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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 3354/2015

THE INDIAN INSTITUTE OF PLANNING  
AND MANAGEMENT ..... Plaintiff

Through Mr. Nishit Kush with Ms. Mercy  
Hussain, Advocates.

versus

M/S DELHI PRESS PATRA PRAKASHAN  
P. LTD. ANR ..... Defendants

Through Mr. Amit Gupta with Ms. Mansi  
Kukreja, Advocates for D-1 to 4.  
Mr. Saransh Kumar with  
Mr. Madhavam Sharma, Advocates  
for D-6.

% Date of Decision: 16<sup>th</sup> February, 2018

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

**I.A.No.13152/2017**

1. Present application had been filed initially under Order XXXIX Rules 1 & 2 CPC read with Sections 94 and 151 CPC for issuance of a temporary injunction before the Civil Judge, Cachar, Silchar, Assam, but upon a transfer petition being allowed by the Apex Court the same has been renumbered as I.A.No.13152/2017 by the Registry of this Court.

2. The relevant facts of the present defamation case are that the plaintiff is a society registered under the Societies Registration Act, 1860 and is involved in running academic courses under the name and style of “The Indian Institute of Planning and Management”. Defendant nos.1 to 3 are the managing editor, editor, publisher and printer of the magazine, Caravan. Defendant no.4 is the author of the impugned article.

3. Plaintiff is aggrieved by the publication of the article “*Sweet smell of success – How Arindam Chaudhuri made a fortune of the aspirations and insecurities of India’s middle classes*”.

4. Learned counsel for the plaintiff states that the defendant-magazine carried a morphed image of Mr.Arindam Chaudhari, Dean, Centre for Advanced Studies of IIPM showing him as a magician/sooth sayer with intent to portray him as a trickster. He contends that the said article falsely imputes that the Mr.Arindam Chaudhari has the reputation as a “fraud, scamster and Johnny-cum-lately”. He contends that derogatory comments have been made against Mr.Arindam Chaudhari and the plaintiff without any basis and with an intent to create a negative image about them amongst the general public.

5. Mr.Nishit Kush, learned counsel for the plaintiff states that freedom of expression does not permit any publication to use the expressions “*model school than a real one*”, “*the campus appeared sleepy*” and “*the scruffy management students*”. He prays that the injunction order dated 12<sup>th</sup> April, 2011 passed by the learned Civil Judge, Cachar, Silchar, Assam be confirmed.

6. Per contra, Mr. Amit Gupta, learned counsel for defendant nos.1 to 4 states that none of the impugned statements alleged by the plaintiff have

been made recklessly and/or *mala fide*ly and/or without proper research. In support of his contention, he refers to the following documents/orders passed by the different courts.

(a) Letter sent by Uttarakhand Technical University to the District Magistrate, Dehradun dated 05<sup>th</sup> February, 2010.

(b) Press Release by the Ministry of Human Resources Development regarding steps to be taken to check Menace of Fake Universities dated 03<sup>rd</sup> August, 2015.

(c) Notice bearing no.F.2-19/2007 (MPC) pt.III issued by University Grants Commission, New Delhi against the unrecognised status of IIPM, New Delhi dated January, 2016.

7. Mr. Gupta contends that the defendants invoke the defence of justification/truthfulness. He emphasises that the aforesaid impugned statements made in the article have not been proved wrong and/or false despite having an opportunity to do so. He states that the plaintiff-society has made only vague assertions.

8. Learned counsel for defendant nos.1 to 4 emphasises that far more serious allegations were made against the plaintiff by other publications like M/s Pathfinder Publishing Pvt. Ltd. etc. He states that though the plaintiff had initially initiated defamation proceedings even against the said publishing house, yet had subsequently, unconditionally withdrawn the said proceedings.

9. This Court is of the opinion that in India the Courts have the power to pass pre-publication or pre-broadcasting injunction or prior restraint order in subjudice matters provided the two pronged test of necessity and proportionality are satisfied and reasonable alternative methods or measures

are not sufficient to prevent the said risk.

10. In fact, this Court in *Dr. Shashi Tharoor Vs. Arnab Goswami & Anr. 2017 SCC Online Del 12049* has held that one of the permissible heads of restrictions on freedom of expression is defamation and for a claim of defamation to succeed, a public figure has to prove additionally that the representation was precipitated by malice. In the said case, this Court had refused the prayer for interim injunction.

