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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(OS) 831/2023

XXX

..... Plaintiff

Through: Mr. Amit Sibal, Senior Advocate with
Mr. Atul T.N., Mr. K. Pallavi, Ms.
Samridhi, Mr. Saksham and Mr.
Darpan, Advocates.

versus

FACEBOOK LLC & ORS.

..... Defendants

Through: Ms. Mamta R. Jha, Mr. Rohan Ahuja,
Ms. Shruttima Ehersa, Mr. Vatsalya
Vishal, Ms. Amishi Sodani and Mr.
Rahul K. Chowdhary, Advocates for
D-3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
14.12.2023

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I.A. 25157/2023 *(seeking exemption from filing dim/ improperly formatted documents with inadequate margin)*

1. Exemption is granted, subject to all just exceptions.
2. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

I.A. 25159/2023 *(seeking extension from filing the court fees in view of the urgency)*

4. An amount of Rs. 1,00,000/- has been paid towards the court fee.

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Counsel for Plaintiff states that the balance court fee has been applied for, and undertakes to file the same as and when the court fee certificate/ stamps are issued.

5. In view of the above, the application is disposed of with a direction that the Plaintiff must furnish the deficient court fees within a period of one week from today.

I.A. 25160/2023 (*seeking permission to keep the identity of the Plaintiff under anonymity*)

6. Considering the peculiar facts of the case and the nature of issues involved, the application is allowed. It is directed that the Plaintiff's name and associated details shall not be disclosed to the public. The Registry shall reflect the cause title in the cause list as "**XXX v. Facebook LLC and Ors.**"

7. Disposed of.

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8. Let the plaint be registered as a suit.

9. Issue summons. Summons are accepted by Ms. Mamta R. Jha, counsel for Defendant No. 3. Written statement on behalf of the said Defendant be filed within 30 days from today.

10. Ms. Mamta R. Jha, counsel for Defendant No. 3, who is appearing on advance notice, states that Defendants No. 3 and 4 have not been correctly impleaded. The address of Defendant No. 3 mentioned in the array of parties is of Google India Pvt. Ltd., and not Google LLC, which is the proper party. Further, Ms. Jha submits that Defendant No. 4 has merged with Google LLC. As agreed, the necessary particulars shall be provided by Ms. Jha to the counsel for Plaintiff, who states that he will then take appropriate steps

to reflect the changes on record.

11. Upon filing of process fee, issue summons to the remaining Defendants, by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

12. Liberty is given to the Plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

13. List before the Joint Registrar for marking of exhibits on 14th February, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

14. List before Court for framing of issues thereafter.

I.A. 25158/2023 (seeking exemption from placing on record the video in question due to the sensitive nature of the same)

15. Plaintiff seeks the leave of the Court to place on record a video recording, forming the subject matter of the present suit. Rule 24 of Chapter XI of the Delhi High Court (Original Side) Rules, 2018 makes it clear that electronic records can be received in CD/DVD/Medium encrypted with a hash value. The said Rule is extracted below:

“24. Reception of electronic evidence -A party seeking to tender any electronic record shall do so in a CD/ DVD/ Medium, encrypted with a hash value, the details of which shall be disclosed in a separate

memorandum, signed by the party in the form of an affidavit. This will be tendered along with the encrypted CD/ DVD/ Medium in the Registry. The electronic record in the encrypted CD/ DVD/ Medium will be uploaded on the server of the Court by the Computer Section and kept in an electronic folder which shall be labeled with the cause title, case number and the date of document uploaded on the server. Thereafter, the encrypted CD/ DVD/ Medium will be returned to the party on the condition that it shall be produced at the time of admission/denial of the documents and as and when directed by the Court/ Registrar. The memorandum disclosing the hash value shall be separately kept by the Registry on the file. The compliance with this rule will not be construed as dispensing with the compliance with any other law for the time being in force including Section 65B of the Indian Evidence Act, 1872.”

16. Registry may receive electronic record on CD-ROM so long as it is encrypted with a hash value or in any other non-editable format. The video recording contained in CD-ROM be placed in the electronic record of the present suit in a format which is non-editable, so that the same can be viewed by the Court during hearing.

17. Application is disposed of.

I.A. 25156/2023 (u/Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908, seeking ad interim ex parte stay)

18. The instant suit has been filed by the Plaintiff seeking permanent injunction against publication, communication, circulation etc. of certain recordings, that are alleged to be false and defamatory to the Plaintiff.

19. The case, as presented by Mr. Amit Sibal, Senior Counsel for Plaintiff, is as follows:

19.1. On 23rd/ 24th November, 2023, one Mohd. Zubair and Ms. Bhawna Pandey sought initiation of a criminal investigation by the Senior Superintendent of Police, Police Station, Haridwar with respect to a video of Defendant No. 8 [Mr. Umesh Kumar], who is a sitting MLA, and the

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Plaintiff. The video clipping, contained in a pen drive, was received by them through courier. The Police took the pen drive in their custody and commenced appropriate enquiry into the matter. Upon learning of the same, Defendant No. 8 registered an FIR [No. 0732/2023] under Section 66D of the Information and Technology Act, 2000 with the Police Station, Roorkee, on 26th November, 2023. The investigation in this FIR is continuing and the video has also been sent for forensic analysis to a laboratory in Hyderabad, India.

