

Ani Media Pvt. Ltd. vs Wikimedia Foundation Inc & Ors. on 2 April, 2025

Author: Subramonium Prasad

Bench: Subramonium Prasad

* IN THE HIGH COURT OF DELHI AT NEW DELHI
Date of decision: 2

IN THE MATTER OF:
+ CS(OS) 524/2024
ANI MEDIA PVT. LTD.

Through: Mr. Sidhant Kumar, Mr.
Mr. Akshit Mago and Ms.
Saxena, Advocates

versus

WIKIMEDIA FOUNDATION INC & ORS ...
Through: Mr. Jayant Mehta, Sr. A
Ms. Tine Abraham, Mr. N
Narendran, Mr. Vijayend
Singh, Mr. Abhijnan Jha
Rawat, Mr. Thomas J. Va
Aayush Marwah, Ms. Shub
Jain, Mr. Abhi Udai Sin
Mr. Bakhshind Singh, Mr
Tomar, Ms. Jasleen Virk
Saigal, Advocates for D

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
JUDGMENT

1. The present Application has been filed by the Plaintiff under Order XXXIX Rule 1 & 2 against the Defendants seeking the following prayers -

a. Pass an order against the Defendants, restraining them from posting, publishing, uploading, writing, speaking, distributing and/ or republishing any false, misleading and defamatory content against the Plaintiff on any platform, including the Platform maintained by Defendant No. 1;

b. Pass an injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to remove all false, misleading and defamatory content against the Plaintiff available on its Platform which can tarnish the reputation of the Plaintiff and further restrain its users and administrators from publishing anything defamatory against the Plaintiff on its Platform;

c. Pass an order directing the Defendant No. 1, or its agents or any person acting on its behalf of or under its authority, to remove the protection status imposed on the ANI Page;

d. Pass an order directing the Defendant No. 1 to disclose the identity of the Defendant Nos. 2 to 4, by providing their name, contact and other relevant details; and e. Pass any such other and further orders as this Hon'ble Court deems fit.

2. The Plaintiff is India's leading multimedia news agency providing syndicated news feed with over one hundred bureaus across the globe under the name "Asian News International" and "ANI". The Plaintiff has been managing and operating this business for over five decades, since the year 1971.

3. The Defendant No. 1 is a non-profit and charitable organisation incorporated under the laws of the United States of America. It is stated that the Defendant No. 1 has been set up to provide the necessary infrastructure to make knowledge available to the public free of charge. Defendant No. 1 hosts the English Wikipedia (hereinafter referred to as "Platform"), stated to be a free encyclopedia that currently contains over 6.8 million articles online in the English language.

4. The Defendants No. 2 to 4 are stated to be administrators of Defendant No. 1's Platform. It is stated that the administrators are vested with specialised rights and editing tools and can edit, block/unblock articles and pages on Wikipedia.

5. Shorn of unnecessary details, the facts in brief leading to the present application are as under:

i. In the year 2006, a page pertaining to the Plaintiff was created on the Platform of Defendant No. 1. It is stated that the framework of the Platform is as such that any user can edit the Plaintiff's page. ii. It is stated that when the page was launched, it contained comments about the Plaintiff which was sourced through trusted websites. It is stated that this position continued up till 26.02.2019, and according to the Plaintiff, the said page encompassed neutral information about the Plaintiff. The Plaintiff's page as on 26.02.2019 is reproduced and reads as under-

Signing Date:03.04.2025 21:20:01 iii. It is stated that thereafter, the Defendants No. 2 to 4 edited the page pertaining to the Plaintiff to include allegedly false, misleading and defamatory remarks/content against the Plaintiff. It is stated that the remarks and statements against the Plaintiff forms a substantial portion of the Plaintiff's Page, which is accessible to users and non-users of the Platform. The Plaintiff's page as on 22.04.2024 is reproduced as under:-

Signing Date:03.04.2025 21:20:01 iv. It is stated that in April 2024, several edits were made on the page pertaining to the Plaintiff to discredit the alleged defamatory remarks on the Plaintiff's page. According to the Plaintiff the edits were made relying upon trusted sources like The BBC Network. The edits made on the page pertaining to the Plaintiff are as under:-

Signing Date:03.04.2025 21:20:01 Signing Date:03.04.2025 21:20:01 v. It is alleged that May 2024, Defendants No. 2 to 4 reversed the aforesaid edits and reinstated the alleged false and defamatory remarks, which are stated to exist on the Plaintiff's page till date. The Plaintiff's page as on 22.05.2024 is reproduced as under:-

