Constitution expects every citizen to respect the dignity of the other. Mutual respect is the fulcrum of fraternity that assures dignity. It does not mean that there cannot be dissent or difference or discordance

¹ Umesh Kumar vs. State of Andhra Pradesh and Anr.: (2013) 10 SCC 591.

² Acharya Maharajshri Narendra Prasadji Anandprasadji Maharaj and Ors. v. The State of Gujarat and Ors.: (1975) 1 SCC 11.

³ (2016) 7 SCC 221.



or a different voice. It does not convey that all should join the chorus or sing the same song. Indubitably not. **One has a right to freedom of speech and expression. One is also required to maintain the constitutional value which is embedded in the idea of fraternity that assures the dignity of the individual.** One is obliged under the Constitution to promote the idea of fraternity. It is a constitutional obligation.

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 195. **One cannot be unmindful that right to freedom of speech and expression is a highly valued and cherished right but the Constitution conceives of reasonable restriction.....Right to free speech cannot mean that a citizen can defame the other. Protection of reputation is a fundamental right. It is also a human right. Cumulatively it serves the social interest.....”**

(emphasis supplied)

40. In this regard, reference may also be had to another decision of Hon’ble Supreme Court in **Re: Harijai Singh and Ors.**⁴ wherein, in paras 9 and 10, it has been held as under: -

9. *It is thus needless to emphasis that a free and healthy press is indispensable to the functioning of a true democracy. In a democratic set-up, there has to be an active and intelligent participation of the people in all spheres and affairs of their community as well as the State. It is their right to be kept informed about current political, social, economic and cultural life as well as the burning topics and important issues of the day in order to enable them to consider and form broad opinion about the same and the way in which they are being managed, tackled and administered by the Government and its functionaries. To achieve this objective the people need a clear and truthful account of events, so that they may form their own opinion and offer their own comments and view points on such matters and issues and select their further course of action. The primary function, therefore, of the*

⁴ (1996) 6 SCC 466.



press is to provide comprehensive and objective information of all aspects of the country's political, social, economic and cultural life. It has an educative and mobilising role to play. It plays an important role in moulding public opinion and can be an instrument of social change. It may be pointed out here that Mahatma Gandhi in his autobiography has stated that one of the objectives of the newspaper is to understand the proper feelings of the people and give expression to it; another is to arouse among the people certain desirable sentiments; and the third to fearlessly express popular defects. It, therefore, turns out that the press should have the right to present anything which it thinks fit for publication.

10. But it has to be remembered that this freedom of press is not absolute, unlimited and unfettered at all times and in all circumstances as giving an unrestricted freedom of the speech and expression would amount to an uncontrolled licence. If it were wholly free even from reasonable restraints it would lead to disorder and anarchy. The freedom is not to be mis-understood as to be a press free to disregard its duty to be responsible. Infact, the element of responsibility must be present in the conscience of the journalists. In an organised society, the rights of the press have to be recognised with its duties and responsibilities towards the society. Public order, decency, morality and such other things must be safeguarded. The protective cover of press freedom must not be thrown open for wrong doings. If a newspaper publishes what is improper, mischievously false or illegal and abuses its liberty it must be punished by Court of Law. The Editor of a Newspaper or a journal has a greater responsibility to guard against untruthful news and publications for the simple reason that his utterances have a far greater circulation and impact then the utterances of an individual and by reason of their appearing in print, they are likely to be believed by the ignorant. That being so, certain restrictions are essential even for preservation of the freedom of the press itself. To quote from the report of Mons Lopez to the Economic and Social Council of the United



Nations "If it is true that human progress is impossible without freedom, then it is no less true that ordinary human progress is impossible without a measure of regulation and discipline". It is the duty of a true and responsible journalist to strive to inform the people with accurate and impartial presentation of news and their views after dispassionate evaluation of the facts and information received by them and to be published as a news item. The presentation of the news should be truthful, objective and comprehensive without any false and distorted expression.

