

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

% **Date of decision: 13th November, 2019.**

+ **CS(OS) 385/2019, IA No.10455/2019(u/O.XXXIX R-1&2 CPC) & IA No.11070/2019(u/O.XXXIX R-1&2 CPC)**

SUNIL SACHDEVA **Plaintiff**

Through: Mr. Sidhant Kumar, Adv.

Versus

**OWNER OF DOMAIN NAME WWW.CJR7.COM
& ORS.** **Defendants**

Through: Counsel for D-2 (appearance not given).
Mr. Akhil Anand, Adv. for D-3.
Mr. Neel Mason with Mr. Tarang Gupta &
Mr. Shivang Sharma, advs. for D-4/ Google
LLC USA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The plaintiff instituted this suit against (i) owner of Domain Name www.cjr7.com; (ii) Net4 Network Services Limited; and, (iii) Google India Private Limited, (i) for recovery of damages of Rs.2,10,00,000/- from defendant no.1 for defaming the plaintiff; (ii) for permanent injunction restraining the defendants from hosting online on their website and online search engine respectively statements defamatory of the plaintiff; (iii) for permanent injunction restraining the defendants from posting or otherwise communicating to any person or public at large, by any means, the allegedly defamatory content; and, (iv) for mandatory injunction directing the defendants to tender an apology and to permanently block and/or disable access of any person to the URL <https://cjr7.com/part-1-medanta-and-its->

shady-investor-sunil-sachdeva-and-these-people-are-being-given-a-free-pass-and-to-cash-out-with-1000-crores-while-madhu-trehan-has-the-audacity-to-judge-people-and-call-her/.

2. The suit came up first before this Court on 2nd August, 2019, when the following order was passed:-

“3. The plaintiff has sued the defendant no.1, Owner of Domain Name www.cjr7.com, the Registrar of domain names, with which the defendant no.1 Domain Name www.cjr7.com is registered, and Google India Private Limited, for permanent injunction, to restrain them from hosting online defamatory statements on their website and for ancillary reliefs.

4. It is the plea of the plaintiff, that from the domain name, the identity of the person behind the domain name cannot be known.

5. A perusal of the printout of the impugned content on the domain name also does not show the same to be disclosing the identity of the author thereof.

6. Though the impugned contents are found to be in the nature of a whistle blower but it is felt that when the publisher thereof is not even willing to disclose the identity, such malicious campaign should not be permitted.

7. The counsel for the plaintiff is informed, that it has come before this Court in other cases, that Google India Private Limited is unable to comply with the directions as generally sought against all the three defendants in the present case and it is only Google Inc. which can comply with such a direction, if issued.

8. The plaintiff is at liberty to make the necessary amends.

9. *Issue summons of the suit and notice of the application for interim relief, electronically to the defendants, returnable on 29th August, 2019. The defendant no.1 be also served through domain name.*

10. *The defendant no.2, stated to be the Registrar of the domain names with which the defendant no.1 Domain Name www.cjr7.com is registered, is also directed to, on the next date of hearing, disclose to this Court in a sealed envelop, the particulars of the identity of the defendant no.1 Domain Name www.cjr7.com.*”

3. Pursuant to the aforesaid order, the plaintiff impleaded Google LLC, USA and amended the plaint to claim the last of the aforesaid reliefs and which amendment was allowed and summons of the suit and the notice of the application for interim relief were ordered to be issued to the newly impleaded defendants as well.

4. The counsel for the defendant no.2, on 29th August, 2019 supplied the details of the person behind the domain name, impleaded as defendant no.1, as under:-

“Customer Details: -

CRN_ID-000541133

FIRST_NAME-nish

LAST_NAME-nish

ORGANIZATION_NAME-CJR7

ADDRESS-S-92 Greater Kailash

CITY-Delhi

STATE-Delhi

POSTAL_CODE-110048

COUNTRY-India

PHONE-+91.9818371797

EMAIL-yomedia@rediffmail.com

ALT_EMAIL-sales@mark-design.net”

5. The counsel for the plaintiff states that the defendant no.1 has been served as per the details disclosed as aforesaid and an affidavit of service has been filed.
6. None appears for the defendant no.1. Only the counsel for the defendant no.2 Net4 Network Services Limited, the counsel for the defendant no.3 Google India Private Limited and the counsel for the defendant no.4 Google LLC, USA appear.
7. The defendant no.1 is proceeded against *ex parte*.
8. The allegedly defamatory allegations comprise of a post, dated 30th July, 2019 on the website www.cjr7.com belonging to defendant no.1, as under:-

