

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

CS SCJ No. 943/24

CNR No. DLND030017902024

Nadeem Javed v. Google LLC & Ors.

03.02.2025.

Present: Mr. Mani Karan Sharma, Mr. Loveleen Kaithwas, Mr. Manish Kumar Vikkey and Mr. Rishi Pal, Advocates for the Plaintiff.
Mr. Saudhard Alung, Advocate for the Defendant No.1/Google LLC.
Mr. Shahrukh Ejaz, Advocate for Defendants No. 2 & 3/India Today Group through VC.

1. This is a suit for permanent and mandatory injunction filed on account of a video of the Plaintiff uploaded on the internet, which he wants taken down. The Plaintiff has pressed his application for temporary injunction, to which reply stands filed by Defendants No. 2 & 3, which is being considered today. The Plaintiff has averred:
 - a) That the Plaintiff is a respected politician belonging to a national political party, who has been an MLA, with a clean record and has held several key political positions, working for the betterment of his constituency and society in general.
 - b) That Defendant No. 1 is Google LLC operating 'Youtube', while Defendants No. 2 and 3 are the media house India Today Group/TV Today Network running 'UP Tak' and 'News Tak' TV channels, which also upload content online, including on YouTube.

- c) That on 11.09.2018, the Plaintiff was accosted outside the India Islamic Centre, New Delhi, wherein he was manhandled and abused, falsely implicating him for having taken some money, which they wanted returned. The video was then circulated by Defendants No. 2, 3, and Republic TV, who aired it on their TV channels and further uploaded it to their YouTube platforms, causing significant harm to the Plaintiff's reputation and career as the video has amassed significant views leading to financial losses. The video remains publicly accessible, continuing to cause reputational damage, despite the Plaintiff's attempts to clarify his position. The individuals who abused the Plaintiff and recorded the video never initiated any legal proceedings for the alleged money owed, suggesting malice and a conspiracy to defame the Plaintiff.
- d) That on 07.08.2024, the Plaintiff issued legal notices to cease and desist. While Republic TV complied and removed the video from their YouTube channel, the Defendants declined to do so *sans* a Court order.
- e) That the Plaintiff now seeks the removal of the defamatory videos from the internet/YouTube channels of the Defendants.
- f) That the Plaintiff has a strong case, and the videos, if allowed to remain online, will cause irreparable harm to his reputation and career. The Plaintiff also cites relevant case law that supports the removal of defamatory content from public platforms to prevent ongoing harm.
2. Summons of the suit and notice of the application for temporary injunction were issued and the Defendants No.2 and 3 have filed a reply. Defendant No.1/Google LLC states that it has no skin in the game and shall abide by the

Court order. Defendants No.2 and 3, on the other hand, have defended the videos. On the last date of hearing, Defendants No. 2 & 3 stated that an application seeking rejection of the Plaint shall also be filed but the same has not been filed.

3. In the reply itself, as one of the grounds for denying temporary injunction, the ground of limitation has been taken. It is the further submission of the Learned Counsel for Defendants No. 2 & 3 that rejection of a plaint may even be done *suo motu* and a written application is not necessary. To this extent, he is correct and there can be no doubt about it. However, it may only be done in a situation where the question of limitation is a pure question of law and not when it is a mixed question of law and fact.
4. It is the argument of Learned Counsel for Defendants No. 2 & 3, and as has also been enquired by this Court, as to how can the suit of the Plaintiff, filed in 2024, can be said to be within limitation for videos uploaded in 2018. Learned Counsel for Defendants No. 2 & 3, in this regard, has relied on ***Khawar Butt vs. Asif Nazir Mir and Ors., 2013:DHC:5689***. The question framed, in paragraph 13, was:

“13. I first proceed on to determine the legal issue: Whether, the leaving of the allegedly defamatory material on the internet/facebook page gives rise to a fresh cause of action every moment the said offending material is so left on the webpage-which can be viewed by others at any time, or whether the cause of action arises only when the offending material is first posted on the webpage/internet.”

5. After noting that there is no law in India dealing with this issue nor is there any judgment of any constitutional court on it, the Hon’ble Delhi High Court went on to discuss the jurisprudence of the Single Publication Rule *vis. a vis.* The Multiple Publication Rule in the US, Australia, Canada, and the UK. The Single Publication Rule provides that the publication of a single defamatory

item, such as a book or article, even if sold in multiple copies, and in numerous places, at various times, gives rise to only one cause of action which arises when the finished product is released by the publisher for sale. The date of the first publication defines the beginning date of the statute of limitations. The Multiple Publication Rule, on the other hand, provides that each time something is accessed, the defamatory material is considered to have been republished and a fresh cause of action arises each time.