Signing Date:03.04.2025 21:20:01 Signing Date:03.04.2025 21:20:01 vi. It is stated that on 27.05.2024, Defendant No. 2 imposed protection status on the Plaintiff's page, thereby, restraining ordinary users from editing, moving and creating any content on that article for an indefinite period. vii. On 13.06.2024, the Plaintiff issued a cease-and-desist notice to the Defendants to refrain them from disseminating, publishing false, misleading and defamatory content pertaining to the Plaintiff. The notice also called upon the Defendants to perform its obligations as an intermediary in accordance with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and take down the alleged false and misleading information available on the Plaintiff's page.

viii. The imputations against the Plaintiff can be summarized as:-

a. Plaintiff consistently acts at the behest of the Government of India and the Bhartiya Janta Party;

b. Plaintiff is a 'propaganda tool' and a 'mouthpiece' for the Government of India and the Bhartiya Janta Party; c. Plaintiff is engaged in 'low quality journalism' that led to news organizations ceasing their subscription with the Plaintiff; d. Plaintiff is engaged in the spread of fake news or false news; and e. Plaintiff mistreats its employees and staff. ix. The Plaintiff's Page on the date of filing of the instant application is:-

Signing Date:03.04.2025 21:20:01 Signing Date:03.04.2025 21:20:01 x. A perusal of the page discloses that the nature of allegations have not changed.

xi. The present suit has therefore been filed seeking the following reliefs:-

"a. Pass a Decree of Permanent and Mandatory Injunction against the Defendants, restraining them from posting, publishing, uploading, writing, speaking, distributing and/ or republishing any false, misleading and defamatory content against the Plaintiff on any platform, including the Platform maintained by Defendant No. 1;

b. Pass a Decree of Permanent and Mandatory Injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to remove all false, misleading and defamatory content against the Plaintiff available on its Platform which can tarnish the reputation of the Plaintiff and further restrain its users and administrators from publishing anything defamatory against the Plaintiff on its Platform;

c. Pass a Decree of Permanent and Mandatory Injunction against the Defendant No. 1 or its agents or any person acting on its behalf of or under its authority, directing it to reinstate the ANI Page as it was available as on 26 February 2019, which can be accessed at [https://en.wikipedia.org/w/index.php?title=Asian News International&oldid= 885186405](https://en.wikipedia.org/w/index.php?title=Asian_News_International&oldid=885186405);

d. Direct Defendant No. 1, or its agents or any person acting on its behalf of or under its authority, to comply with its obligations under the Intermediary Guidelines and restrain any user or administrator from publishing false, misleading and defamatory content against the Plaintiff on the ANI Page or the Platform;

e. Pass an order directing the Defendants to issue a retraction and an apology to the Plaintiff for damaging the reputation of the Plaintiff;

f. Pass a Decree for damages against the Defendants, directing them to pay an amount of INR 2,10,00,000/- (Rupees Two Crores and Ten Lakhs Only) to the Plaintiff, however, the Plaintiff reserves its right to enhance this amount in future;

g. Cost of this Suit and consequent litigation be awarded to the Plaintiff; and h. Any other relief which this Hon'ble Court deems fit and proper, against the Defendants and in favour of the Plaintiff."

6. The learned Counsel for the Plaintiff states that the impugned statements are ex-facie defamatory. He contended that it is well settled that the right to professional reputation is a right guaranteed under Article 21 of the Constitution of India and that the allegations that the Plaintiff is acting as a mouth piece of the government cannot be tolerated by any independent news agency. For the allegations regarding the working of the Plaintiff, treatment towards employees etc., are far from the truth and is based on materials which have not been verified by the Defendants.

7. The Learned Counsel for the Plaintiff further contends that the onus to prove that the impugned statements made are truthful and not defamatory is on the makers of such statements i.e., Defendants No. 2 to 4. It is stated that the Impugned statements have been published by Defendants No. 2 to 4.

Vide Order dated 11.11.2024, Division Bench of this Court in FAO (OS) 146/2024 had directed the Defendant No. 1 to serve Defendants No. 2 to 4. In Order dated 16.12.2024 it has been recorded that Defendants No. 2 to 4 have been served and an affidavit of service has been filed in this Court in a sealed cover. It is stated that despite service, the Defendants No. 2 to 4 have chosen not to appear and that they have not filed any pleading to justify their stand either. It is stated that as there is no material on record to justify the impugned statements, they must be presumed as defamatory. It is stated that the Defendant No. 1 has no locus to resist the reliefs as prayed for by the Plaintiff through this application as Defendant No. 1 has asserted its status as an intermediary under the Information Technology Act, 2000.

