

**THE COURT OF SHRI VAIBHAV PRATAP SINGH
CIVIL JUDGE, PATIALA HOUSE COURTS
NEW DELHI DISTRICT, DELHI**

Major XYZ v. Ibis Hotel Aerocity
CNR No. DLND030008692025
CS SCJ No. 492/2025

22.05.2025

Present: Mr. Harshvardhan, Learned Counsel for the Plaintiff.
Mr. Mahipal Singh, Head of Security and Liaisoning
(9999598602) and Mr. Bharat Kumar Gupta,
General/Hotel Manager, IBIS Hotel, Aerocity

1. Summons of the suit and notice of the application seeking temporary injunction received back served. The Head of Security and Liaisoning and the General/Hotel Manager of Defendant Hotel have appeared today and state that their counsel is currently not in India. They have informed as much of the facts as they knew and have reaffirmed their stand as mentioned in their reply dated 16.04.2025 to the legal notice of the Plaintiff, which is that they cannot disclose/supply the data asked for as it is confidential in nature, however, shall abide by any Court order.
2. The plaintiff has filed a suit seeking a mandatory injunction against the sole defendant hotel, seeking a direction to it to provide booking details and CCTV footage of the common areas for 25.01.2025 between 1030 Hours to 1400 Hours and for 26.01.2025 between 1030

Hours to 1700 Hours, when he believes his wife, with whom he's involved in a marital dispute and divorce, and her alleged paramour visited.

3. The Plaintiff asserts that he is a Major in the Indian Army and the alleged lover of his wife is also a Major in the Army, though junior to him and he has reliably learnt that his wife is having an affair with the said gentleman and is committing adultery. Due to the sensitive and personal nature of the subject-matter and also the positions held by the Plaintiff and other stakeholders, I am not using their names in this Order.
4. The Defendant has today informed that it only saves the CCTV footages for 90 days and so, as of today, they would not be available since the incidents pertain to January. Learned Counsel for the Plaintiff states, under instructions, that he has learnt from a reliable source in the Delhi Police that the videos are still available as they are kept in some depository, as is the industry practice. This is controverted by the two responsible persons present in Court from the Defendant Hotel. Be that as it may, since booking details have also been sought in addition to the CCTV footages, even if the footage is no longer available, the suit does not become infructuous and this issue need not detain this case any further.
5. At the outset, I have inquired from Learned Counsel for

the Plaintiff as to how would the Plaintiff be entitled to the said data and what legal right, if any, would inhere in him entitling him to the same.

6. In response, it is stated that the Plaintiff is a victim of the tort of loss of consortium and alienation of affection. Also, that he has preferred a departmental complaint against the paramour of his wife, and so is in need of evidence to justify the allegation, failing which, he contends that it could jeopardize his complaint and, by extension, his career, with serious consequences under Section 56 of the Army Act, 1950 for having made a false accusation.
7. The Plaintiff's right to seek this information is not automatic or without limitation. The Plaintiff asserts that the evidence from the hotel will aid his complaint, but the question remains whether the Defendant hotel has a legal obligation to provide such information to him.
8. According to Section 39 of the Specific Relief Act, 1963 (SRA), a mandatory injunction is granted to prevent the breach of an obligation when it is necessary to compel the performance of certain acts which the Court is capable of enforcing. In such a situation, the Court may, in its discretion, grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts. It is an extraordinary remedial process which is granted not as a matter of right, but in the exercise

of sound judicial discretion.

9. For a mandatory injunction to be issued, there must be a demonstrable legal duty on the part of the defendant to provide the requested documents and video footage. This duty is absent in this case. The defendant hotel, which is not a party to the marital dispute, does not have any inherent obligation to disclose private guest information to the Plaintiff, a third party.
10. Hotels generally owe a duty of confidentiality to their guests and are required to protect the privacy of their records, including booking details and CCTV footage. This is also the stand that the Defendant hotel has taken in this suit by replying to the legal notice.
11. I have also inquired from the Plaintiff as to whether not this exercise would breach the right to privacy of the wife and the alleged paramour and would they not be necessary, or at the very least, proper parties to this suit.
12. In response, it is stated at bar, that owing to a mediation settlement with the wife, the Plaintiff is precluded from suing her and that no relief is in fact sought against the alleged paramour in this suit and so he is not required to be impleaded either. It is further argued that the CCTV footage being sought is only of the common areas, entries

and exits and not of inside the rooms and so there is no question of violation of privacy.

13. I am unable to agree. There is an expectation of privacy when one visits a hotel and most hotels thrive on assurances of said privacy and discretion. While the argument of the Plaintiff is that only CCTV footage of common areas has been asked for, it is actually immaterial for two reasons-- (1) the Plaintiff could not possibly have asked for CCTV footage from inside the room as, hopefully, it would not exist and so it is not an act of restraint or measured approach shown by the Plaintiff but merely the only obvious possibility; and (2) When one visits a hotel, no doubt, not being invisible, the persons in the common areas may see the visitor and even the company of the visitor but that is limited to the people physically present in the property.