6. After noting the jurisprudence in different jurisdictions, it was held thus:

“37. I am of the view that the Single Publication Rule is more appropriate and pragmatic to apply, rather the Multiple Publication Rule. I find the reasoning adopted by the American Courts in this regard to be more appealing than the one adopted by the English Courts, prior to the amendment of the law by the introduction of the Defamation Act, 2013. It is the policy of the law of limitation to bar the remedy beyond the prescribed period. That legislative policy would stand defeated if the mere continued residing of the defamatory material or article on the website were to give a continuous cause of action to the plaintiff to sue for defamation/libel. Of course, if there is re-publication resorted to by the defendant with a view to reach the different or larger section of the public in respect of the defamatory article or material, it would give rise to a fresh cause of action.”

(emphasis by me)

7. Based on this, it is argued by the Defendants No. 2 & 3 that since the period of limitation for defamation, as considered in this case, was taken to be one year from when the offending content was uploaded, the present suit would be barred by limitation.

8. In response, Learned Counsel for the Plaintiff has sought to distinguish his case from *Khawar Butt* (supra) on multiple counts. First, that case was one of damages, and the Hon’ble Delhi Court proceeded on the premise that the period of limitation is one year. Even from the language of Article 75 of the Schedule to the Limitation Act, 1963, it can be clearly seen that the prescribed period of one year to file a suit for defamation is only for when compensation

is sought. At hand is not a suit for compensation but one for injunction, and would accordingly fall in Article 113, which provides that for any suit for which no period of limitation is provided, the prescribed period would be three years from when the right to sue accrues.

9. This Court enquired from him as to whether not the right to sue would accrue when the video is posted online, especially keeping in mind what is held in *Khwar Butt* (supra). In response, Learned Counsel for the Plaintiff answered in the negative and relied on ***Union of India (UOI) and Ors. vs. West Coast Paper Mills Ltd. and Ors., 2004:INSC:84; Shakti Bhog Food Industries Ltd. vs. The Central Bank of India and Ors., 2020 INSC 413*** ; and ***Arvind Kejriwal vs. State and Ors., 2024:DHC:820*** .

10. In *West Coast Paper Mills* (supra), the Hon’ble Apex Court was considering the difference between Articles 58 and 113 of the Schedule to the Limitation Act. It was noted thus:

“20. A distinction furthermore, which is required to be noticed is that whereas in terms of Article 58 the period of three years is to be counted from the date when 'the right to sue first accrues'; in term's of Article 113 thereof, the period of limitation would be counted from the date 'when the right to sue accrues'. The distinction between Article 58 and Article 113 is, thus, apparent inasmuch as the right to sue may accrue to a suitor in a given case at different points of time and, thus, whereas in terms of Article 58 the period of limitation would be reckoned from the date on which the case of action arose first whereas, in the latter the period of limitation would be differently computed depending upon the last day when the cause of action therefore arose. ”

11. The Hon’ble Supreme Court, in *Shakti Bhog* (supra), relying on the above judgment, set aside the order of a Civil Court wherein a plaint was rejected for being barred by limitation.

12. The Plaintiff thus argues that under Article 113, the limitation does not run from when the right to sue ‘first’ arose but from when the right to sue ‘last’

arises and in a case such as the present one, where a social media post alleged to be defamatory is being considered, the right to sue arises every time someone watches the video, each of which is a re-publication of the same. He has laid great emphasis on the fact that there is a sea change between 2013 and today in terms of the social media and online landscape and even in Khawar Butt (supra), republication was considered to be reviving limitation. To substantiate this, reliance was placed on Arvind Kejriwal (supra), which was also a case of online defamation, though on the criminal side. It would be apposite to quote the relevant paragraphs thereof hereunder:

*“50. Twitter (now 'X'), as a platform, serves as a megaphone that amplifies messages and broadcasts them to an extensive audience. It provides the ability to communicate with millions of people at the stroke of a button. The immediacy and accessibility of social media means that defamatory statements disseminated through tweets can rapidly reach individuals worldwide. The audience includes not only followers of the public figure but also anyone who has access to the social media platform and who may come across or be exposed to the tweet. Words which are posted, which may be these days in the form of a video also, will amount to publication and will be actionable in case it contains defamatory content or malice. Needless to say, the extensive circulation of such content in public can cause considerable injury to a person's reputation. **Such written and posted content has the inherent quality of being permanent by virtue of the fact that a man's reputation suffers while the video remains available on the public platform and in the cyber space.***

