



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.15613 OF 2024
IN
SUIT (L) NO.15605 OF 2024

Malabar Gold Limited .. Applicant

Versus

Kajal Shingala & Ors. .. Respondents

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Mr.Karl Tamboly a/w Nidhi Singh, Shubham Khaire, Ishan Gambhir, Brian Noronha, Akshata Parkar i/b India Law LLP for the Applicant.

Mr. Akash Manwani a/w Chanakya Keswani i/b ELP for the Respondent No.6.

Mr. Vaibhav Singh a/w Bryan Pillai i/b Shardul Amarchand Mangaldas & Co. for the Respondent No.9.

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CORAM: BHARATI DANGRE, J.

DATED : 09th MAY, 2024

P.C:-

“Darkness cannot drive out darkness...only light can do that. Hate cannot drive out hate and only love can do that---

The above statement is squarely applicable to the situation before me, as projected in the Interim Application taken out in a Suit filed by the Plaintiff Company, *inter alia*, engaged in business of manufacturing and trading of jewellery and other articles made of gold, silver, precious stones, diamonds and premium watches, under the brand name “Malabar Gold and Diamonds” and it is aggrieved

by the uploading of the defamatory post by Defendant Nos.1 to 3, which is intended to cause irreparable damage and harm to its reputation and, hence, an injunction is sought to prevent its further percolation, through the Platform of Defendant Nos.4 to 10.

2. I have heard Mr.Karl Tamboly for the Plaintiff, who has taken out an Interim Application seeking urgent reliefs pending the suit filed for larger reliefs, so as to prevent harm and damage of the Plaintiff's reputation in the business world, through the defamatory statements posted on the social media, as a larger relief, in the plaint damages to the tune of Rs.Seventy Crores are claimed.

The plaintiff claims to be one of the best corporate establishments in India with more than 4000 shareholders, 22 business units and having engaged larger number of professionals striving for its continuous success and its presence in over 13 countries on the globe, where it operates through a strong retail network of over 346 outlets; of which 208 stores in India and 138 stores located abroad in countries like UAE, Qatar, Bahrain, Kuwait, Oman, Saudi Arabia, Singapore, Malaysia, USA, UK, Canada and Australia.

It is the claim of the Plaintiff that its jewellery retail arm caters to global customers, belonging to all stratas of society and supported by team consisting of 14 nationalities and its 25 jewellery brands, which cater to the needs of the customers and it is its claim that it ranks as amongst second in India and sixth largest retailers globally dealing in gold, silver, diamond and other precious metals and is acknowledged as a trusted jewellery brand in India.

3. The plaint has highlighted the sweep of its operations through global scene and it is pleaded that in addition to the outlets/stores,

the Plaintiff also cater to the customers through www.malabargoldanddiamonds.com, which offer opportunity to the customers to purchase jewellery in the comfort of their home. Apart from this, it is also has its facebook page at www.facebook.com/malabargoldanddiamonds, which enjoins the fan following from more than 13,90,000. Apart, the Plaintiff is also active on Instagram and can be accessed through www.instagram.com/malabargoldanddiamonds with huge fan following.

4. The Plaintiff through its CSR (Corporate Social Responsibility) Programme focus on Health, Education, Women Empowerment, Housing, Hunger-free world and Environment and it claims to have contributed more than Rs.246 Crores towards CSR activities and one of its major activity is extended to women empowerment, under which the benefits are conferred on 81000 women, whereas in its special programme for educating girl students, through Educational Scholarship, 77000 girls are benefited.

The Plaintiff in implementing this programme is assisted by a designated staff, who is proficient in charity work and it is open for any person belonging to the lower strata of the society to walk into the showroom and seek the needed assistance.

Alongwith the plaint, the Plaintiff has annexed several reports/reviews reflecting upon its CSR activities “Empowering Education and Empowering Womanhood” with the involvement of various known personalities in different parts of the country and this reporting is spread over major cities like Varanasi, Kolhapur, Noida, Pitampura, Kurnun, Vadodara as well as remote places like Waddepally, Hanamkonda, Sanand etc.



