

CS No.275/2020 Sanchita Gupta @ Shilpe Vs. Scroll Media Inc. & Ors.

04.09.2020

Fresh case is received by way of assignment. It be checked and registered.

Present : Sh. Vijay Aggarwal and Sh. Naman Joshi, Counsel for plaintiff
(through VC).

1. Arguments heard on application U/O.XXXIX R.1&2 CPC seeking ex-parte injunction against the defendants for releasing the book titled "**Gunning for the Godman**", Which is scheduled to be released on 05.09.2020.

2. During the course of arguments, counsel for the plaintiff submitted that plaintiff is respectable member of the society and has done M.A. in Psychology from Pandit Ravi Shanker Shukla University, Raipur, Chhattisgarh. Plaintiff is facing criminal trial in case titled as State of Rajasthan Vs. Asharam alias Ashumal & Ors., wherein plaintiff has been roped in as an accused.

3. It is further submitted that Learned Special Judge (POCSO Act), Jodhpur had convicted the plaintiff vide judgment dated 25.04.2018. Plaintiff preferred an appeal against the said judgment before the Hon'ble High Court of Raipur, at Jodhpur, wherein, Hon'ble High Court was pleased to admit the appeal (S.B. Criminal Appeal 622/2018) vide order dated 29.09.2018 and suspended the sentence of the plaintiff till final disposal of the said appeal.

4. It is further submitted by counsel for the plaintiff that defendant no. 1 is a digital publishing company which operates in the space of online news contents. It has published the Excerpt of the book : "**Gunning for the Godman : The True Story behind Asharam Babu's Conviction**" (hereinafter



the book) at <https://scroll.in/article/968978/asaram-bapu-this-book-is-a-police-officers-first-hand-account-of-his-arrest-and-conviction> Asaram Babu: **“This book is a police officer’s first hand account of his arrest and conviction. A survivor’s testimony from “Gunning for the Godman : The True Story Behind Asharam Babu’s Conviction by Ajay Lamba with Sanjeev Mathur”** (hereinafter referred as article).

5. It is further submitted by counsel for the plaintiff that defendant no. 1 has been arrayed as a party on account of its failure to act as on responsible digital publishing house and choosing to digitally publishing ex facie defamatory statements and contents spewed by the defendant no. 4 & 5 in article without any efforts to fact check the same independently or even by reaching out to plaintiff and respect of the said statements. It is further submitted by counsel for the plaintiff that defendant no. 2 is editor of defendant no. 1. Defendant no. 3 is publisher of books and is circulating the same for profit directly or indirectly online as well as offline.

6. Defendant no. 4 & 5 are author & co-author of the said book, which is extremely defamatory quo the plaintiff and liable to prejudice the plaintiff in her trial. Defendant no. 6 & 7 are a known online seller of Books and they have been arrayed as a party only because they have provided defendant no. 3, 4 & 5 a platform to defame the plaintiff.

7. It is further submitted by counsel for the plaintiff that present suit has been filed by the plaintiff to vindicate her rights and reputation and to ensure that the defamatory statements, imputations, assumptions and



innuendo contained in the article and the Book do not cause further injury to her. The article published on the website of defendant no. 1 carried excerpts from the book shows how the Book portrays the plaintiff in a poor light which has lower the plaintiff's reputation in the eye of the people at large including one Mr. Vijay Sahani to read the said article in the Basant Lok Market. He immediately confronted the plaintiff on 01.09.2020 after having read the said article on the website of defendant no. 1. In view of the said fact, plaintiff became aware of the article on 01.09.2020. She also became aware from the said article that Books' impending publication is on 05.09.2020 as well. It is abundantly clear that the Book is one sided narration of the events written by defendant no. 4 & 5 and being published by defendant no. 1 with the intent and/ or effect of defaming the plaintiff. The said Book is being advertised on the website of defendant no. 3 as well as marketed for pre-orders on the websites of defendant no. 6 & 7.

8. It is further submitted by Counsel for the plaintiff that defamatory statements and imputations from the Book published by defendant no. 1 in the article after permission from defendant no. 3 to 5 are quoted in the para no. 14 of the plaint. Counsel for the plaintiff has also drawn the attention of the court on the said alleged defamatory statements/ imputations mentioned in said para no. 14. The said alleged defamatory statements are not being reproduced here.

