

26.04.2023
KC(7)

F.M.A.T. 181 of 2023
Purnendu Roy
-versus-
ABP Network Private Limited and Ors.
With
CAN 1 of 2023

Mr. Probal Kumar Mukherjee, Sr. Adv.,
Mr. Pradeep Kumar Upadhyay,
Mr. Srinjoy Bhattacharyya.....For the appellant.

Mr. Ratnanko Banerjee, Sr. Adv.,
Mr. Arunabha Deb,
Mr. Soumabho Ghose,
Ms. Ashika Daga,
Ms. Tiana Bhattacharya,
Mr. Samriddha Sen.....For the respondents.

The judgment and order dated 31st March, 2023
appealed against refusing to grant an order of
injunction was ex parte. The interim application is
returnable before the learned court below.

We direct the appellant/petitioner to approach
the learned court below by an appropriate application to
fix the returnable date as early as possible not beyond
15th May, 2023.

Whether to grant or to refrain from granting an
injunction could only be on consideration of facts prima
facie, the balance of convenience and the irretrievable
injury factor.

This appeal is against refusal to make such an
order by the learned court below. We feel that in this

defamation suit it is proper that this exercise of discretion should be made by the said court on hearing the parties and by a reasoned order within three months of communication of this order. In the meantime, the court would have to consider whether any interim order of injunction should be passed.

All points are kept open before the learned court below.

Our interim order dated 24th April, 2023 will continue till disposal of the interim application before the learned court below.

Since we did not invite any affidavit to be filed in relation to the stay petition the allegations contained therein are deemed not to have been admitted.

With the above observations this appeal (F.M.A.T. 181 of 2023) and the connected application (CAN 1 of 2023) are disposed of, dispensing with all formalities.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