(emphasis supplied)

41. From reading of the aforesaid decisions of the Hon'ble Supreme Court, it is clear that a balance needs to be struck between the two fundamental rights viz., right of freedom of speech and expression and right of reputation. It can further be gathered that a journalist has a duty to inform his readers, accurate and impartial news. In the present case, as noted above, the plaintiff was neither arrested in connection with a cheating / fraud case nor he was arrested pursuant to being declared as a proclaimed offender. In fact, at the time of reporting of the impugned articles i.e., from 16.10.2024-17.10.2024, the order dated 05.03.2024, whereby the plaintiff was declared as a 'proclaimed offender', had already been set aside by this Court vide order dated 22.07.2024. Therefore, *prima facie* this Court is of the view that dissemination of untrue and incomplete information, merely on the basis of police conference or on the basis of a statement made by a police officer, that too without independent verification, has injured the reputation of the plaintiff before public at large.

42. Thus, the plaintiff has made out a *prima facie* case for grant of *ad interim relief* in his favour. I am satisfied that grave and irreparable damages will be caused to the plaintiff, if *ad interim* injunctive orders are not passed



in his favour. The balance of convenience also lies in favour of the plaintiff.

43. Since this Court has only taken a *prima facie* view, the submissions made by the learned counsel for the defendant no.3 that the news reporting was carried out in good faith, public interest and no comment or opinion has been rendered by the designated editor, will be considered at the time of final disposal of the present application.

44. Under these circumstances, the defendants are directed to take down/remove/restrict access/block the below mentioned URLs within a period of three weeks: -

Sl. No.	Defendant No.	URL
1.	Defendant No. 1 (ARG Outlier Media Private Limited)	https://www.republicworld.com/india/delhi

		-police-arrests-online-shopping-company-vepmes-ceo-vivek-gaur-in-cheating-case
2.	Defendant No. 2(Bennett, Coleman & Co. Ltd.)	http://timesofindia.indiatimes.com/articleshow/114293068.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

3.	Defendant No. 3(Indian Express (P) Ltd.)	https://indianexpress.com/article/cities/delhi/vepme-com-founder-held-for-financial-fraud-delhi-police-9624134/
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4.	Defendant No. 4 (ABP Network Pvt. Ltd.)	https://www.abplive.com/states/delhi-ncr/delhi-online-shopping-company-yepme-ceo-vivek-gaur-arrested-in-fraud-case-ann-2805038
5.	Defendant No. 5 (Jagran Prakashan Limited)	https://www.jagran.com/delhi/new-delhi-city-ncr-yepme-founder-vivek-gaur-arrested-in-haryana-in-financial-fraud-case-23817012.html
6.	Defendant No. 6 (BW Businessworld Media Pvt. Ltd.)	https://bwpoliceworld.com/article/delhi-police-arrests-founder-and-ceo-of-yepmecom-vivek-gaur-for-financial-fraud-536506

7.	Defendant No. 7 (CMYK Printech Ltd.)	https://www.dailypioneer.com/2024/india/ceo-of-online-clothing-website-arrested-for-financial-fraud.html
8.	Defendant No. 9 (Ushodaya Enterprises Pvt. Ltd.)	https://www.ctvbharat.com/hi/state/in-financial-fraud-cases-ceo-of-yepme-company-arrested-by-operation-anti-fraud-team-delhi-delhi-news-dls24101700693
9.	Defendant No. 10 (The Navodaya Times Ltd.)	https://www.navodaya.com/news/crime-plus/-delhi-rkpuram-police-yepme-ceo-vivek-gaur-arrested-from-haryana/249389/#google_vignette



45. In the event the defendants fail, to take down//remove/restrict access/block the aforesaid URLs, within a period of three weeks, the plaintiff shall be at liberty to approach and request the defendant no.8 / Google and the latter, in that eventuality, shall take down the said URLs within a period of 36 hours of such request.

46. Compliance of Order XXXIX Rule 3 CPC qua defendant nos. 2, 5, 6 and 7 be made within three weeks. An affidavit of compliance may be filed within three days thereafter.

47. Needless to say, that the observations made herein are *prima facie* for the consideration of *ad interim* relief under Order XXXIX Rules 1 & 2 CPC by the plaintiff.

48. List before the learned Joint Registrar for completion of service and pleadings on 25.02.2025.

49. List before the Court on 07.04.2025.

I.A. 46426/2024 (filed by plaintiff under Section 151 CPC seeking leave to file additional documents along with supporting affidavit)

50. This is an application filed by the plaintiff to placed on record some additional documents within 30 days.

51. Considering that the suit is at nascent stage i.e., summons have yet to be issued, the application is allowed. The additional documents be placed on record within 15 days.

52. The applications stands disposed of.

VIKAS MAHAJAN, J

NOVEMBER 28, 2024/N.S. ASWAL