“Part-1-Medanta and its shady investor Sunil Sachdeva and these people are being given a free pass and to cash out with 1000’s crores while Madhu Trehan has the audacity to call herself journalists and Naresh Trehan a doctor

Posted on Apr 6 2018 -9:06am by admin

Not getting the time to write and maybe Naresh and Madhu Trehan think the power they displayed when got none other than J.P.Nadda to get a police complaint closed against them that one would learn how and mighty they are and they are beyond and above the law of the land and the shocking part the poor guy who filed a complaint if you read to as to what he was put through the usual dirty tricks and torture to file a police complaint forget FIR and in the end the poor guy gave up and like millions in this nation who if pitted against these high and mighty and in this case the head of a Medical Cartel

and the Don of the Media what chances did he have but the shocking part is no media house took it up.

Now back to the story of Sunil Sachdeva check out his profile he is founder at Medanta Medcity 2004 and we know he is a great BA Pass which surely makes him very qualified but what we don't know is how after his college education he came to so much money as to invest in Medanta could be family money but we don't know what business he is into before 2004 would have been very helpful if we knew a little as to what he did before the founding of Medanta sure he must be some great business genius like Naresh Trehan.

Now this great Sunil Sachdeva is MD of Ramsons a listed company <http://www.ramsonsprojects.com/DIRECTORS> no problem with that though not much data on this company but keep your eyes on the list of directors and then you know they are allegedly involved in very shady dealing in South Africa <https://www.news24.com/SouthAfrica/News/mediosa-managemnet-mum-on-the-run-20180302>

please read the articles to see the Ramsons connection and address mentioned and the directors in this case you will see the round about way things work and shows you shady nature of this Ramsons and Mr. Sunil Sachdeva and yet this should be major news and then corporate Office address is of Medanta isn't that strange and (clips are down below) which is enough to merit a serious investigation against this Mr. Sunil Sachdeva and Medanta did not know Medanta is a office complex the land was given as Medical space but then these don't give a shit about the law but surely if Ramsons are operating from Medanta there is not only a link but something far more.

Then this shady Sunil Sachdeva runs <http://svcl.in/> which is into micro credit never realized the kind of shocking interest rates there guys charge they should be shut down for such blood sucking interests no wonder farmers and small timers are dying when the government is allowing such blood sucking interest rates are being charged from the are poorest of poor of the nation on the one hand they are sucking the blood in the name of Medical services and then they are sucking the blood of the poorest with such huge interest rates which one guesses is allowed and if it is it should be banned, these guys are replacing the local money lenders with their own version of local money lenders and again the address given is Medanta.

Directors

Board of Directors

The Board of Directors of the company comprises of 4 Directors out of which 2 directors are independent. Board Members comprises of Mr. Sunil Sachdeva as Chairman cum Managing Director, Mr. Yogesh Sachdeva as promoter director, Mr. Sundeep Kalsi and Dr. Anita Roy as Independent Directors. Board members have rich experience and expertise in building and managing successful business.

Sunil Sachdeva, Managing Director

He is a science graduate from Delhi University. He is adynamic, idealistic and highly successful entrepreneur has a track record or outstanding achievements in setting up social enterprises.

Yogesh Sachdeva, Promoter Director

He is Science Graduate and has a vast knowledge and experience in the area of international as well as domestic marketing of the products.

Sundeep Kalsi, Independent Director

He is Master in Statistics and he brings a distinguished experience of twenty one Years in Marketing Developing & Execution of Projects.

Dr. Anita Roy

Ms. Anit Roy is an expert in housing projects in India and abroad, having several years of work experience in senior management team of Police on several roles such as Deputy Inspector General in Central Bureau of Investigation. Dr. Roy completed her M.B.B.S and received President's Medal for Meritorious Service in August 2006.

Dr. Roy is well known for her team headship and people management skills."

9. The counsel for the plaintiff today again, on enquiry states that no proceedings by any authority or in any Court have been instituted against the plaintiff concerning the allegations aforesaid and the allegations aforesaid are false.

10. The statements (a) that the plaintiff is a shady investor of Medanta Medicity; (b) that the plaintiff is involved in very shady dealing in South Africa; (c) that the plaintiff charges blood sucking interest from farmers and small timers and the poor; and, (d) that the source of money invested by plaintiff in Medanta Medicity is not known, imputing the wealth of the plaintiff to be ill gotten, in the allegedly defamatory content are else *per se* found to be intended to harm the reputation of the plaintiff and lowering the esteem in which the plaintiff may be held by others and lowering the character and credit of the plaintiff, and are defamatory of the plaintiff

including within the meaning of Section 499 of the Indian Penal Code, 1860 (IPC).

