

IN THE CITY CIVIL COURT FOR GREATER BOMBAY  
AT MUMBAI.

AD-INTERIM ORDER ON  
NOTICE OF MOTION NO. 1289 OF 2021  
(CNR no. MHCC01-004236-2021)

IN

SUIT NO. 1094 OF 2021

1. Salman S. Khan and 1 another ]... *Plaintiffs*

Versus

1. Kamaal R. Khan and 9 others ] *Defendants*

Appearances:-

Ld. Advocate Mr. P. D. Gandhi a/w Adv. Parag Khandhar I/b DSK  
Legal for the Plaintiff.

Ld. Advocate Mr. Manoj Gadkari for Defendant no.1.

Ld. Advocate Mr. Shailesh Poria I/b Economic Laws Practice for  
Defendant no.3.

Ld. Advocate Ms. Charushila More I/b Dholakia Law Associates for  
Defendant no.5.

Ld. Advocate Soli Cooper with Adv. Yohann Cooper I/b Adv. Shardul  
Amarchand Mangaldas for Defendants no.6 and 7.

Ld. Advocate Mr. Vedchetan Patil a/w Adv. Mr. Saransh Jain, Adv. Mr.  
Gurpreet Singh Kahlon, Adv. Tejpal Singh Rathore and Adv. Sunayana  
Kashid I/b Pooraya & Co. for Defendants no.8, 9 and 10.

CORAM : HIS HONOUR JUDGE  
SHRI C. V. MARATHE  
(Court Room no. 3)

DATED : 23<sup>rd</sup> June, 2021.

ORAL ORDER

1. 1. In this action for damages in defamation, the  
plaintiffs have contended that plaintiff no.1 is an actor and part of Indian

film and entertainment industry since 1988 and he is one of India's most acclaimed and successful actors enjoying an excellent reputation, tremendous goodwill and extensive pan India and globe following. Plaintiff no.1 is an eminent public figure, who also participates in live performances, hosts television shows and professionally endorses select brands and brand ambassador. It is submitted that plaintiff no.1 is also the owner of registered trade mark "Being Human", which plaintiff no.1 has licensed to Being Human- The Salman Khan Foundation, which is a registered Public Charitable Trust, which works in the areas of education and health for the unprivileged persons in India. Plaintiff no.2 is a well known production Company engaged in business of making and producing films in Bollywood. The defendant no.1 is an actor and reality T.V. personality.

2. The plaintiffs have averred that the defendant no.1 also represents himself as self-proclaimed film critic and is active on various social media platforms, he publishes, republishes, uploads several posts and videos of film reviews on social media platforms including his YouTube channel titled "Kamaal R. Khan- KRK" which has 7.24 lacs subscribers, instagram account KRK (kamaalrkhan) which has 1.03 lacs followers, twitter account KRK@@kamaalrkhan which has 51 lacs followers and facebook account- Kamaal R Khan KRK which has 11 lac followers.

3. The plaintiffs have made following allegations against the defendant no.1 :-

a. The defendant no.1 is a habitual nuisance monger and has misused the social media platforms to defame, malign and/ or propagate

defamatory content about bollywood personalities and he has gained sensational popularity. On 26.06.2020, the defendant no.1 posted a video on his YouTube channel titled "Corrupt Bollywood" defaming plaintiff no.1 and various other bollywood celebrities/ personalities being corrupt. In that video, defendant no.1 has said *"Ab aap dekhate jao, ek ek karke sab ko nanga kaise karta hu. Aaj main aap ko bataunga ki ye bollywood makkar aur zuthen logo se kaise bhara pada hain... Pahale to tum lukkhon, ye decide karlo ki main self proclaimed critic hu jiski koi value nahi hain, ye main wo critic hu jiski power hain jo aapse mujra kar sakta hain, jo aapko nacha sakta hain. Aur maine to un turram khano se bhi mujra kara diya hain, jo apane aapko bollywood kahate the, jo apne appko khuda kahte the SRK, Salman....main hamesha ki tarah inki filmo ka saccha review deta rahunga, inko nachata rahunga aur inse mujara karata rahunga"*