A bare scanning of the accounts enlisted, would reflect upon the wide amplitude of the scholarship distribution programme of Malabar Charitable trust and the photographs appended to the distinct news reporting/publications would make it evident that the scholarship scheme is implemented for girl students in various age groups, irrespective of their caste, creed or religion to which they belong and it is evident that such programme was conducted for more than 60 colleges and more than 630 girls had been benefited out of the same.

At Exh.D-1 of the plaint, a collage of twenty photographs of the scholarship distribution event held in distinct colleges is collated and a cursory look of it would reveal that it is not the women/girls of a particular class, who have availed the benefit of this scholarship, but it is across the spectrum of womanhood and woman in different age groups at different places, in distinct universities are its beneficiaries, whether they are Muslim or Hindu or Christian or Jain etc.

The photographs clicked have captured a particular group of girls in their attire making it evident that they belong to the Muslim community.

One of the various clicked photographs is of the girls from Government PU College, Uppinangady and the picture of several girls is captured, where the girls are seen posing for the camera, with the scholarship certificate alongwith four others, who may be the part of the trust or some officials from their institution, and they clad in their traditional attire.

5. It is this photograph, which amongst several others and I must say out of hundreds of them, is picked up by the Defendant No.1-Kajal Shingala, claiming to be social activist and influencer on



Instagram and various other social media website and she has uploaded the same with a comment, which is alleged by the Plaintiff, to be highly derogatory of the good work undertaken by its employees/Directors for upliftment of women and their empowerment and is a post questioning the integrity of the Plaintiff, by misleading the general public about the whole exercise, being undertaken by it in good faith.

6. On the twitter handle of the Defendant No.1, she has named the owner of the Plaintiff Company and beneath it, has commented as below :

“Who buys more gold and silver- Hindu
 Who earns more of Malabar-Hindus
 By earning from Hindus, who is giving scholarships with the same money-to Muslims.
 Where the owner of the company is Mu- Salman, Mu-Salman also gets the benefit of earnings. That is a different thing that he is earning from Hindus.
 But look at our Hindu industrialist, secular worms have been bitten that they do not see religion while giving scholarships with their earnings, so this the condition of Hindus.
 #BoycottMalabar”

Similarly, Defendant Nos.2 and 3, who are the individuals have also posted defamatory contents on twitter, by using the media platform of Defendant Nos.3 to 10.

7. When the post of the Defendant No.1, which is annexed at Exh.A to the plaint is looked at, it has received 7,917 likes, clearly indicative of the fact that it is widely circulated and it has also received counter comments/posts.

The tagline of Defendant No.1 in her post dated 01/05/2024 under the #BoycottMalabar, is commented upon, alongside

photographs of the student scholarship ceremony arranged by the Plaintiff CSR activities, and what impression is given to the readers is that the Plaintiff gives scholarship only to the students of a particular community (Muslim) and this is viewed by the Plaintiff as creating nuisance and defaming it by making a victim of undeserved vicious defamatory onslaught and misleading the general public resulting into loss of its reputation.

Defendant No.2 has also posted a similar post with the very same photograph as a communal post targeting the Plaintiff and calling upon the Hindus to refrain from giving any business to Malabar Gold and Diamonds as 'Akshya Tritiya' is coming, to hit them where it pains very hard.

8. An Interim Application seeking restraint against the false propaganda orchestrated by the Defendants is filed and notice was served of its hearing on 08/05/2024 on the Defendants, and Defendant Nos.2 and 3 have immediately pulled down the post from their individual twitter handles.

The platforms through which the alleged defamatory posts are circulated i.e. X, Instagram, YouTube, Google India Private Limited, Whatsapp, Facebook and META Platforms Inc. are impleaded as Defendant Nos.4 to 10.