*51. The number of followers or the reach of an individual's online presence can significantly magnify the impact of a post or repost. As a result, the law needs to evolve to navigate the complexities of this digital era. **The concept of publication, traditionally associated with printed materials, must be re-examined in the context of virtual platforms where information can reach a vast audience in seconds. Moreover, the legal system should be attuned to the dynamics of social media influence.**”*

(emphasis supplied)

13. It is thus argued that the sharing and resharing of the video by online users on other social media including WhatsApp is causing great harm to the Plaintiff, and the same has increased in view of him canvassing in the upcoming

elections of the Delhi Legislative Assembly. It is further argued that even in *Khawar Butt* (supra), when republication was considered in terms of the provisions of the Defamation Act, 2013 of the UK, Section 8(5) thereof requires the Court to have regard to the level of prominence that is given to a defamatory statement at a subsequent stage.

14. Second argument made is that apart from defamation, the plaintiff also has the right to be forgotten. On being asked whether not a pleading would be required to this effect, it is stated that as held by the Hon'ble High Court of Delhi in ***Zulfiqar Ahman Khan vs. Quintillion Business Media Pvt. Ltd. and Ors., 2019:DHC:2559*** , while dealing with a similar suit against a media house for online defamation, in paragraph 9, the Right to be Forgotten and Left Alone would form part of the Plaintiff's fundamental right to privacy and the Court ordered the same to be taken down at the interim stage by a temporary injunction.

15. It is correct that a Plaintiff would hardly be required to plead a fundamental right. It is settled that a plaint need only contain the facts and not the law.

16. Thus, at this stage, this Court is unable to enter a categorical finding that on a meaningful reading of the plaint, the suit is so clearly barred by limitation so as to be rejected while hearing arguments on temporary injunction itself. It would require further examination and evidence to decide this question, it being a mixed question of fact and law. *Prima facie*, keeping in mind that the video is one where the Plaintiff is being abused and assaulted by unknown persons on the side of the road even as per the Defendants, there seems no overwhelming public interest therein as it does not relate to any official act of the Plaintiff and a *prima facie* case has been made for the right of the Plaintiff to be forgotten

and left alone and will have to be adjudicated at the appropriate stage, when, after evidence, it will have to be decided whether this suit will be covered by *Khawar Butt* (supra) or by *Arvind Kejriwal* (supra) and *Zulfiqar Ahman Khan* (supra) in view of the Hon'ble Delhi High Court holding in 2024 that the concept of publication needs to be re-examined in the context of virtual platforms.

17. On merits, Learned Counsel for Defendants No. 2 & 3 defended the videos stating that while the same may be distasteful, are not defamatory. This Court is surprised by such a submission as to why a media house is defending the contents of a video wherein a person is assaulted and abused. It is argued that the Plaintiff being a politician is to be held to a different standard than an ordinary citizen and sine there is no material to show that the videos are doctored, and the incident actually happened, there can be no defamation by merely showing the same to the public.

18. The videos have been shown to this Court and are filed in a pen drive, transcripts whereof are also on record. The videos would show that the incident was abusive and vituperative in nature, full of expletives to the extent that almost the entire video is covered with "beeps". Even as per the tickers run by the Defendants No. 2 and 3, the Plaintiff is stated to have been attacked by unknown persons, who are demanding that the Plaintiff return their money. *Prima facie* it does not appear to be a good faith demand for return of money, the lawful remedy for which would have been through the judicial fora and not by assaulting the Plaintiff on the side of the road in the manner shown. Till date, despite elapse of seven years, no proceedings have been initiated against the Plaintiff in this regard. The content complained of appears to be *per se* defamatory and intended to harm the reputation of the Plaintiff and to lower the

esteem in which the Plaintiff may be held by others and lower his character and credit, and is defamatory of the Plaintiff including within the meaning of Section 499 of the Indian Penal Code, 1860 (IPC) or Section 356 of the Bhartiya Nyaya Sanhita, 2023.