b. On 20.11.2020, the defendant no.1 posted a video titled "reality check of Salman Khan's Charity! review by KRK". In that video the defendant no.1 has made various scandalous, false, defamatory, derogatory and baseless allegations of involvement of "Being Human" in fraud, manipulation and money laundering business by saying *"Salman Khan filmen bhi karte hain, Salman Khan ka production house bhi hain. Woh jitna paisa aata hain, woh sub "Being Human" mein hi aata hain. To main aisa manata hun ki shayad "Being Human" ka salana 500 se 600 crore ka profit hoga. Aur jaise ke maine kaha ki yeh ek non profitable group hain, to fir to Salman Khan ke pas bichare ka kuch bhi nahi hona chahiye"*.

c. On 17.05.2021, the defendant no. 1 posted video on his official YouTube channel titled "Radhe Movie hit or flop? Review by KRK". In that video the defendant no. 1 said *"lekin mere khayal main abhineta bhi unse kam nahi hai kyun ki ye bhi ek tarah se corruption hi*

hai. Ye bhi thik ushi tarah ki dakaiti hai jaise Rajneta karte hai, kyun ki Salman pehle fakirgiri karta hai, bhikh mangta hai ki 'bhai Eid par meri film dekhe, mujhe Eidi dijiye'...to mere hisab se ye bhi ek tarah se dakaiti hai...to mere hisab se Salman Khan par bhi usi tarah 420 ka case hona chahiye jaise kisi dusare admi par hota hai jo kisiko bewakoof banakar usake paise loot leta hai...kyun ki jab Radhe jaise ghatiya film 400 crores ka business kar sakti hai, to koi acchi film to 800 ya 1000 crores ka business kar sakti hai”.

d. On 22.05.2021, the defendant no. 1 posted another video on his official YouTube channel and twitter account titled “Radhe movie business and donation! Review by KRK” and said “actually, jis din is film ka trailer release hua, duniya ko usi din pata chal gaya tha ki ye film ek waahiyaat kism ki film hogi. Aur aaj ki tarikh main, VFX wale dadu Salman ko dekhne ki kisiki bhi khawish bilkul bhi nahi hai aur woh bhi paise dekar...aur Rajat Sharma Sahab to apki chaat rahe hai. Aur woh apko bhi pata hai aur mujhe bhi pata hai ki, Rajat Sharma aapki kyun chaat rahe hai... aap to garibo ki khal tak utar le. aap to garibo ko blackmail karte hai...aap hi ke film “Dabbang” ke director Abhinav Sahab ne kaha hai, jisne taqreeban do teen sal aapke saath bitaye, din raat aapke saath raha. Toh zaahir si baat hai, usko toh ander tak ki sari khabar hai to usne officially kaha hai, agar...ki aap 5 cycle daan karte hai toh 500 cycle 'Being Human' ke account main likhate hai...to agar 100 crores rupaye bachaye hai aur usmain se 10 crores daan kar diye hai, aur 90 crores kha gaye hai, toh ye charity bilkul nahi hai. Ye toh actually charity ke naam par dakaiti hai...yani waha sarkar ko chuna laga raha hai aur edhar public ko chuna laga raha hai. Aur, beech main khoob maal bana raha hai.

e. On 28.10.2020, the defendant no. 1 posted video on YouTube channel with titled “Public abusing Salman Khan badly”. In that video photograph of plaintiff no. 1 is shown in the background and persons namely Upendra and Ajay Yadav are abusing plaintiff no. 1 with bad word 'Madarchod' and a child is abusing plaintiff no. 1 with bad words 'Salman teri maa ki...'. Same bad words are repeated in further two video clips in the same video.