11. In the present case if the impugned publication is read as a whole, this Court prima facie finds that the impugned portions are either based on the statements made by several persons or on facts available in public domain and/or are the author's personal opinions and conclusions based on extensive research and report.

12. Further, upon a perusal of the paper book, this Court finds that the Ministry of Human Resource Development, Govt. of India had issued a Press Information Bureau handout on 03<sup>rd</sup> August, 2015 confirming that the plaintiff was one of the 21 universities declared to be *fake* by the University Grants Commission list. The relevant portion of the said Press Information Bureau Handout is reproduced hereinbelow:-

"As per information made available by the University Grants Commission (UGC), 21 Fake Universities have been listed in the UGC list of Fake Universities. The details of such Fake Universities are available on the UGC website www.ugc.ac.in. In addition, the UGC has also informed that Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh and Indian Institute of Planning and Management (IIPM), Qutub Enclave, Phase-II, New Delhi are also unrecognized and functioning in violation of Section 2(f) and Section 3 of the UGC Act, 1956. The High Court of Delhi has given the final decision against the IIPM and advised that acts of the

IIPM, Arindam Chaudhari and Malay Chaudhari, constitute a criminal offence of cheating punishable under Section 420 of the Indian Penal Code. To comply with the Court decision, the UGC has lodged FIR against IIPM in the Police Station.

The Ministry vide its D.O. letter No.12-3/2015/U3(A) dated 21st July, 2015 requested the Chief Secretaries of several State Governments where these Fake Universities/Institutions are situated, to investigate the matter and register complaints in the Police Station. Prosecution may also be initiated against those involved in defrauding and cheating students by misrepresenting themselves as "Universities" awarding degrees with their name."

(emphasis supplied)

13. Further, the High Court of Punjab and Haryana at Chandigarh in ***Pathfinder Publishing Pvt. ltd. and others Vs. Indian Institute of Planning & Management & another, Crl.Misc.(M) No.3448/2012***, dated 9<sup>th</sup> October, 2015 and High Court of Uttrakhand at Nanital in ***M/s. Pathfinder Publishing Pvt. ltd. and others Vs. The State & another, 2010 SCC OnLine Utt 2775*** quashed the summoning orders in criminal complaints filed by the plaintiff on similar allegations under Sections 499 and 500 IPC. The relevant portion of the order passed by the High Court of Punjab and Haryana in ***Pathfinder Publishing Pvt. ltd. and others Vs. Indian Institute of Planning & Management & another*** (supra) is reproduced hereinbelow:-

*"Before the Delhi High Court, AICTE had contended that prior approval of AICTE is compulsory and mandatory for conduct of a technical course including MBA and Management Course and IIPM had not obtained approval of AICTE and they were not entitled to conduct MBA or management course or claim of doing so.*

*The petition was disposed of by the Delhi High Court since the counsel for IIPM had admitted that they were not entitled to confer any degree. A finding was recorded that the prospectus showing IIPM as conferring degree was evidently found to be false and misleading and IIPM was restrained from using the word MBA, BBA, Management Course, Management School, Business School or B. School in relation to their courses/programmes and they were asked to prominently display on their website that they were not recognized by any statutory body/authority.*

*Under these circumstances, it would be wholly unjustified and in fact, it will be an abuse of the process of the Court, if the petitioners are subjected to undergo trial. The respondents could not place any document on record even to show what the petitioner had published was wrong. They have no proof to support the claims made by them.*

*The Magistrate while summoning the accused should have made some enquiry as to the foundation of the allegations and should have questioned the complainant asking them to place on record proof with respect to their claim. It accepted the oral statements and issued notice. This Court is of the view that the proceedings pending against the petitioners are nothing but an abuse of the process and in order to meet the ends of justice, the summoning order and the complaint are quashed. The petition is allowed."*

14. A Division Bench of this Court in ***B.Mahesh Sharma Vs. Union of India & Ors., W.P.(C) No.5937/2010 decided on 26<sup>th</sup> September 2014*** has held as under:-

