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

+ **CS(OS) 317/2022**

JITENDRA CHOUKSEY & ANR.

..... Plaintiffs

Through: Mr. Rajshekhar Rao, Sr. Advocate
with Mr. Akshay Bhatiya, Ms.
Yamini Mookherjee and Ms. Meher
Arunissma

versus

AMAN DUGGAL & ORS.

..... Defendants

Through: Ms. Tishya Saran, Advocate for D-2.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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06.07.2022

**I.A. 10151/2022(of the defendant no.2 u/O-XXXIX R-4 of CPC) &
CS(OS) 317/2022**

1. The present application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 (CPC) has been filed on behalf of the defendant no.2 seeking vacation/modification of the *ex parte* order dated 30th May, 2022 passed by this Court.

2. The operative part of the said order is reproduced herein after:

“22. A long list of posts and video transcripts have been placed on record which show that the defendants no. 1 and 2 have prima facie made libelous insinuation and threats not only against the plaintiffs but also the family members of the plaintiff no. 1. URL of some of the posts have been given in paragraph 21 of the plaint. The aforesaid posts are likely to cause grave damage to the reputation of the plaintiffs.



23. *From the averments made in the plaint and the documents filed therewith, this Court finds that the plaintiffs have made out a prima facie case in their favour and in case no ex-parte ad-interim injunction is granted to the plaintiffs, they would suffer an irreparable loss. Balance of convenience also lies in favour of the plaintiffs and against the defendants no. 1 and 2.*

24. *Consequently, till the next date of hearing, the defendants no. 1 and 2 are restrained from in any manner creating, publishing, circulating or posting any defamatory material against the plaintiffs in any social media including Youtube. The defendants no. 1 and 2 are further directed to withdraw/take down the defamatory posts/videos uploaded by the defendant, as described in paragraph 21 of the plaint, against the plaintiffs and their officials within one week of the receipt of this order.*

25. *In case the defendants no. 1 and 2 fails to take down the aforesaid videos and the posts, which are prima facie defamatory, within two weeks of the service of this order to the defendants no. 1 and 2, on intimation by the plaintiffs to the counsels for the defendants no.3 and 4 giving specific URLs as mentioned in paragraph 21 of the plaint, the defendants no.3 and 4 will take down the impugned videos/posts within 72 hours of the receipt of the intimation from the plaintiffs”*

3. It is the case of the applicant/defendant no.2 that out of the six URLs in respect of Youtube videos referred to in paragraph 21 of the plaint, transcripts of only 5 have been filed and none of videos or posts have been uploaded/published by the defendant no.2. It is further stated that the defendant no.2 has not made any defamatory statement against the plaintiffs either on Youtube or on any other social media platform.

4. Since none of the videos have been uploaded on behalf of the defendant no.2, counsel for the defendant no.2 submits that there was no question of the defendant no.2 taking down any of the uploaded videos in terms of the order passed by this Court on 30th May, 2022.



5. Counsel for the defendant no.2 further submits that the defendant no.2 shall not make any defamatory statement against the plaintiffs.
6. The aforesaid statement is taken on record and the defendant no.2 shall be bound by the same.
7. Senior counsel appearing on behalf of the plaintiffs states that in view of the statement made by the defendant no.2, the plaintiff does not wish to press reliefs against the defendant no.2.
8. Accordingly, the suit stands disposed of qua the defendant no.2 and the defendant no.2 stands deleted from the array of parties.
9. Amended memo of parties be filed within one week.
10. Application is disposed of in above terms.

I.A. 10155/2022 (of the defendant no.2 u/O-VII R-10 &11 of CPC)

11. Counsel for the defendant no. 2 seeks to withdraw the present application.
12. Application stands dismissed as withdrawn.

I.A. 10153/2022 (of the defendant no.2 u/s 151 of CPC)

13. The present application has been filed on behalf of the defendant no. 2 seeking to restrain the plaintiff no.1 from making representations contrary to the observations passed by this Court in the order dated 30th May, 2022 and to issue a public apology in respect of the same.
14. After passing of the order dated 30th May, 2022 by this Court, the plaintiff no.1 uploaded a post on Facebook on 1st June, 2022, the relevant extracts from which are set out below:-

“The plaint wasn’t even long, it didn’t need to be. At the first look, the Hon’ble High Court judge proclaimed – ‘Their actions are condemnable and they should be stopped’, before issuing an injunction against Jitendra Chouksey and



Fittr.....I hope this small lesson serves as a deterrent to those who supported these people in the past.”

15. Counsel for the defendant no.2 submits that this post has caused a lot of harm to the reputation of the defendant no.2. In support thereof, he has placed reliance on screenshots of messages received by him from his clients, colleagues and peers after the said post was uploaded.

16. It is evident from the said post that not only has the plaintiff no.1 misquoted the Court but has also sought to take unfair mileage of the ex parte order passed by this Court on 30th May, 2022. This is highly condemnable.

17. Issue notice.

18. Notice is accepted on behalf of the counsel appearing for the plaintiff.

19. Senior counsel appearing on behalf of the plaintiff no.1 submits that the aforesaid Facebook post of 1st June, 2022 has already been removed by plaintiff no.1. He further submits that a public apology will be posted by the plaintiff no.1 on the same platform where the said post was made within one week from today. He further states that an apology would be filed before this Court for misquoting the observations made by this Court.

20. List on 2nd September, 2022.

AMIT BANSAL, J

JULY 6, 2022

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