11. Though it is open in law to the maker of such statements to show that what is stated is true, but none has come forward or is coming forward, to claim so. The veil of a virtual personality is being used to cloak the real identity of the maker of the statement. The statements are also not reporting the findings, to the effect claimed, to have been returned in any Court or other proceedings and are not an expression of opinion on merits of any proceedings in this respect against the plaintiff. The categorical stand of the plaintiff that no proceedings or investigations with respect to the allegations are pending against him, has to be believed, in the absence of any rebuttal or disclosure to the contrary in the allegedly defamatory content.

12. I have also considered, whether the statements fall in any other exceptions to Section 499 IPC and do not find it to be so. The plaintiff is not disclosed to be a public servant or discharging any public function. It is also not claimed that the conduct and character of the plaintiff is a matter of any public question or debate.

13. Posting of such statements on the internet, undisputedly amounts to publication.

14. The plaintiff so defamed, has a cause of action for the reliefs available in law qua defamation and which include injunction and damages.

15. The fundamental right of freedom of speech and expression is subject to reasonable restrictions in the interest of defamation. The challenge to the vires of Section 499 and 500 IPC failed in *Subramanian Swamy Vs. Union of India* (2016) 7 SCC 221. It was held that right under Article 19(1)(a) of

the Constitution of India is not absolute and an individual cannot defame another as that would offend the victims' fundamental right to reputation which is a facet of Article 21 of the Constitution of India, and that one fundamental right cannot be given a higher status in comparison with other.

16. It must not be forgotten that pursuant to the judgement of a 9 judge bench in *K.S. Puttaswamy Vs Union of India* (2017) 10 SCC 1, the right to privacy also has been accorded the status of a fundamental right, flowing from freedoms guaranteed by Part III of the Constitution of India. In the leading opinion written by Chandrachud, J., it was noted that one of aspects of privacy was informational privacy, which reflects an interest in preventing information about the self from being disseminated, and controlling the extent of access to information. It was held that privacy also includes a right to be left alone, as it safeguards individual autonomy and recognizes the ability of the individual to control vital aspects of his or her life, and that while the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private and public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public space. In the concurring opinion of Nariman, J. it was held that informational privacy would constitute one of three aspects to a fundamental right to privacy; informational privacy was defined as privacy which does not deal with a person's body but deals with a person's mind, and therefore recognizes that an individual may have control over the dissemination of material that is personal to him and unauthorised use of such information may lead to infringement of his right. It was further held that the most important core constitutional value is fraternity which assures the dignity of the individual; the dignity of the individual

encompasses the right of an individual to develop the full extent of his potential; this development can only be if an individual has autonomy over fundamental personal choices and control over dissemination of personal information which may be infringed through an unauthorized use of such information. In the concurring opinion of Kaul, J. also, it was held that an individual has a right to protect his/her reputation from being unfairly harmed and such protection of reputation needs to exist not only against falsehood, but also certain truths; every individual has a right to be able to exercise control over his/her own life and image as portrayed to the world; such a right can be justified as protecting individual autonomy and personal dignity; the right protects an individual's free, personal conception of the self; the right of publicity implicates a person's interest in autonomous self-definition, which prevents others from interfering with the meanings and values that the public associates with such individual; the right of an individual to exercise control over his personal data and to be able to their life would also encompass their right to control their existence on the internet.

17. Even prior to the dicta in *K.S. Puttaswamy* supra, the Supreme Court in *R. Rajagopal Vs. State of Tamil Nadu* (1994) 6 SCC 632 held that the right to privacy also is implicit in the right to life and liberty guaranteed under Article 21, and it is a "right to be let alone". In *Umesh Kumar Vs. State of Andhra Pradesh* (2013) 10 SCC 591, it was held that a good reputation is an element of personal security and is protected by the Constitution equally with the right to enjoyment of life, liberty and property, and therefore it must be held to be necessary element in regard to right to life of a citizen under Article 21 of the Constitution. It was also held that

reputation is a personal right, and injury to reputation is a personal injury; thus, scandal and defamation are injurious to reputation. In *Subramanian Swamy* supra, it was held that reputation should not 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 thoughts and ideas, a person has a right to go to court and state that he has been wronged and abused; balance between the right to reputation and the right to freedom of speech needs to be struck; reputation of one cannot be allowed to be crucified at the altar of the others right to speech. It was further held that that the court has legitimate interest to regulate freedom of speech and expression, which liberty represents the limits of the duty of restraint on speech or expression not to utter defamatory or libelous speech or expression; there is a correlative duty not to interfere with the liberty of others; each is entitled to dignity of a person and of reputation, and nobody has a right to denigrate others' right to person or reputation.