8. The learned Counsel for the Plaintiff supplements his contentions by stating that the test of defamation is that the impugned statements must bring down the reputation of the Plaintiff in the eyes of a reasonable member of the public. It is further stated that the Defendant No. 1 holds itself to be an encyclopedia and a repository of facts which attracts around 979 million unique device visitors each month. It is stated that a reasonable member of the public will perceive the impugned statements as a verifiable fact appearing in an encyclopedia.

9. It was stated by the learned Counsel for the Plaintiff that the Single Publication Rule will not apply in this case. It is the contention of the Plaintiff that the material on the page pertaining to the Plaintiff is not the verbatim reproduction of the articles which have been cited as sources. The submission was primarily made to rebut the preliminary contention that since the Plaintiff has not challenged the articles which are the source articles and are available on the internet since 2019, the present challenge is not maintainable.

10. Per contra, the learned Senior Counsel for Defendant No. 1 submits that the Plaintiff has limited its submissions to the Removal Relief. It is further stated the present application of the Plaintiff is based on an incorrect understanding of the Defendant No. 1's Platform. It is stated that the Defendant No. 1 does not edit, create, upload or improve the encyclopedic content on the Platform, including the Plaintiff's page, rather, the content is continually and collectively created, uploaded and reviewed by third-party users of the Platform. It is further stated that the content on the Platform is dynamic and continually edited and updated by the Platform's members. Therefore, any injunction against Defendants No. 2 to 4 will not be able to ensure that the impugned statements on the Plaintiff's page continues to remain absent without reappearing on the Platform as long as relevant, reliable and verifiable information is available in public domain. It is submitted that other users of the Platform can always reference such information to post/repost similar content on the Plaintiff's page.

11. The learned Senior Counsel further contends that any injunction granted to the Plaintiff will have the effect of censoring/punishing the model on which the Platform operates. It is stated that the content published on the Platform is based on secondary, reliable and verifiable sources and the content is also verified by the Platform's community in terms of the Platform's policies. It is contended that if any reliefs as prayed for by the Plaintiff are granted by this Court, it will have the effect of punishing/censuring the right to free speech and expression of the Platform's users and obstructing their access to the Platform. It is further stated that such reliefs will restrain the Platform's users from freely publishing and editing the content of the Platform and would further discourage the users from posting content that may not align with the preferences of individuals or entities like the Plaintiff.

12. Furthermore, the learned senior counsel states that there is no urgency to grant any interim relief to the Plaintiff, which in any event are barred by limitation as the impugned statements have been present on the Plaintiff's page since 2024 but have been present in various secondary sources since 2019. Therefore, the cause of action would not arise afresh from 2024 but would have arisen when such statements were first published. It is submitted that looking at the position that the impugned statements are present on various domains since 2019, there is no irreparable injury or

balance of convenience in favour of the Plaintiff that necessitates any interim orders at this stage. It is also stated that the inordinate delay in impugning the alleged defamatory content has disintitiled the Plaintiff from seeking Interim Reliefs as evidently the Plaintiff has suffered no demonstrable prejudice or undue hardship since 2019. It is further contended that this Court ought to consider the issue of limitation before deciding to grant interim reliefs. It is stated that the Plaintiff is trying to revive its cause of action and circumvent the limitation period for filing the present suit by coalescing the deletion of proposed edits and the rejection of the deletions on the Plaintiff's page. It is also contended that the mere act of maintaining or reverting edits does not constitute a fresh publication nor a fresh cause of action.

13. The learned Senior Counsel also submits that the removal relief and the restraint relief are identical to the final reliefs as sought for in the Suit filed by the Plaintiff; the Plaintiff is seeking an Order from this Court to partly decree the suit at the interim stage itself, which is not maintainable. It is also stated that if such interim reliefs are granted, it would impose unreasonable obligations on the Defendant No. 1 to continually adjudicate on the alleged defamatory content on the Plaintiff's page on the Platform to ensure that impugned statements or content similar to it remains absent from the Plaintiff's page and by doing so, the Defendant No. 1 will not be able to perform its duties as an intermediary under the Information Technology Act, 2000.

