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

+ **CS(COMM) 573/2021 & CRL.M.A. 23692/2024**

**RXPRISM HEALTH SYSTEMS PRIVATE LIMITED
& ANR.**

.....Plaintiffs

Through: Mr. Tanmaya Mehta, Mr. Sanyam Khetarpal, Mr. Nitesh Goyal, Ms. Prakriti Anand, Mr. Nitai Agarwal and Ms. Lisa Sankrit, Advs.
M: 9873674225
Email: sanyam@khetarpal.co.in

versus

CANVA PTY LTD & ORS.

.....Defendants

Through: Mr. Saikrishna Rajagopal, Ms. Sneha Jain, Dr. Victor Vaibhav Tandon, Mr. Ayush Saxena and Ms. Shruti Jain, Advs.
M: 8800641101
Email: ayushsaxena131@gmail.com

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
09.08.2024

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CRL.M.A. 23692/2024

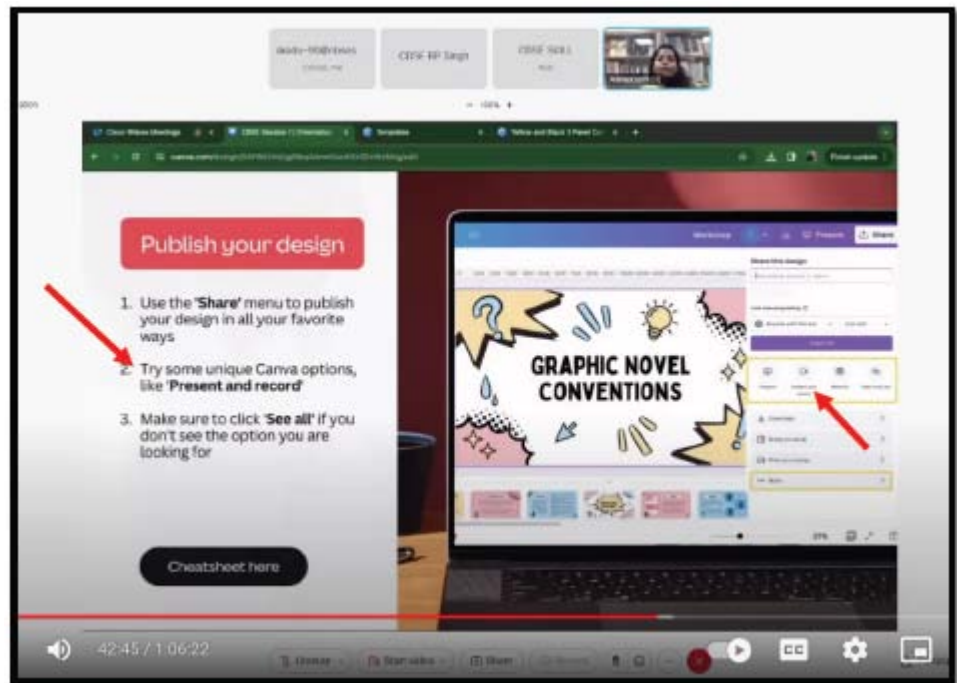
1. The present application has been filed under Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for conducting preliminary enquiry for offences under Sections 227, 233, 236, 237 and 246 of the Bhartiya Nyaya Sanhita, 2023 on behalf of the plaintiffs against the defendants.
2. Learned counsel appearing for the plaintiffs submits that the present application for perjury instituted by the plaintiffs against the defendants for



filing an incorrect, misleading and false compliance affidavit dated 23rd April, 2024 in I.A. 13911/2023 under Order XXXIX Rule 2A proceedings, which led to the order dated 24th April, 2024 and escaped being guilty of contempt and disobedience of injunction order dated 18th July, 2023.

3. Attention of this Court has been drawn to the order dated 03rd August, 2023, wherein, the defendants were enjoined from using the 'present and record' feature.

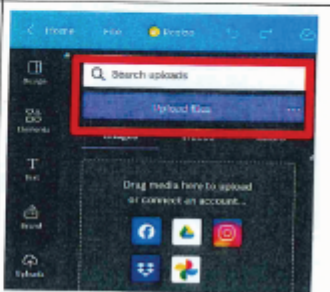
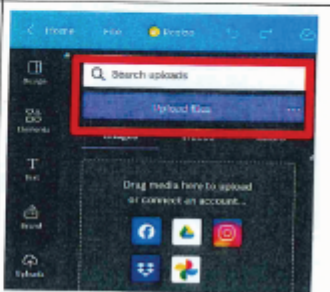
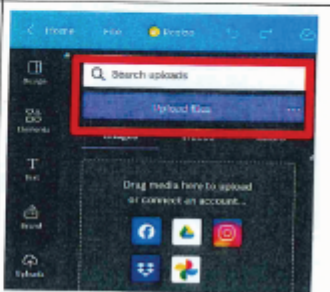
4. By referring to the present application, learned counsel appearing for the plaintiffs has drawn the attention of this Court to the screenshot of the defendants' presentation which was posted on CBSE's official YouTube Channel, and was available for all public viewers. The screenshot of the said CBSE's official YouTube Channel, is reproduced as follows:



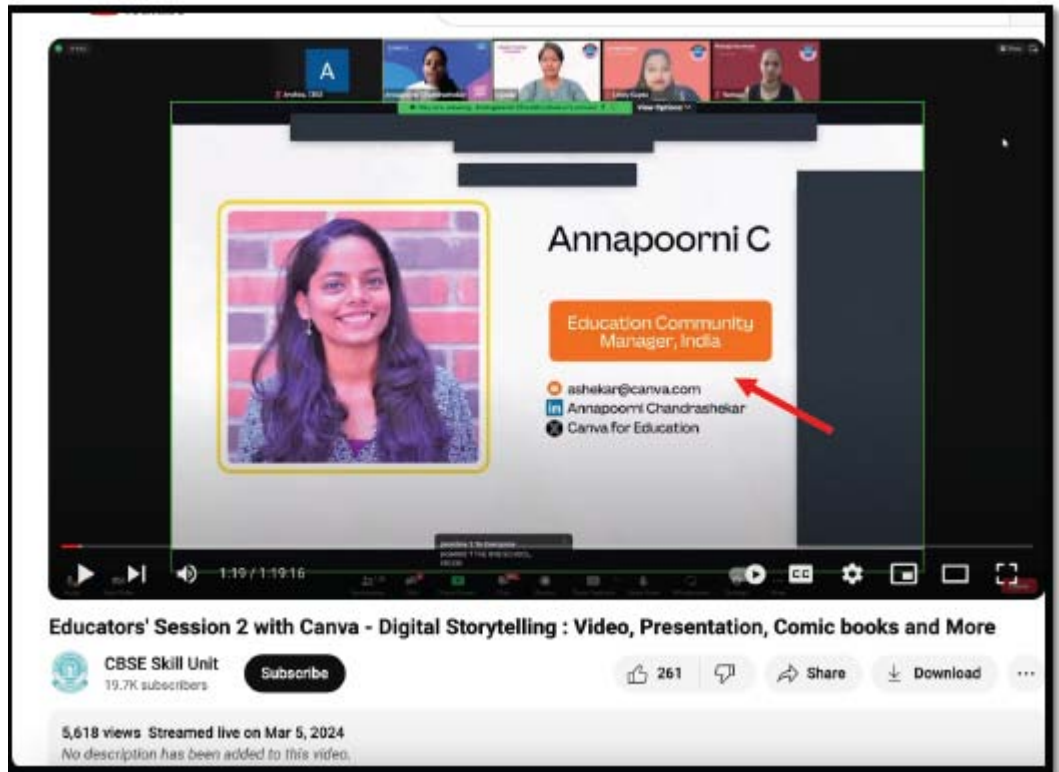
5. By referring to the said, it is submitted that the said screenshot categorically shows the 'present and record' option being canvassed by the defendants, despite a clear injunction order for using the said feature.



6. Learned counsel appearing for the plaintiffs submits that even to the defendants' understanding, they were enjoined from using the 'present and record' feature. Attention of this Court has been drawn to the table with respect to the features, as available to the global users, outside India and in India after the injunction order, which is reproduced as below:

19.09.2023	(First) Affidavit of Compliance filed by the Defendants in terms of the Order dated 03.08.2023 of the Hon'ble Court. The below screenshot in the Affidavit shows Defendants have removed "Record yourself" option for Indian users. <table><tr><th>Features as made available to the Global users outside India before and after the Injunction Order</th><th>Features as made available to India users after the Injunction Order</th></tr><tr><td> IMG- 05</td><td> IMG- 06</td></tr></table>	Features as made available to the Global users outside India before and after the Injunction Order	Features as made available to India users after the Injunction Order	 IMG- 05	 IMG- 06
Features as made available to the Global users outside India before and after the Injunction Order	Features as made available to India users after the Injunction Order				
 IMG- 05	 IMG- 06				

7. It is submitted that in their written statement, the defendants had categorically stated that the defendant no.1 did not have an Indian subsidiary or affiliates. It is submitted that a false statement has been made by the defendant no.1. In this regard, attention of this Court has been drawn to the screenshot as filed in the present application, which is reproduced as below:



8. Thus, it is submitted that the aforesaid screenshot makes it clear that Ms. Annapoorni, has shown herself to be the Education Community Manager, India of defendant no.1. It is submitted that the same is not in consonance with the averment made by the defendant no.1, in its written statement.

9. Attention of this Court has also been drawn to the order dated 24th April, 2024, and in particular to paragraphs 3 to 6.

10. Learned counsel appearing for the plaintiffs has also referred to the reply filed on behalf of defendant no.1 to the application being I.A. 11137/2023 and in particular to paragraph 5(1), wherein, the defendant no.1 has admitted that it had violated the injunction order dated 18th July, 2023 passed by this Court.

11. Per contra, learned counsel for the defendants appearing on advance



notice, submits that the present application is misconceived. He submits that the feature with respect to ‘present and record’ was immediately discarded on the same day itself.

12. Attention of this Court has been drawn to the reply filed on behalf of defendant no.1 to *I.A. 11137/2023*, to submit that the said feature of ‘present and record’ has been disabled.

13. Learned counsel appearing for defendant no.1 has also drawn the attention of this Court to the documents filed by the defendant no.1 on 01st July, 2024, to show an E-mail dated 19th July, 2023, wherein, it had been stated that steps were being taken to implement a technical block, so that users with an Indian IP address will not be able to create or view Talking Presentations.

14. However, the aforesaid submissions are vehemently denied by learned counsel appearing for the plaintiffs, who submits that the presentation was made on the CBSE’s official website, and submits that the said feature was prominently being canvassed.

15. Let an affidavit be filed by the defendant no.1 within a period of two weeks from today.

16. Rejoinder thereto, if any, be filed by the plaintiffs within one week, thereafter.

17. Re-notify on the date already fixed, i.e., 30th August, 2024.

MINI PUSHKARNA, J

AUGUST 9, 2024/kr