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O.S.A.Nos.155 & 156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE K.RAJASEKAR

O.S.A.Nos.155 and 156 of 2024
AND
C.M.P.Nos.19552, 19573 and 19575 of 2024

Nirmal Kumar

.. Appellant in both OSAs

Vs.

1.V.Senthil Balaji

2.YouTube LLC
Rep. by its Resident Grievance Officer
Suraj Rao
Google LLC India Liaison Office Unit
Unit No.26, The Executive Centre
Level 8, DLF Centre
Sansad Marg, Connaught Place
New Delhi 110 001

3.X Corporation
Rep. by its Resident Grievance Officer
Vinay Prakash
1355 Market Street, Suite 900
San Francisco, California 94102
United States of America
(Substituted *vide* order dt.9.11.23 passed in A.No.5252 of 2023)



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Previously known as

Twitter Inc.

Rep. by its Resident Grievance Officer

Vinay Prakash

8th Floor, The Estate

121, Dickenson Road

Bengaluru 560 042

4.Ananda Vikatan Digital Private limited

Rep. by its Managing Director Srinivasan

757, Anna Salai

Chennai 600 002

.. Respondents in both OSAs

Original Side Appeals filed under Order XXXVI Rule 9 of Original Side Rules, read with Clause 15 of the Letters Patent and Order XLI of CPC against the common order dated 12.04.2023 passed in O.A.No.731 of 2022 in C.S.No.244 of 2022 and A.No.5164 of 2022 in C.S.No.244 of 2022.

For Appellant : Mr.S.Praveennath
in both OSAs

For 1st Respondent : Mr.Richardson Wilson
in both OSAs

COMMON JUDGMENT

(Delivered by S.S.SUNDAR, J.)

These appeals are directed against the common order dated 12.04.2023 passed by the learned Single Judge in O.A.No.731 of 2022 in C.S.No.244 of 2022 and A.No.5164 of 2022 in C.S.No.244 of 2022.



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2.The appellant in both the appeals is the 1st defendant in the suit in

C.S.No.244 of 2022 filed by the 1st respondent for the following reliefs :

“(a) to direct the 1st defendant to pay to the plaintiff a sum of Rs.2,00,00,000/- (Rupees Two Crores only) as damages along with interest @8% p.a. from date of decree till date of realisation;

(b) for a permanent injunction restraining the 1st defendant from in any way making, printing, publishing, broadcasting, disseminating or circulating the statements, articles, pictures, cartoons, caricatures, sketches, tweets and video mentioned in the schedules A to L herein or its contents and/or any other defamatory statements, articles, pictures, cartoons, caricatures, sketches, tweets or videos which causes damage or tends to lower the reputation of the plaintiff on YouTube, Twitter, Facebook, and/or in any other media and/or in any other manner;

(c) mandatory injunction directing the 1st defendant to remove all the defamatory tweets and video mentioned in the schedules A to L herein from YouTube, Twitter and all media accounts of the 1st defendant;

(d) mandatory injunction directing the 2nd defendant to remove the video mentioned in the schedule G herein from its platform www.youtube.com;

(e) mandatory injunction directing the 3rd defendant to remove all the tweets and video mentioned in the schedules A to F and H to L herein from its platform www.twitter.com;

(f) mandatory injunction directing the 4th defendant to remove the video mentioned in the schedule G herein from its YouTube channel www.youtube.com or any other media;”



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3. Pending suit, the plaintiff filed O.A.No.731 of 2022 for granting interim injunction restraining the appellant/1st defendant from in any way making, printing, publishing, broadcasting, disseminating or circulating the statements, articles, pictures, cartoons, caricatures, sketches, tweets and video mentioned in the Schedule A to L therein or its contents and/or any other defamatory statements, articles, pictures, cartoons, caricatures, sketches, tweets or videos which causes damage or tends to lower the applicant/plaintiff reputation on YouTube, Twitter, Facebook, and/or in any other media and/or in any other manner pending disposal of the suit. He also filed A.No.5164 of 2022 for interim direction directing the appellant/1st defendant to remove all the defamatory tweets and video mentioned in the Schedule A to L therein from YouTube, Twitter and all media accounts of the appellant/1st defendant pending disposal of the suit. These applications were also heard with some other applications for interim directions against the other defendants in A.Nos.5161 to 5163 of 2022 and A.No.5913 of 2022.