14. Heard learned Counsels for the parties and perused the material on record.

15. It is the case of the Defendant No. 1 that it is an intermediary under the Information Technology Act, 2000 and therefore, has no role with respect to the impugned statements made by Defendants No. 2 to 4 on the Plaintiff's page. Hence, this Court is of the opinion that Defendant No. 1, being an intermediary has some fiduciary responsibilities and obligations to prevent acts of defamation. The Hon'ble Supreme Court in Google India Private Limited v. Visaka Industries, (2020) 4 SCC 162 has held as under:-

"50. At this juncture, it is apposite that we take a deeper look at what the Government of India has to say about Section 79.

51. Section 79 is a safe harbour provision. Internet intermediaries give access to host, disseminate and index content, products and services originated by third parties on the internet. There are different kinds of intermediaries. They include:

(i) Internet Access and Service Provider (ISP).

Examples are given in this category of Airtel, Vodafone, BSNL among others;

(ii) Data Processing and Web Hosting Providers. Examples include GoDaddy and BigRock;

(iii) Internet Search Engines and Portals like Google, Yahoo and Binge;

(iv) Email hosts like Gmail (Google) and Yahoo!Mail;

(v) Then there are instant messaging platforms such as WhatsApp, Facebook Messenger, Skype, etc.;

(vi) E-commerce intermediaries where the platforms do not take title to the goods being sold like Amazon India, Flipkart, etc.;

(vii) Internet Payment Systems and Mobile Wallets like Paytm, etc.;

(viii) There are also participative internet platforms. This extract is taken from Google India (P) Ltd. v. Visaka Industries, (2020) 4 SCC 162 : (2020) 2 SCC (Cri) 502 : 2019 SCC OnLine SC 1587 at page 188

52. The 2008 Amendment introduced Chapter XII to the Information Technology Act. The amendment was in the background of the decision of the Delhi High Court in Avnish Bajaj v. State (NCT of Delhi) [Avnish Bajaj v. State (NCT of Delhi), 2004 SCC OnLine Del 1160 : (2005) 116 DLT 427] .

53. Intermediaries stand on a different footing being only facilitators of exchanges of information or sales. Prior to the amendment, the exemption provision under Section 79 did not exist and, therefore, an intermediary would have been liable for any third-party information or data made available by him as seen in Baazee [Ed. :

The reference seems to be to Avnish Bajaj v. State, 2008 SCC OnLine Del 688 which has been reversed in Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661. Avnish Bajaj case involved an action against the Directors of Bazeer.com.] . After the amendment, intermediary is not liable under any Act if it satisfied certain requirements as detailed in Section

54. After referring to the decision in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 :

(2015) 2 SCC (Cri) 449] , the Government of India has understood the position at law to be that Section 79 stands read down to mean that an intermediary would need to takedown information only upon receiving actual knowledge that a court order has been passed to remove or disable certain material and not otherwise.

The further stand of the Government of India is thus there is a recognition that intermediaries and neutral platforms are only facilitating information. It is further pointed out on behalf of the Government of India that the interpretation placed by this Court in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] was not available to the High Court when it passed the impugned order in this case. Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] makes it clear that an intermediary's liability will not arise unless it failed to takedown material upon there being actual knowledge by court order or government communication. This safeguard has been put in place to avoid chilling effect on free speech. The

intermediaries would, if a contrary view is taken, stand elevated to the status of super censors and denude the internet of its unique feature of a democratic medium for all to publish, access and read any and all kinds of information.

55. Owing to the special unique characteristic of the internet, intermediaries are not in a position to know about a content which is posted on its platforms by itself and, therefore, the strict liability principle cannot be made applicable to internet intermediaries. It is the specific stand of the Government of India that even pre-amendment, an intermediary could not know the contents of what is posted on its website and, therefore, be held liable in the absence of a takedown order by a court or governmental agency.

56. The Government of India, it is also noticed, has perceived a distinction between blocking under Section 69-A of the Information Technology Act and takedown under Section 79 of the Information Technology Act. Section 69-A reads as follows:

"69-A. Power to issue directions for blocking for public access of any information through any computer resource.--(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine."

57. It is pointed out that the grounds under which the Government issues directions for blocking information are limited and confined to matters relating to national security, public order and the like. The power does not expand to blocking any case of defamation, contempt of court, etc. A blocking order under Section 69-A cannot be passed for criminal defamation as it does not fall under the scope of Section 69-A. Therefore, if a party is aggrieved by posting of a defamatory content on website, he must seek recourse to the court process for adjudication. The matter can be directed to be removed or access disabled under Section 79(3) of the Information Technology Act. Since, the court process can be long drawn, the aggrieved party may seek an interim order before a competent court.