9. When the Interim Application was listed yesterday, YouTube, on being served, marked its appearance through the learned counsel Mr.Akash Manwani and despite service being effected, the other Defendants failed to mark appearance and, therefore, I directed the counsel for the Plaintiff to give an intimation of today's hearing. The Defendant No.1, is also served on her email address on 7th and 8th of May.

10. Accordingly, an affidavit of one Shubham Khaire, working in the office of Indialaw LLP, representing the Plaintiff dated 09/05/2024 is placed before me.

The affidavit clearly stated that email address of Defendant No.4-X I.e. India-Corp.CS@twitter.com is searched from website of Ministry of Corporate Affairs (MCA) and an email was addressed, which received a reply on 09/05/2024, acknowledging the email. Similarly, another email was addressed to the Defendant No.4 on their alternative email address i.e. India-Corp.CS@twitter.com .

Service is effected upon Defendant No.9-Facebook and today the learned counsel Mr.Vaibhav Singh has marked appearance on its behalf and the learned counsel informs that Defendant No.9 is wrongly added as a Defendant and instead, it should be the entity in US, which is a necessary party and upon offering the necessary details, Mr.Tamboly is granted liberty to add META Platforms, Inc. and he has carried out the amendment forthwith.

Since META is now added as Defendant No.10, since it has taken over Instagram and it also owns the Facebook, on the notice of the Interim Application being served upon the Defendants, I have considered the Interim Application for the necessary interim reliefs.

11. As far as Defendant No.1 is concerned, the Plaint is accompanied with a news reporting, stating that she was arrested on Sunday for allegedly delivering a provocative speech last week during Ramnavmi.

The news report read thus :-

“The Police had state that Shingala’s speech led to tension between Hindu and Muslim , following which they called a meeting of the leaders of the two communities on April 1, reported PTI.

However the meeting did not pacify the situation as the leaders engaged in a verbal heated exchange.

Following this, a mob vandalized vehicles and threw stones and glass bottles at the homes of the residents.

The police then took 76 Muslims and 200 others for unlawful assembly and rioting on April 1, according to the Indian Express.”

The next date Shingala was booked under Section 195A (Deliberate and Malicious Acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs), 153A (Promoting Enmity between different groups on ground of religion, race, place of birth, residence , language etc. and doing acts prejudicial to the maintenance of harmony and 505 statements (statement conducting to public mischief) of the Indian community.

12. The Plaintiff, pending the claim in damages, today seek an injunction against the Defendant No.1, who has without any justification attempted to malign and tarnish its image by initiating a systematic campaign styled as “#BoycottMalabar”. Though Defendant Nos.2 and 3 also joined her, on receipt of the notice, they have taken down the post from their individual twitter handle.

The Plaintiff has projected its goodwill in the market, as it claims to be World’s 6th largest jewellery group and 19th rank brand in Deloitte’s global ranking of luxury products which have its presence throughout the globe. It has a huge turnover and have spent 234 Crore Indian Rupees on its CSR initiative and its Chairman has often declared, that the Group remained dedicated to sourcing responsibly mined materials and contributing positively to the communities, it serve.

At this stage, it is not the credentials of the Plaintiff which are solely to be taken into account, but what is important to note that it



is an entity, which has attempted a philanthropic act of providing scholarships to young girls and encouraged their progress, irrespective of their caste, creed or religion.

The Plaintiff which is accompanied, with proof of its endeavour, in providing scholarships to girls, in various schools and collages in the country and unlike for the discriminatory approach by showing favouritism towards a particular religion, the scholarship is made available to the enterprising girls, by focusing upon their talent and potential, than upon their religion or caste.

The entity like Plaintiff -Company which should be applauded for its benevolent act is, however, attempted to be targeted by Defendant No.1 by posting/uploading a post, by selectively picking up only one photograph, capturing the programme being extended to the girls belonging to a particular community i.e. Muslim.