19.2. Despite knowledge of subsistence of the criminal investigation, Defendant No. 6, Mr. Kunwar Pranav Singh Champion, organized a press conference on 07th December, 2023, wherein he displayed the video in question on his personal computer device, and declared that the same would be circulated across all social media platforms so that the video becomes viral.

19.3. Consequently, the video is being disseminated at a rampant pace, with the number of viewers increasing with each passing day. In addition to the aforesaid video, Defendant No. 6 posted five other videos of the Plaintiff from different angles in the comments to the original post. Reference is made to the list of a few URLs presented during hearing, where the videos are stated to be openly available for public viewing. The said links are as follows:

a. <https://www.facebook.com/share/v/rZBUC2V6c86WRXS1/?mibextid=THR13R>

b. <https://www.youtube.com/watch?v=KRFbYQ7P5HU>

c. <https://fb.watch/oRG-uJGmmU/>

d. <https://www.facebook.com/watch/?v=1299853990730979>

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e. <https://fb.watch/oSWgwRcbQD/?mibextid=Nif5oz>

f. <https://twitter.com/PranavChampion/status/1732696536549859351?t=XUqbebz7eqdEpZus1MCAtg&s=19>

19.4. Mr. Sibal contends that these videos are fake/ 'deep fakes', which have been created to damage and malign the image of the Plaintiff. Defendant No. 6 harbours political vendetta against Defendant No. 8, and the Plaintiff is being unnecessarily roped in their tussle. The contents of the videos are defamatory to the Plaintiff, who has been subjected to undue public ridicule. This has severely harmed her reputation and image.

19.5. As the matter is sub judice and a criminal investigation pursuant to the FIR is also underway, the circulation of the videos, which bear Plaintiff's identity, must be prohibited. In addition to being a violation of the right to privacy of the Plaintiff, such a non-consensual dissemination of the videos also contravenes the provisions of the Information Technology Act. In terms of the said Act, directions must be issued to the intermediaries to prohibit transmission of the videos on their fora.

20. In response to the above contentions, Ms. Jha states that the links provided at serial Nos. 4, 5, 6, 9, 10, 11 of paragraph No. 20 of the plaint are news reports, which have been uploaded on the YouTube platform by respective media houses.

21. The Court has considered the afore-noted contentions. While the issue of defamation of Plaintiff remains to be adjudicated, the immediate concern of the Court is the violation of privacy of the Plaintiff. To that effect, in light of the afore-noted submissions advanced by Mr. Sibal, the Court is satisfied that the Plaintiff has made out a *prima facie* case for grant of an *ex-parte* ad-

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interim relief. Balance of convenience also lies in favour of the Plaintiff and against the Defendants.

22. Although the Plaintiff asserts that all URLs enlisted in paragraph No. 19.3 should be directed to be taken down, having examined the videos forming the subject matter of the said links, the Court does not deem it appropriate to restrain access to <https://www.facebook.com/watch/?v=1299853990730979>, as the same displays a snippet from the press conference, but does not exhibit the videos in question. However, considering the nature of content the remaining links, the Court issues the following directions till the next date of hearing:

22.1. Defendants No. 1 to 4 shall, during the pendency of the proceedings, takedown and block access to the following links: (a) <https://www.facebook.com/share/v/rZBUC2V6c86WRXS1/?mibextid=THR13R>, (b) <https://www.youtube.com/watch?v=KRFbYQ7P5HU>, (c) <https://fb.watch/oRG-uJGmmU/>, (d) <https://fb.watch/oSWgwRcbQD/?mibextid=Nif5oz>, and (e) <https://twitter.com/PranavChampion/status/1732696536549859351?t=XUqbbz7eqdEpZus1MCAtg&s=19>, which are available for viewing at their respective platform.

22.2. In the event the videos in question resurface on the platforms of Defendants No. 1 to 4, the Plaintiff shall be at liberty to supply the concerned URLs to the said Defendants, who shall take appropriate action to block/ takedown the same, in accordance with law. However, in case Defendants No. 1 to 4 come to the conclusion that the content is not identical to the videos which have been injuncted by this order, they shall inform the Plaintiff of the same, within a period of one week from the date

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of receipt of the request, whereafter Plaintiff shall be free to approach this Court for appropriate directions.

22.3. Defendants No. 6 to 8 and all persons acting on their behalf are restrained from publishing, communicating, issuing, or causing to be published, communicated, or issued any video/material to the public which is similar or identical to the videos that have been injuncted through this order.

23. List before the Court on 08th April, 2024.

24. *Dasti* under the signatures of the Court Master.

-sd-

SANJEEV NARULA, J

DECEMBER 14, 2023

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