14. One looking to have a discreet and private meeting at a hotel, which could be for myriad reasons and not necessarily be sexual in nature, would assume a certain amount of risk of running into people he or she might know but that risk is calculated and informed, which would in fact dictate the choice of the hotel. It would by no stretch of imagination include the possibility of a third person simply obtaining video recordings of the visit and activities *via* a Court behind the back of the visitor. In this view of the matter, I find that the right to privacy and to be

left alone in a hotel would extend to the common areas as against a third party who was not present there and has no other legally justifiable entitlement to seek the data of the guest. Same would hold good for the booking details.

15. The Plaintiff has not provided any basis that would compel the hotel to release this private information. He has no privity of contract with the Defendant hotel and is a stranger to the contract between the Defendant hotel and his wife or her alleged paramour, depending on who booked the hotel room, assuming at all that a hotel room was booked. His mere interest in the evidence, connected to his personal marital dispute, is insufficient to create a legal right to this information, in absence of which he is not entitled to an injunction.

16. Moreover, the plaintiff has failed to establish clearly that the information he seeks exists to begin with. It is not explained in the plaint how the plaintiff learnt of his wife's alleged affair or how he knows that she visited the hotel with her alleged paramour at specific times on specific dates. The basis for his knowledge has not been disclosed in the plaint, however, during arguments, it was stated at the bar that the Plaintiff heard it through the grapevine as the defence ecosystem is a small one and people talk. Without a clear factual foundation or legal basis, the plaintiff's demand for private third-party records appears speculative and unsupported and tantamounts to evidence

gathering and an invitation to conduct a roving inquiry. In any case, the defendant Hotel has made it clear that the CCTV footage is no longer available.

17. The wife and the alleged paramour are central to the Plaintiff's claims but have not been impleaded in this suit, which raises significant questions about their right to be heard before any disclosure is made. The release of such private information without affording them an opportunity to defend their privacy rights would be a violation of their right to natural justice and even the fundamental right to privacy and could lead to reputational harm. The Court cannot ignore these considerations, and it is highly questionable whether the hotel can be compelled to release this information without joining these individuals as necessary or at least proper parties to the suit.

18. Privacy is not a privilege but the Right to Privacy has been held to be a fundamental right in ***Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1*** and the same includes within it the right to be left alone, to which the wife of the Plaintiff herein as well as her alleged paramour are entitled, should they have visited the hotel, as claimed. This right cannot be lightly tinkered with except by due process of law and certainly not for the convenience of a private grievance.

19. The Plaintiff is effectively attempting to use the Court as a

tool to gather evidence for his departmental proceedings against his wife's alleged paramour. Courts are not meant to serve as investigative bodies for private disputes or as instruments for the collection of evidence in internal proceedings, especially when no clear legal entitlement to that evidence exists. The Army Act, 1950 and the extant Rules framed thereunder provide specific procedures for handling complaints and presenting evidence, and the Plaintiff must take the remedies thereunder to call witnesses et al. The Court cannot, therefore, be used to bypass or supplement these internal mechanisms. In the absence of a compelling case that the Plaintiff does not have an alternate efficacious remedy, he is not entitled to invoke the jurisdiction of a Civil Court to seek an injunction.

20. The argument of the Plaintiff that he was duty-bound to report the issue of moral turpitude by a fellow officer to the higher-ups, failing which, he would have been liable for action, and so he must be given the data sought, is a dangerous one to be accepted. It is a slippery slope which would pierce and dilute the privacy jurisprudence. It is not the case of the Plaintiff that he is entitled to the material sought because his wife is involved but that any person who makes a complaint of like nature is entitled to the relief sought. If accepted, it would give any looky-loo an opportunity to obtain third party data of people he has nothing to do with.

21. The Armed Forces are more than competent to deal with their internal proceedings and, for the most part, and for good reason, have been insulated from ordinary civil proceedings to various degrees. The fact that Plaintiff initiated proceedings without the requisite material to substantiate it is something he should have thought of prior to doing so. A discretionary remedy from a Civil Court which is to be sparingly exercised even if the Plaintiff is found entitled could not possibly have been a done deal in his mind and so this Court is not concerned with the outcome of the Court Marshal proceedings against the alleged paramour of the wife of the Plaintiff. Making a complaint knowing it to be false and simply failing to prove a complaint are different things and nothing further need be observed in this regard by this Court, lest it prejudice the departmental proceedings initiated by the Plaintiff.

22. So far as the argument of the Plaintiff about the tort of loss of consortium and alienation of affection goes, it is weak at best and non-existent at worst. Consortium, in legal parlance, is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. Loss of consortium is traditionally applied in MACT cases involving personal injury or death, in order to award compensation. [See ***Rajesh v. Rajbir Singh and Ors.*, 2013 INSC 248 .]**

23. While there is some few and far between jurisprudence of this doctrine being applied to situations where a third party's interference leads to the breakdown of a marital relationship, it is weak in nature and inapplicable in today's time.