The Defendant No.1, however, has failed to highlight the chivalrous initiative of the Company in propagating education across the country by encouraging girls to be empowered by conferring them with scholarships.

Such post definitely has the effect of damaging the reputation and goodwill of the Plaintiff. Various unknown people and third parties are re-posting the same and this has the potential to create a divide in this united country, which definitely is not in the interest of the citizens of this country.

13. Apart from this, as far as business of the Plaintiff is concerned, since it deals in Jewellery, when the auspicious occasion of "Akshay Tritiya" is round the corner, it is apprehending that the post is damaging and adversely impacting its business and I do not find the apprehension unfounded.

It is to be noted that the post by Defendant no.1 has garnered 7955 likes and 260 comments and it is being shared and re-shared on WhatsApp and other social websites, reflecting upon the Plaintiffs's Company with negative image. Mr. Tamboly would also submit that google search of Defendant no.1 would immediately take readers to her post on the Plaintiff and her association with the post is very evident on the social medial platforms.

14. The Defendant No.1 may carry her own opinion on an issue, but by uploading only one particular photograph out of the entire stack of photographs clicked, when the scholarships were conferred upon the girl child across wide spectrum, without verifying the veracity of post, definitely would cause harm to the secular societal structure of the country and in particular when the post prima facie is baseless as the Defendant No.1 has chosen to display only one picture amongst the multiple, that are available to describe the excellent initiative on behalf of the Plaintiff, which has captured the event of conferring scholarship, as a part of its CSR programme.

The members/directors of the Plaintiff have implemented the CSR activities/programme on being duly compliant with relevant laws, but the mis-spread of information shared by Defendant No.1 on the platforms of Defendant No.4 to 10 is definitely intended to harm its reputation.

The Plaintiff has also lodged a complaint with the Cyber Crime Cell at Andheri (MIDC Police Station)

15. The Plaintiff has made out a prima facie case for ad-interim relief, as continuation of the post by the Defendant No.1 on the social media platform shall result in irreparable loss and damage to its achievements and status.



Hence, I deem it appropriate to direct the Defendant No.1, who despite service by email has failed to mark appearance, to forthwith take down/delete the alleged defamatory statement, from her twitter handle and she is further restrained from issuing, disseminating, circulating, communicating any defamatory, malicious, scandalous statement(s), allegations, insinuations, either written or spoken or in any manner communicating with the Plaintiff and/or its agents, servants, clients, business associates or any individual(s) or entity/ties associated with Plaintiff, by way of emails, letters, SMSs, social media posts, websites, newspapers-print or electronic, or in any other manner whatsoever, to any third parties/ general public, or to any individual who is in any capacity associated with the functioning of the Plaintiff or any other third parties/general public.

16. Mr. Tamboly has specifically provided the URLs through which the post has been uploaded on Facebook, Twitter and Instagram and the details of which are as below :

1 Facebook

<https://www.facebook.com/share/p/eFK3BXzeq2motexX/?mibextid=CTbP7E>

2 Twitter

https://x.com/kajal_jaihind/status/1785678437090549970?s=46&t=jWL-Uz_YYjpuzCSHGquiQg

3. Instagram

<https://www.instagram.com/p/C6bejFXKWFL/?igsh=MTc4MmM1Yml2Ng==>

Since the defamatory comment/post of Defendant No.1 is being circulated through the aforesaid three platforms and specifically through URL given above, the Defendant No.4-X, Defendant NO.5-Instagram and Defendant No.10- META Platforms Inc. is directed to take down any comment/post uploaded from the



aforesaid URL and it shall also not permit uploading of any comment/post from the aforesaid URL listed above in future.

At present, Mr.Tamboly do not seek relief against Defendant Nos.6-YouTube, Google LLC and Defendant No.7-Google India Pvt. Ltd.

17. List the IA on 08.07.2024 for further consideration.

(SMT. BHARATI DANGRE, J.)