9. It is further submitted by counsel for the plaintiff that said defamatory statements have been made by defendant no. 4 & 5 and published digitally by defendant no.1 and are about to be printed as Book by



defendant no. 3 to fulfill their malafide intentions and garner cheap publicity on the back of the name of the plaintiff and more importantly her co-accused in the wake of the Books launch. The entire agenda is to malign and defame the image of the plaintiff, which is complete lack of good faith and bonafide.

10. It is further submitted that plaintiff recognize that there is a freedom of speech and expression under article 19(1)(a) of the Constitution of India, however, these are not absolute rights and contained in the Constitution of India itself in Article 19(2) is the limitation on freedom of speech and expression, when such speech tends to defame a person. As such any rights of defendant no. 1, 3, 4 & 5 have to be balanced against the fundamental rights of the plaintiff, who has preferred an appeal before the Hon'ble High Court against the order of conviction and considering the ex facie defamatory nature of the allegation and imputations, and in a situation where judicial proceeding is pending, the rights of the plaintiff ought to prevail. It is further submitted that Hon'ble Courts have balanced the rights of defamer and defamed and protected the defamed. Reliance has been placed upon the law laid down in the following cases :

- (i) **Swami Ramdev Vs. Juggernaut Books Pvt. Ltd. & Ors. C.M. (M) No. 556/2018**
- (ii) **MP Lohia Vs. State of West Bengal (2005) 2 SCC 686 SC**
- (iii) **R. K. Anand Vs. Registrar, Delhi High Court (2009) 8 SSC 106**
- (iv) **Mushtaq Moosa Tarani Vs. Govt. of India & Ors. 2005 SSC Online 385**



- (v) **Sidharth Vashisht Vs. NCT of Delhi (2010) 6 SSC**
- (vi) **Sahara India Real Estate Corporation Ltd. Vs. SEBI (2012) 10 SSC 603**
- (vii) **Swatenter Kumar Vs. Indian Express Ltd. (2013) 207 DLT 221**
- (viii) **Naveen Jindal Vs. M/s. Jee Media Corporation Ltd. & Ors. (2015) 29 DLT**

11. It is further submitted by counsel for the plaintiff that since the matter is sub-judice before the Hon'ble High Court, therefore, defendants may be restrained from making any further unverified, unsubstantiated and ex facie defamatory statement concerning the plaintiff or repeating and republishing the statement made in the Book title "**Gunning for the Godman : The True Story behind Asaram Babu's Conviction**". Further, they be also restrained from marketing, selling or supplying the abovesaid book through online or offline.

12. After having gone through the submissions advanced by Sh. Vijay Aggarwal & Sh. Naman Joshi, Learned counsels for the plaintiff and perused the record carefully, it appears that the book titled "**Gunning for the Godman**" is based upon the "Asharam Babu's" conviction case titled as **State of Rajasthan Vs. Asaram alias Ashumal & Ors.** In the said case, Asharam Babu, plaintiff & others were convicted by POCSO Court vide order dated 25.04.2018. Defendant no.4 & 5 are the Author & Co-author of the said book. Defendant no. 1 has published the Excerpt of the said book at his website which is available at <https://scroll.in/article/968978/asaram-bapu->



this-book-is-a-police-officers-first-hand-account-of-his-arrest-and-conviction. Some parts of the said articles have been quoted in para no. 14 of the plaint, which has reference of plaintiff and the said paras are in nature of defamatory against the plaintiff, particularly, when the matter is sub-judiced before the Hon'ble High Court of Rajasthan.

13. In the light of the aforesaid facts & circumstances, I am of the considered view that plaintiff's reputation is at stake and her reputation would suffer irreparable harm, if the ex. parte injunction is not granted particularly when the said book is going to be published on 05.09.2020. Therefore, defendants are restrained from publishing the said book titled as "**Gunning for the Godman** : The True Story behind the Asaram Bapu Conviction" till the next date of hearing.

14. Plaintiff is directed to comply with the provision of Order 39 Rule 3 CPC within one day. Let the summons of the suit notice of the present application be issued to all defendants at their email address as well as Whatsapp number, if any.

15. Copy of this order be given Dasti to Learned Counsel for the plaintiff forthwith.

16. Nothing contained herein shall tantamount to any expression on the merit of the case.

Put up on **30.09.2020**.