*"15. The respondent No.4 IIPM and its Dean Mr. Arindam Chaudhuri are undoubtedly also in violation of the statements given to this Court on 2nd December, 2013 and with which they were ordered to be bound. The senior counsel for the respondent No.4 IIPM in fact had no reply also to the snapshots from the website of IIPM shown to us during the*

hearing and which are in violation of the said statement, as recorded in the order dated 2<sup>nd</sup> December, 2013. Neither could the senior counsel for the respondent No.4 IIPM deny that the same were from the website of IIPM nor could inform of any order by which IIPM may have been released from the said statement. The respondent No.4 IIPM, its concerned officials including its Dean Mr. Arindam Chaudhuri are accordingly liable to be proceeded against and punished for such breach of statements in the nature of undertaking given to this Court. However, considering that the said statement is of 2nd December, 2013 and admission only for the year 2014 would be taking place / would have taken place thereafter, we take a lenient view of the matter and,

“DIRECT THE RESPONDENT NO.4 IIPM AND ITS RESPONSIBLE OFFICIALS INCLUDING ITS DEAN MR. ARINDAM CHAUDHURI TO FORTHWITH REMOVE THE SAID ADVERTISEMENTS FROM THEIR WEBSITE AND TO COMPLY IN LETTER AND SPIRIT WITH THE SAID STATEMENT GIVEN AND RECORDED IN THE ORDER DATED 2ND DECEMBER, 2013. THE RESPONDENT NO.4 IIPM AND ITS RESPONSIBLE OFFICIALS INCLUDING ITS DEAN MR. ARINDAM CHAUDHURI TO ALSO WITHIN ONE WEEK HEREOF, DISPLAY ON THEIR WEBSITE AN APOLOGY FOR HAVING SO VIOLATED THE STATEMENT IN THE NATURE OF UNDERTAKING GIVEN TO THE COURT.

16. We however clarify that our having taken a lenient view would not relieve the respondent No.4 IIPM or its officials or Dean Mr. Arindam Chaudhuri from any action which may be taken by any other person who may have been lured by the advertisements made in violation of the statement given to the Court on 2nd December, 2013.

xxx      xxx      xxx      xxxx

18. In the face of the admission of the senior counsel for the respondent No.4 IIPM today that the respondent No.4 IIPM is not entitled to confer any Degree, the prospectus issued by the respondent No.4 IIPM showing itself as conferring a Degree,

is evidently false and misleading. The respondent No.4 IIPM is not entitled to represent so in any manner directly or indirectly. Further in view of the admission that the respondent No.4 IIPM is not recognized by any statutory body / authority, the respondent No.4 IIPM also is not entitled to directly or indirectly in any manner convey that it is so recognized. Similarly, with respect to foreign Degrees / Institutions also, the respondent No.4 IIPM is required to make a clean breast of the status and to vividly and clearly inform its prospective customers / clients / students thereof, including the status of the said foreign Institutions and/or its Degree or Certificate in the country of its origin and/or to which it belongs.

19. We accordingly dispose of this petition, besides the aforesaid directions in paras No.15,17 and 18, with the following directions:

(A)The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri are restrained with immediate effect from using the word “MBA, BBA, Management Course, Management School, Business School or B-School” in relation to the Courses / programmes being conducted by them or in relation to the representations if any made to the public at large and/or to their prospective clients, customers or students;

(B)The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri are directed to prominently display on the website of IIPM that they are not recognized by any statutory body / authority and the status of the Foreign University / Institution and/or its Degree or Certificate in the country of its origin and whose Degree or certificate the students enrolling in the Course / Programme offered by the respondent No.4 IIPM would be entitled to;

(C)The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri to within one week hereof, upload and display prominently on the website

*of the respondent No.4 IIPM this judgment to ensure that attention of anyone visiting the said website is drawn thereto (we clarify that the short time of one week is given since this is admission time, when students not admitted to Institutes / Colleges of their first choice, would be queuing for other Institutes).”*

(emphasis supplied)

15. Consequently, this Court in the present case is of the *prima facie* view that the defendants have highlighted the evidence which is relevant and material on a matter of substantial importance and there is no material at this stage to conclude that the stories have been published by the defendants with a reckless disregard for truth or precipitated by actual malice or that the defence of justification/truthfulness/fair comment is one that cannot succeed.

16. Accordingly, the injunction order dated 12<sup>th</sup> April, 2011 is vacated and the present application is dismissed.

**CS(OS) No.3354/2015**

Learned counsel for defendant no.6/Google India Pvt. Ltd. prays for an adjournment on the ground that he wishes to file an application under Order I Rule 10 CPC for deletion.

In the interest of justice, re-notify on 19<sup>th</sup> July, 2018.

**MANMOHAN, J**

**FEBRUARY 16, 2018**

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