f. On 26.04.2021, the defendant no. 1 uploaded video on YouTube channel with titled “Seety Maar song of film Radhe! Review by KRK” and said “*kab tak Eid ke naam par logo ko loot te rahoge bhai sahab*”.

g. On 10.05.2021, the defendant no. 1 uploaded video on YouTube channel with titled “Salman, Arbaz, Sohail are same now! Review by KRK” and said “*kaise on camera bhi aap un garib baccho ko dhamkate ho, apni bhaigiri dikhate ho...logo ko pata chal gaya hai ki, Sallu ka fan hona, apne aap main khud ke bejjati hai...ab aap tino bhai baitho, dhapli bajao aur enjoy karo.*”

h. On 06.05.2021, the defendant no. 1 uploaded video on YouTube channel with title “Radhe title track review – By KRK”. In that video the defendant no. 1 used words *dadaji, Disha ke dada* and said “*aapko sharam aani chahiye apni poti ki umar ki ladki ke sath dance karte hue aur romance karte hue*. Similar message was posted by defendant no. 1 on facebook page on 12.05.2021.

4. Ld. Adv. for the plaintiff submits that all these posts are *per se* defamatory. The allegations of defendant no. 1 of unethical conduct by plaintiff no. 1 are allegations without a shred of truth. He further submits that there is no restriction to comment on a film and the role/performance of the actors therein but personal allegations against plaintiff no. 1 are baseless, there is nothing genuine about these posts of defendant no. 1 and they do not fall within realm of fair comment. He argues that nothing in them can *prima facie* be said to be *bona fide*, on the contrary, malice is writ large on the face of the posts.

5. Ld. Adv. for the defendant no. 1, vehemently argues that the plaintiff being a public figure should be open to criticism, the defendant no. 1 has merely expressed his opinion about “Radhe movie” and the comments about “Being Human” are accepted by plaintiff no. 1 himself. The Ld. Adv. for defendant no. 1 has also pointed out that the cause of action shown in the plaint is so called defamatory words used by defendant no. 1 while reviewing “Radhe movie” and therefore, the plaintiffs cannot use previous posts/videos of the defendant no. 1 which were never challenged earlier. He has also pointed out that the defendant no. 1 cannot be held liable for reproducing the words used by Abhinav Kashyap against whom no action was taken by plaintiffs. Ld. Adv. for the defendant no. 1 submits that the comments of the defendant no. 1 were part of fair criticism and if they are read in the context in which they were used, such comments do not lower the image of the plaintiff no. 1 in society. According to him, the defendant no. 1 has right to freedom of speech guaranteed under Indian Constitution and the present suit is nothing but an action to terrorize people. Lastly, he has also argued that previous suits against defendant no. 1 have no

connection with the instant suit and therefore, whatever orders passed therein have no bearing on the outcome of this suit. For all the above arguments he has requested to dismiss the notice of motion.

6. A person is identified by his name. His name may have no value to society but, would be precious to the person concerned. A good name is better than great riches. Reputation is a sort of right to enjoy good opinion of others and it is a personal right and an inquiry to reputation is a personal injury. Thus, scandal and defamation are injurious to reputation. A good reputation is an element of personal security and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property. Reputation is “not only a salt of life but, the purest treasure and the most precious perfume of life”. Speaking generally, every man is entitled to his good name and to the esteem in which he is held by others, and, has a right to claim that his reputation shall not be disparaged by defamatory statements made about him to a third person or persons without lawful justification or excuse. Reputation and honour are no less precious to good men than bodily safety and freedom. In some cases they may be dearer than life itself. Thus, it is need for the peace and well being of Civilized commonwealth that the law should protect the reputation as well as the person of the citizen.