4. The plaintiff is the Minister for Electricity, Prohibition and Excise Department of Government of Tamil Nadu. The appellant, who is the 1st defendant in the suit, is the Tamil Nadu State President of BJP for IT and Social Media. The appellant published a series of tweets and the plaintiff contended



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that all these tweets and videos published in social platform is to lower the reputation of the plaintiff in the eyes of the Society. The appellant defended the Interlocutory Applications mainly on the ground that there is sufficient material in the public domain to believe that the allegations against the plaintiff are justified.

5.The learned Single Judge disposed of all the applications in the following lines :

“33.In the result, these applications are disposed of as follows:-

(a) The first defendant is restrained by an order of interim injunction from publishing or disseminating, on any media, publications that directly or indirectly allege corruption on the part of the plaintiff pending disposal of the suit. This order will not, however, stand in the way of the first defendant making such allegations if such allegations are made after verification and backed by some evidence of corruption. This order will also not stand in the way of statements relating to irregularities in the functioning of TASMACH;

(b) The first and third defendants are directed to take necessary steps to delete the tweets of 04.02.2022 (Schedule – A of the plaint); 18.06.2022 (Schedule – D of the plaint);



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19.06.2022 (Schedule – E of the plaint); 07.07.2022 (Schedule – F of the plaint); and 01.12.2022, if not already deleted, pending disposal of the suit;

(c) The first, second and fourth defendants are directed to remove the video described in Schedule G of the plaint from the YouTube channel

<https://www.youtube.com/watch?v=ymV4zkOYxtM> pending disposal of the suit; and

(d) A. No.5913 of 2023 is closed.”

6. Aggrieved by the same, the 1st defendant has preferred the appeals in O.S.A.Nos.155 and 156 of 2024 as against the order granting injunction in O.A.No.731 of 2022 in C.S.No.244 of 2022 and to set aside the order made in A.No.5164 of 2022.

7. The learned Single Judge, after considering the pleadings and the relevant documents, found that there is a *prima facie* case in favour of the 1st respondent/plaintiff to grant interim injunction as well as direction. The findings of the learned Single Judge, after referring to several documents produced on either side, would clearly show that the contents of the offending



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tweets are *prima facie* defamatory and likely to cause irreparable loss to the plaintiff to grant interim direction.

8. Similarly, the learned Single Judge, in the absence of verification and evidence for the allegations the appellant/1st defendant had made, observed that the appellant/1st defendant would fail as regards the publications alleging corruption by plaintiff. The detailed order gives an impression that the learned Single Judge has exercised his discretion, after thoroughly examining the materials and pleadings, without leaving any point that was advanced before him. This Court is in perfect agreement with the decision taken by the learned Single Judge to grant interim orders.

9. We also concur with the learned Single Judge that there is a *prima facie* case in favour of the 1st respondent/plaintiff. Secondly, the balance of convenience is also in favour of the 1st respondent/plaintiff. Thirdly, the order of the learned Single Judge is in the nature of protecting the interest of the 1st respondent/plaintiff during the pendency of the civil suit proceedings and therefore, no serious prejudice is likely to be caused to the appellant/1st defendant.



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10. Above all, even though the learned Single Judge disposed the applications by a common order dated 12.04.2023, these appeals are filed and brought before this Court for admission nearly after 1½ year. Therefore, on this score too, this Court is unable to find any reason to interfere with the order of the learned Single Judge.

11. It is to be noted that the appellant/1st defendant was set *ex parte* and the civil suit is now posted for framing draft issues. Since the appellant/1st defendant filed an application to set aside the order setting him *ex parte*, this Court is not inclined to give any further direction *qua* disposal of the civil suit. This is also one of the aspects which we consider relevant to refuse to entertain these appeals and accordingly, these appeals are dismissed. No costs. Connected C.M.P.s are closed.

gya/mkn

Internet : Yes

Neutral Citation : Yes/No

[S.S.S.R.,J.] [K.R.S., J.]

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