

Pooja vs Pushpendra Singh & Anr on 21 March, 2023

Author: Tushar Rao Gedela

Bench: Tushar Rao Gedela

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CM(M) 449/2023
P00JA

Through: Mr. Krishna Murari and
Naresh, Advocates.

versus

PUSHPENDRA SINGH & ANR.

Through: Mr. Prateek Singh Chaud
Advocate for Respondent
Mr. Angad Kochhar and M
Mendiratta, Advoca
Respondent No. 2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA
ORDER

% 21.03.2023 [The proceeding has been conducted through Hybrid mode] CM APPL. 13371/2023
(for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. However, the certified copies of the exempted documents may be filed within four weeks from today.
3. The application stands disposed of.

CM(M) 449/2023 & CM APPL. 13372/2023 (for stay)

4. Petitioner challenges the order dated 14.12.2022 in CS SCJ 1521/22 titled as "Pushpendra Singh vs. Pooja Verma" as also the order dated 10.10.2022, whereby the learned Trial Court had directed the respondent No.2 to take down the tweet sent on the twitter handle.

5. Learned counsel for the petitioner draws attention of this Court to the order dated 10.10.2022 to submit that the learned Trial Court had passed the order directing the respondent No. 2 to remove/delete/ block the alleged defamatory tweet dated 05.10.2022 and the letter tagged thereto from its platform.

6. Learned counsel submits that there was a specific direction to the respondent/ plaintiff to comply with the provisions of Order XXXIX Rule 3 of the CPC, 1908 and to file an affidavit to that extent.
7. Learned counsel further submits that there has been no compliance of Order XXXIX Rule 3 of the CPC, 1908 till date and despite that the learned Trial Court had passed the impugned order dated 14.12.2022 further directing that three more URLs of the petitioner to be blocked.
8. Learned counsel submits that even without deciding the contents as to whether they are defamatory or not, the learned Trial Court has, by its impugned order pre-decided the issue and concluded without trial that those are indeed defamatory and has directed that the same be blocked.
9. Learned counsel submits that this action under the impugned order causes prejudice to the petitioner.
10. Per contra, learned counsel for respondent No.1/ plaintiff submits that the affidavit of compliance of the provisions of Order XXXIX Rule 3 of the CPC, 1908 has already been filed within three days of the order dated 10.10.2022. Learned counsel also submits that no prejudice is caused to the petitioner since by the order dated 10.10.2022, the learned Trial Court had also clarified that the petitioner was not restrained from approaching the authorities for any action as per law.
11. Learned counsel appearing for the petitioner submits that the submission that the affidavit under Order XXXIX Rule 3 of the CPC, 1908 has been filed, is incorrect.
12. Be that as it may, issue notice. Notice is accepted by Mr. Prateek Singh Chaudhary and Mr. Angad Kochhar, learned counsel appearing for respondent Nos. 1 and 2, respectively.
13. Learned counsel for respondent No.1 alone is directed to file a short reply to the aforesaid allegations along with certified copy of the affidavit stated to have been filed in compliance of Order XXXIX Rule 3 of the CPC, 1908 within two weeks from today.
14. Mr. Kochhar, learned counsel appearing for respondent No.2 submits that the address as shown in the memo of parties is not correct and he would furnish the correct address to the learned counsel for the petitioner.
15. He may do so during the course of the day.
16. List on 24.05.2023.

TUSHAR RAO GEDELA, J MARCH 21, 2023/nd