7. In an action for libel the plaintiff should prove that the statement complained of (1) refers to him; (2) is in writing; (3) is defamatory; and (4) was published by the defendant to a third person or persons. On proof of the above facts, the plaintiff makes out his case, and, then it is for the defendant to establish one of the defences

recognized by law. In India, it is unnecessary for the plaintiff to prove (a) falsity of the statement. It is for the defendant to prove that it is true; (b) malice of the defendant. The plaintiff has to prove malice to rebut the defence of privilege or fair comment, but otherwise it is not necessary in order to make out the plaintiffs' case. The allegation of malice means nothing more than that the defendant publish a defamatory statement without lawful excuse; and (c) damage to the plaintiffs reputation. The law presumes it from the defamatory tendency of the words. The three special defences available in an action for defamation, under the common law are (1) justification (or truth), or (2) privilege, absolute or qualified, and, (3) fair comment. In a civil action the defendant has to plead and prove the truth of the defamatory words, and not merely his belief in their truth, though honest. In the instant suit, we are at an interim stage of the proceeding where the defendants have not even filed written statement. Therefore, roving inquiry into plaintiff allegations at this preliminary stage of the suit is not contemplated for deciding the interim application.

8. In various posts/videos uploaded by defendant no.1 on public platforms mentioned in paragraph no.3 of this order, he has not only commented on the performance of the plaintiff no.1 in a movie named "Radhe" but he has also made personal comments against the plaintiff no.1. Many of such comments include "*Ab aap dekhate jao, ek ek karke sab ko nanga kaise karta hu. Aaj main aap ko bataunga ki ye bollywood makkar aur zuthen logo se kaise bhara pada hain... Pahale to tum lukkhon, ye decide karlo ki main self proclaimed critic hu jiski koi value nahi hain, ye main wo critic hu jiski power hain jo aapse mujra kar sakta hain, jo aapko nacha sakta hain. Aur maine to un turram khano se*



bhi mujra kara diya hain, jo apne aapko bollywood kahate the, jo apne appko khuda kahte the SRK, Salman....main hamesha ki tarah inki filmo ka saccha review deta rahunga, inko nachata rahunga aur inse mujara karata rahunga”, “Ye bhi thik ushi tarah ki dakaiti hai jaise Rajneta karte hai, kyun ki Salman pehle fakirgiri karta hai, bhikh mangta hai ki 'bhai Eid par meri film dekhe, mujhe Eidi dijiye'...to mere hisab se ye bhi ek tarah se dakaiti hai...to mere hisab se Salman Khan par bhi usi tarah 420 ka case hona chahiye jaise kisi dusare admi par hota hai jo kisiko bewakoof banakar usake paise loot leta hai”, “Rajat Sharma Sahab to apki chaat rahe hai. Aur woh apko bhi pata hai aur mujhe bhi pata hai ki, Rajat Sharma aapki kyun chaat rahe hai... aap to garibo ki khal tak utar le”, “kab tak Eid ke naam par logo ko loot te rahoge bhai sahab”, “kaise on camera bhi aap un garib baccho ko dhamkate ho, apni bhaigiri dikhate ho”. The defendant no.1 is not in a position to justify these tweets that they are criticism on a movie. These tweets/videos do not refer to the contents of the film and very clearly lower down plaintiff no.1's image in society by portraying him as criminal, cheater and a person with no dignity. Similarly, the defendant no.1 has not offered any explanation about his statements regarding “Being Human”, a registered trademark of plaintiff no.1, being involved in fraud, manipulation and money laundering business. It is apparent that the said statements about the income of “Being Human” are apparently made on the basis of an unfounded information. In an action for defamation such statements cannot be ignored particularly when no explanation is offered by defendant no.1. Therefore, all the aforesaid statements in the tweets/videos of defendant no.1 are *prima facie* libelous and actionable.

9. With regard to the use of word “dadu/dada” in respect of plaintiff no.1, the said words are used for describing the role of plaintiff no.1 in the movie as young man though he has crossed the age of 50 years. Said statements cannot be held defamatory and they are *prima facie* covered under the defence of “fair comment”.