24. The concept of 'stealing' the affection of a wife by another man, as if a woman is not in control of whom she loves, is dated and has been rejected, and deservedly so, by a Constitution Bench of the Hon'ble Supreme Court of India in ***Joseph Shine vs. Union of India*, 2018 INSC 898**, wherein it struck down Section 497 of the Indian Penal Code, 1860, which punished only the man for adultery, as unconstitutional.

25. A pertinent observation was made therein in paragraph 49 while relegating this relic of English Law to the dustbin of history:

“Treating adultery an offence, we are disposed to think, would tantamount to the State entering into a real private realm. Under the existing provision, the husband is treated as an aggrieved person and the wife is ignored as a victim. Presently, the provision is reflective of a tripartite labyrinth. A situation may be conceived of where equality of status and the right to file a case may be conferred on the wife. In either situation, the whole scenario is extremely private. It stands in contradistinction to the demand for dowry, domestic violence, sending someone to jail for non-

grant of maintenance or filing a complaint for second marriage. Adultery stands on a different footing from the aforesaid offences. We are absolutely conscious that the Parliament has the law making power. We make it very clear that we are not making law or legislating but only stating that a particular act, i.e., adultery does not fit into the concept of a crime. We may repeat at the cost of repetition that if it is treated as a crime, there would be immense intrusion into the extreme privacy of the matrimonial sphere. It is better to be left as a ground for divorce. For any other purpose as the Parliament has perceived or may, at any time, perceive, to treat it as a criminal offence will offend the two facets of Article 21 of the Constitution, namely, dignity of husband and wife, as the case may be, and the privacy attached to a relationship between the two. ”

26. The dated idea of a man stealing away the wife of another man, without ascribing any role or responsibility to the woman, is to be rejected. It takes agency away from women and dehumanises them.

27. The Plaintiff, while conveniently having entered into a settlement with his wife, is only pursuing a remedy against her alleged paramour, as if the wife is not to be blamed but only the alleged paramour is and that if not for him, the otherwise successful marriage would have endured. The Plaintiff's selective blame and pursuit of the paramour fails to acknowledge that adultery may not be the cause of a marriage's failure— it may merely be a symptom.

28. The anger is misdirected. I am reminded of the novel "The End of the Affair" by Graham Greene, also adapted into

critically acclaimed films, notably the 1999 version starring Ralph Fiennes and Julianne Moore, which was nominated for multiple Academy Awards. In the book, Sarah Miles is married to Henry, but she begins an affair with Maurice Bendrix. When Bendrix is nearly killed in a bombing, Sarah prays to God that if he survives, she'll end the affair-- thinking it's the only way to protect him. The relationship ends abruptly, leading her to ultimately accept that her choices and betrayals are her own responsibility, not her lover's. To paraphrase from the book, the burden of fidelity rests with the one who made the promise. It is not the lover who has betrayed the marriage, but the one who made the vow and broke it. The outsider was never bound by it.

29. Even the Indian Parliament has given its imprimatur to this jurisprudence when, while doing away with the colonial penal law, it enacted the The Bharatiya Nyaya Sanhita and did not retain therein the offence of adultery, showing that the modern day Bharat has no place for gender-condescension and patriarchal notions.

30. It is not even relevant for these proceedings whether the adultery has been allegedly committed by the wife or the husband. If the shoe were on the other foot, the law would still remain the same and be applied equally.

31. For this reason, I find that the argument of the Plaintiff

about the doctrine of loss of consortium or alienation of affection cannot be accepted, which, even if accepted, would not disclose any right in him to get an injunction issued for gathering evidence to substantiate the same. This suit, admittedly, is not a husband suing the paramour of his wife by seeking damages for alienation of affection and so this argument is entirely out of place. Though no judgments have been relied on, should they exist, would necessarily have to yield to the authoritative reasoning of a constitution bench of the Hon'ble Supreme Court of India in Joseph Shine (supra).

32. The Plaintiff's grievance remains a moral one, not a legal one. This Court may sympathise with him but that is no reason to grant an injunction when not allowed by the law. While he may have a cause, he certainly does not have a case.

33. A cause of action, which is the existence of a right in the plaintiff and its violation by the defendant giving the Plaintiff a remedy, is thus found to be absent in this case. Rejection of a plaint may even be done *suo motu* and a written application is not necessary. The plaintiff has not demonstrated a clear and enforceable legal right to the requested relief, nor has he shown that the defendant hotel owes him any duty to provide the information. Being so, the plaint is liable to be rejected and is so rejected.

34. The file be consigned to Record Room, as per rules.

(VAIBHAV PRATAP SINGH)
Civil Judge, New Delhi District
Patiala House Courts, Delhi