18. In *Central Public Information Officer Vs. Subhash Chanda Agarwal* 2019 SCC Online SC 1459 pronounced today, even in the context of Right to Information Act, 2005, it has been held that if ones right to know is absolute, then the same may invade another's right to privacy and breach of confidentiality, and therefore the former right has to be harmonized with the need for personal privacy, confidentiality of information and effective governance. Distinction was made between personal information and information relating to public activity and interest, and the provisions of the Right to Information Act were interpreted to exempt disclosure of information which if disclosed, would cause unwarranted invasion in privacy of the individual, unless public interest warranted its disclosure. It

was again held that the two rights have to be balanced, and distinction was made between “something which is of interest to the public” and something which is “in public interest”. It was held that public may be interested in private matters with which the public may have no concern and need to know; however such interest of the public in private matters would repudiate and directly traverse the protection of privacy and there is a right to shield oneself from unwarranted access to one’s personal information and to protect facets of reputation, honor etc. associated with the right to privacy. Transparency was held to be not entitled to run to its absolute. Chandrachud, J. in his concurring opinion reiterated that an individual has a constitutionally protected right to control the dissemination of personal information, and that unauthorized use of personal information abridges a citizen’s right to privacy. Information relating to health, personal relationships and finances was identified as private information. The test, whether the information would be offensive to a reasonable person of ordinary sensibilities, was advocated to be applied to determine what information qualifies as personal.

19. I have in ***Subodh Gupta Vs. Herdsceneand*** MANU/DE/3168/2019 also observed that without the accuser identifying himself/herself, allegations in the public domain cannot be permitted to be made without being backed by legal recourse, and the same, if permitted, is capable of mischief. In ***Ritesh Properties & Industries Ltd Vs. YouTube LLC*** 2019 SCC Online Del 10454, I have held that none can be condemned publicly, without having an opportunity to defend him/herself.

20. The defendant no.1 having chosen not to identify itself/himself/herself and/or to appear before this Court in spite of service, there is no need to put the suit to trial.

21. I have enquired from the appearing counsels, whether they have any objection to the grant of reliefs, save of damages claimed.

22. The counsel for the defendant no.2 states that the defendant no. 2 is only a web hosting service provider and has no concern, with the contents posted on the said website.

23. The counsel for the defendant no.3 Google India Private Limited states that Google India Private Limited has no concern, since the reliefs claimed do not fall within the power of Google India Private Limited.

24. The counsel for the defendant no.4 Google LLC, USA states that if the content is not available on any website, the search engine of Google LLC, USA will not show it as a result and thus Google LLC, USA also has no concern with the reliefs other than that of damages and which cannot be granted against Google LLC, USA. It is also stated that in fact Google LLC, USA is not even a necessary party.

25. The counsel for the plaintiff has fairly stated that the plaintiff will not press for the relief of damages against any of the defendants.

26. Since the identity of the defendant no. 1 has not been established and cannot be established in these proceedings, no purpose will be served in passing a decree of permanent and mandatory injunction against the defendant no.1, as sought in prayer paragraphs (b), (c) and (d) of the plaint, inasmuch as the Court cannot pass a decree against an unknown person. Similarly, no relief of restraining public at large from publishing, circulating

the allegedly defamatory content can be granted in general and no relief with respect to similar content also, without adjudicating whether there is any similarity or not, can be granted.

27. A decree is accordingly passed, in favour of the plaintiff, and (i) against the defendant no.1 in terms of prayer paragraph (a) of the plaint; and, (ii) against the defendant no.2, directing the defendant no.2 to permanently block and/or disable the URL <https://cjr7.com/part-1-medanta-and-its-shady-investor-sunil-sachdeva-and-these-people-are-being-given-a-free-pass-and-to-cash-out-with-1000-crores-while-madhu-trehan-has-the-audacity-to-judge-people-and-call-her/>, leaving the parties to bear their own costs.

28. Decree sheet be prepared.

NOVEMBER 13, 2019/‘ak’

RAJIV SAHAI ENDLAW, J.