

CS 413/17

Kamal Chuttani & ors vs Pradeep Gupta & Anr.

18.07.18

Present: None.

ORDER

1. This order shall dispose off application under Order VII Rule 14 r/w Section 151 CPC filed on behalf of plaintiff.

2. It is stated in the present application that the plaintiffs have filed the suit for recovery of damages for defamation and permanent injunction. It was stated by the plaintiffs in the plaint that FIR NO. 0392/16 was registered against defendant no.1 in relation to the disputed photographs and conversations, and the process of filing of chargesheet was underway. It is further stated that the said chargesheet was filed before the Hon'ble Session Court on 03.11.2017 by the concerned IO and now the plaintiffs have got certified copies of the statement/interrogation letter of defendant no.1 and his daughter, Divya dt. 06.09.2016 and also report by Cyber Cell East District, Delhi dt. 07.09.2016.

It is further stated in the plaint that the defendants have highlighted, edited, cropped, manipulated and choose picked photographs and conversations of plaintiffs no.2 &3 from their face book account that too without any authority to access and permission to print and publish them. The plaintiffs inadvertently did not file the printouts and soft copies of the exact and true screen shots of some of the actual face book posts of plaintiffs no.2 &3 without having any manipulations. The said printouts and soft copies are now filed herewith alongwith certificate under Section 65B of the Indian Evidence Act,1872.

It is further stated that information and guidelines related to privacy basics of face book posts are available on official site of face book having web address. The plaintiffs also inadvertently did not file the printouts of said information alongwith the replication. The said printouts are now being filed alongwith certificate u/S. 65B of Indian Evidence Act,1872.

It is further stated that the material adduced with this application are the necessary documents for the proper adjudication of the suit and may prove to be crucial evidence to this court for delivery of justice.

3. Defendants have filed reply to the application stating that the application under reply is devoid of any merit. The

application does not disclose any circumstance which did not allow the plaintiff to file the documents alongwith the plaint as per the mandate of law. The documents are dated much prior to the filing of the present suit on 21.05.2017. The application does not disclose any grant of leave at this belated stage. The same is liable to be dismissed on this very ground.

4. Submissions heard.

5. Perusal of the record shows that plaintiff has filed the present suit against the defendants for damages for defamation and permanent injunction. Issues in the present suit were framed on 17.01.2018. By way of present application plaintiff want to place on record certain documents i.e. interrogation letter dt. 06.09.2016, report of SI Cyber Cell dt. 07.09.16, certificate U/s. 65 B of Indian Evidence Act alongwith print outs and CDs. Order 7 Rule 14 also obligates the plaintiff to produce document upon which he has relied upon at the time of presentation of the plaint and if not produced at that stage then such a document can be received in evidence only with the leave of the Court and not otherwise. For seeking leave of the Court the parties seeking to produce documents at a belated stage must satisfy the Court, that the said documents were not within his knowledge earlier or could not be produced by him at the appropriate time in spite of exercise of due

diligence.

Record further shows that with regard to documents mentioned in the aforesaid application, plaintiff only stated that inadvertently he did not file the documents mentioned in the application. NO other reason has been given by the plaintiff in the application to show his diligence to file the documents. Matter is at the stage of plaintiff evidence, counsel for plaintiff as well as plaintiff was present at the time of framing of issues, they have not submitted anything during framing of issues that they have to file any documents. In absence of any diligence on the part of plaintiff aforesaid application is dismissed. Application stands disposed off accordingly.

Put up for plaintiff evidence on 15.10.2018.

(Dr. Hardeep Kaur)
ADJ-02(SHD)/KKD/Delhi/18.07.2018