***via* Video-conferencing**

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

\+ W.P. (CRL) 1082/2020 & Crl. M.A. Nos.9485/2020, 10986-87/2020

'X' ..... Petitioner

Through: Mr. Sarthak Maggon, Advocate with petitioner in-person.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr. Pavan Duggal, *Amicus Curiae.*
Mr. Ajay Digpaul, CGSC with Mr. Kamal R. Digpaul, Advocates for UOI.
Mr. Amanpreet Singh, Advocate for Mr. Rahul Mehra, SSC (Criminal) for the State.
Mr. Meet Malhotra, Senior Advocate with Mr. Aditya Vaibhav Singh, Advocate for respondent No.3.
Mr. Parag P. Tripathi, Senior Advocate with Mr. Tejas Karia, , Mr. Ajit Warrier, Mr. Varun Pathak, Mr. Gauhar Mirza, Ms. Nayantara Narayan, Ms. Mishika Bajpai, Mr. Thejesh Rajendran and Ms. Malikah Mehra, Advocates for respondent No.4.
Mr. Sajan Poovayya, Senior Advocate with Ms. Mamta R. Jha, Ms. Shruttima Ehersa, Mr. Pratibhanu, Ms. Raksha and Mr. Shikhar, Advocates for Google LLC.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% 22.01.2021

W.P. (Crl.) No. 1082/2020 and
Crl. M.A. Nos. 9485/2020, 10986-87/2020

1. Mr. Meet Malhotra, learned senior counsel appearing on instructions of Mr. Aditya Vaibhav Singh, learned counsel for Respondent No.3/Internet Service Providers Association of India (ISPAI) has made submissions in the matter.

2. In essence and substance Mr. Malhotra has said that the members of ISPAI, who are internet service providers, are not in a position to block individual/specific content since they control only the internet facility and services provided to their clients and subscribers; and while it may be possible to block a website in its entirety, it is not within the control or power of an ISP to block individual web-pages or content appearing on a website.

3. Mr. Malhotra has accordingly submitted that the primary role and responsibility for blocking specific offensive content is of the 'platform intermediary', namely entities like Facebook, Instagram, Twitter etc. since such content resides on their platforms.

4. On another aspect, by application Crl. M.A. No. 10985/2020, the petitioner had sought to implead Google LLC as a necessary party to the present proceedings. At that stage, Ms. Mamta R. Jha, learned counsel who had appeared for Google LLC, USA had submitted that since no relief was claimed or made-out against Google LLC, the said

entity should not be made a party-respondent in the matter; but that Google LLC was at the same time ready and willing to assist this court on the larger issues that have arisen in the matter and have been flagged *inter alia vidé* order dated 07.08.2020. Crl. M.A. No. 10985/2020 was disposed of on 14.08.2020 in view of the foregoing submissions made on behalf of Google LLC.

5. In the course of proceedings over the last several hearings however, it transpires that one possible methodology to make a direction issued by a court to remove offence content effective, would be to make the offensive content 'un-searchable'. Such methodology would of course be in addition to a direction for removing or effacing such content from the World Wide Web, to the extent technologically possible. Since Google LLC runs what is arguably the most widely used search engine, this court is of the opinion that the formal participation of Google LLC in the present proceedings is desirable.

6. Accordingly, Google LLC, USA is impleaded as party-respondent No.7 in the present proceedings.

7. Mr. Sajan Poovayya, learned senior counsel who has been appearing for Google LLC in the present case, upon instructions of Ms. Mamta R. Jha, accedes to this position; and seeks time to make detailed submissions in the matter.

8. Let amended memo of parties be filed before next date of hearing.

9. Mr. Poovayya also requests permission to file written submissions in the matter. Let written submissions be filed before next date, with advance copies to all counsel appearing in the matter.

10. List for submissions on behalf of Google LLC on 4th February 2021 at 2:15 p.m.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 22, 2021
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