10. As stated herein earlier, the defendant no.1 has failed to explain his defamatory statements narrated in the earlier paragraphs. The defendant no.1 exceeded the boundary of freedom of making comments on the film of plaintiff no.1 and made *prima facie* libelous comments on him and such comments are actionable. If the defendant no.1 is permitted to continue the use of such defamatory words against plaintiff no.1, they will cause irreparable loss to the image of plaintiff no.1 in the society. The plaintiffs have made out three ingredients i.e. *prima facie* case, balance of convenience and irreparable loss in their favour and they are entitled for interim relief in terms of prayer clause (a) of the Notice of Motion.

11. The plaintiffs have made following prayer in prayer clause (b) :-

b.	<i>Pending the hearing and final disposal of this Suit, defendant no.1 and/or his agent and/or servant and/or any person claiming through and/or under Defendant no.1 be ordered and directed to forthwith withdraw and/or re-call and/or take down all the defamatory content including but not limited to the content described in Exh.F to the plaint and any other and further defamatory content which is published or uploaded directly or indirectly by him as also all and any other posts, messages, tweets, videos, interviews, communications and correspondence similar to the defamatory content in relation to the plaintiffs, their business/associations, and/or their projects.films including said Film</i>
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*“Radhe” and/or members of the plaintiff No.1's family, and/or directors, shareholders representatives of plaintiff no.2, on all public domains and social media platforms, including but not limited to the ones, run and operated by defendant no.2 to 10 and from all other mediums where the same or any of them are hosted or exist;*

Said prayer of mandatory injunction is to direct defendant no.1 to forthwith withdraw the defamatory content which is published or uploaded on various social platforms. As stated herein earlier, the plaintiff has come up with the case that he has already suffered damage of his reputation due to publication of such tweets and he has brought this action for damages. This is an interlocutory stage wherein the defendants have not even filed written statement. An opportunity will have to be given to the defendants to put up their defence and then only mandatory injunction in the form of prayer clause (b) will be granted/rejected after recording evidence in the suit. Ld. Advocate for the plaintiffs has orally submitted the plaintiffs are not pressing for prayer clause (c) at this stage. Therefore, the Notice of Motion is partly allowed in following terms:

**ORDER**

1. Notice of Motion No.1289 of 2021 is partly allowed.
2. Prayer clause (a) of the Notice of Motion is granted and thereby the defendant no.1, his agent, his servant or any person on his behalf are temporarily restrained from directly or indirectly making /uploading videos, posting, re-posting, tweeting, re-tweeting, giving interviews, corresponding, communicating, uploading, printing, publishing, re-publishing any defamatory or slanderous content, derogatory remarks, posts, messages, tweets, videos, interviews, communications and correspondence in relation to the plaintiffs, their business/associations, their present and future projects, members of plaintiff no.1's family, and or directors,

shareholders, representatives of plaintiff no.2 on any social media platforms, including but not limited to those, run and operated by the defendants no.2 to 10 till final disposal of the suit.

3. Costs in cause.

**(C. V. Marathe)**

Judge,

City Civil Court, Gr. Mumbai.

**Date : 23.06.2021.**

Dictated on : 23.06.2021

Transcribed on : 23.06.2021

Signed by HHJ on : 23.06.2021

**CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”**

**UPLOAD DATE AND TIME : 23.06.2021 at 2.00 p.m.**  
**NAME OF STENOGRAPHER : Mrs. G. P. Acharekar**

<b>Name of the Judge (With Court Room no.)</b>	<b>HHJ Shri. C. V. Marathe C.R. no.03</b>
<b>Date of Pronouncement of JUDGMENT/ORDER</b>	<b>23/06/2021</b>
<b>JUDGMENT/ORDER signed by P.O. on</b>	<b>23/06/2021</b>
<b>JUDGMENT/ORDER uploaded on</b>	<b>23/06/2021</b>