19.If the Plaintiff, being a politician, does not have any higher rights than the ordinary citizen, he does not have less rights either. This Court is in full agreement with the Learned Counsel for Defendants No. 2 & 3 that persons in public office need to have a thicker skin and broader shoulders, however, it would be folly to say that they are not entitled to protection against defamation. It is not as if the offending videos are part of a political speech given by an opponent or are part of some investigative journalism done by a journalist showing the Plaintiff in poor light, with verified material and facts. It is a viral video wherein some unknown persons assaulted and abused the Plaintiff while he was simply approaching his car after having left a restaurant and the viral video has simply been run by the Defendant Media House. If persons are allowed to simply do this and hurl wild allegations screaming from street corners, the law of defamation would lose all significance.

20.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 victim's 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.

21. Reliance by the Plaintiff has been placed on ***Gaurav Bhatia vs. Naveen Kumar and Ors.***, MANU/DE/2837/2024, where the Hon'ble Delhi High Court was faced with a similar matter involving a similar personality who wanted internet content taken down for being defamatory. It is the submission of the Plaintiff that the present case is fully covered by it. Therein it was observed thus:

“46. The balance of convenience also lies in favour of the plaintiff for the simple reason that by making these videos private or injuncting them from being available on the public platforms, would not, in any way, infringe on the rights of the defendants of freedom of speech and expression which they can, in any case, exercise within the defined parameters. However, the inconvenience that would result from these videos and X posts/Tweets etc., continuing to remain in public domain, has the potential to cause an inconvenience which may not be possible to be repaired or compensated by damages or otherwise, in future.”

22. This Court is inclined to agree that the case at hand is on all fours with *Gaurav Bhatia* (supra). In that case as well, the Plaintiff therein, similarly situated as the Plaintiff herein i.e. a public personality, was assaulted and abused while in a Courtroom and the videos of the same circulating online were directed to be taken down by a temporary injunction. Even in that case, there was no issue of the same being doctored or otherwise.

23. Defendants No. 2 & 3 have placed strong reliance on ***Bloomberg Television Production Services India vs. Zee Entertainment Enterprises Limited***, 2024 SCC OnLine SC 426, wherein the *ex-parte ad-interim* injunction order was found unreasoned. It was held that in matters of the like nature, Courts ought to tread cautiously and pass reasons orders, after application of mind.

24. This order, at this stage, is neither *ex-parte* nor *ad-interim*, since reply has been filed and parties have been heard at length.
25. The said judgment has been noted by the Hon'ble Delhi Court in *Gurav Bhatia* (supra) as well after which injunction was granted, as noted above.
26. Additionally, the Hon'ble High Court of Delhi, in ***Venumbaka Vijaya Sai Reddy vs Aamoda Publications Private Limited, 2024:DHC:6064***, after referring to *Bloomberg Television* (supra), upon finding the Youtube videos defamatory, ordered *ad-interim* injunctive relief directing media houses and internet intermediaries to take down the offending content.
27. Likewise, in the present matter, as discussed above, the triple test of grant of temporary injunction is satisfied. A strong *prima facie* case has been shown by the Plaintiff, in whose favour balance of convenience also lies as by making these videos private or injuncting them from being available on the public platforms, would not, in any way, infringe on the rights of freedom of speech and expression of the Defendants. Because of the sheer online reach of the Defendants, every day the videos remain available for consumption, irreparable loss shall be cause to the Plaintiff.
28. Accordingly, the Application by Plaintiff seeking temporary injunction under Order 39 Rules 1 & 2 CPC is allowed and the Defendants No. 2 & 3/India Today Group are directed to forthwith remove/withhold from public view the impugned videos, the URLs of which are in the prayer clause of the plaint, from all their digital platforms including YouTube and to refrain from uploading them again till the disposal of this suit. On the failure of them doing so by 5 PM on 04.02.2025, Defendant No.1/Google LLC is directed to do so.

Defendant No.1 is further directed to remove any same videos of the Plaintiff related to the incident in question, not limited to the ones mentioned in the plaint, within 48 hours of the offending URLs being communicated to it by the Plaintiff herein.

29.Compliance affidavits be filed within a week. Written Statements be filed within the prescribed period. Replication, if any, be filed, within four weeks thereafter. Parties are directed to file their respective affidavits of admission/denial. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

30.Needless to say, the observations expressed above are *prima facie* and solely for the purpose of deciding the application under consideration and are not a comment on the merits of the suit.

31.List for framing of issues on 21.05.2025.

32.*Dasti*.

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