58. In fact, the learned Senior Counsel for the appellant did not, as such, canvass the matter on the basis of Section 79 before it was substituted. However, we deem it proper to delineate its scope in view of the fact that if there is an express legal bar to attach criminal liability upon the appellant under the Act, it would become a matter of jurisdiction. It is also the stand taken by the Government of India that there be no liability on the intermediary under Section 79 of the Act prior to the substitution as we have set out hereinbefore.

59. It must be noted that stand of the appellant primarily has been that the appellant is not the intermediary in this case and the intermediary in this case is Google LLC. The arguments have been otherwise addressed by the appellant on the basis though that even proceeding on the basis that the appellant is treated as an intermediary, the complaint against the appellant, cannot be allowed to proceed.

60. On the question as to whether Section 79, as it stood prior to the substitution, would provide a shield to an intermediary, we would enter the following findings.

61. In our view, Section 79, before its substitution, exempted the network service provider, which is defined as an intermediary, from liability under the Act, Rules or Regulations made thereunder in regard to any third-party information or data made available by him provided the service provider:

1. Proves that the offence or contravention was committed without his knowledge;
2. The service provider proves that he had exercised all due diligence to prevent the commissioning of such offences or contraventions.

62. This provision may be contrasted with the later avatar of Section 79 of the Act consequent upon substitution with effect from 27-10-2009. Sub-section (1) of Section 79, in unambiguous words, declares by way of a non obstante clause that in spite of anything contained in any law which is in force, though subject to the provisions of sub-sections (2) and (3), an intermediary would not be liable for any third-party information, data or communication link hosted by him. The conditions are set out in sub-section (2).

63. As we have noticed, the scope of Section 79, before its substitution, was confined to confer immunity from liability in regard to an offence under the Act or the Rules or Regulations qua third-party action or data made available. In this regard, it must be noticed that Chapter XI of the Act deals with the offences. Sections 65 to 67-B deal with various offences under the Act. This is besides Sections 71, 72-A, 73 and 74 of the Act. Section 79 falls under Chapter XII. Therefore, the scheme of the Act would also indicate that Section 79, as it was prior to the substitution, was indeed confined to the liability of the network service provider arising out of the provisions of the Act besides, no doubt, Rules and Regulations, and it was not, in short, a bar to the complaint under Section 500 IPC being launched or prosecuted.

64. The complaint relates, in short, to a period, much prior to the substitution of Section 79 of the Act, which ultimately took place only with effect from 27-10-2009. The Court, in Shreya Singhal

[Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] , was not considering the provisions of Section 79 as it stood before the substitution on 27-10-2009 which is what the High Court has focussed on to find that it was not open to the appellant to seek shelter under Section

79. No doubt, there are certain observations which have been made by the High Court regarding notice to the petitioner, which we will dwell upon.

65. We may, in fact, notice another aspect of the matter. Even, proceeding on the basis that Section 79 should engage us any further, we cannot be oblivious to an integral feature of Section 79 prior to its substitution. As we have noted, the lawgiver has given protection from liability not unconditionally. It is for the service provider to prove that the offence or contravention was committed without his knowledge. He is also to prove that he has exercised all due diligence to prevent the commission of such offence or contravention. We will, for the purpose of argument, assume that the offence or contravention could relate to even Section 500 IPC.

Even then, for the protection given by the provisions, as it stood at the time when the offence alleged against the appellant was allegedly committed by it, to apply, it would become incumbent upon the appellant to prove that the offence or the contravention was committed without its knowledge and that it had taken all due diligence to prevent the commission of such offence or contravention. It may be at once noticed that in reality the scope of Section 79 of the Act, prior to the substitution, was limited to granting exemption to the network service provider from any liability under the Act, Rules or Regulations made thereunder, no doubt, in regard to third-party information or data available by him. The commission of an offence under Section 500 IPC, would not be a liability under the Act or Rules, or Regulations made under the Act. However, it is undoubtedly true that the scope of the protection afforded to the intermediary stands remarkably expanded with the substituted provisions of Section 79 coming into force, no doubt, subject to the conditions attached thereunder and as explained by this Court in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] .

66. The Government of India, no doubt, has contended that the High Court did not have the benefit of judgment of this Court in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] . We may notice that what is considered in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] was Section 79 after substitution. There was a challenge mounted to the constitutionality of Section 79. This Court held as follows, inter alia : (SCC pp. 180-81, paras 120-24) "120. One of the petitioners' counsel also assailed Section 79(3)(b) to the extent that it makes the intermediary exercise its own judgment upon receiving actual knowledge that any information is being used to commit unlawful acts. Further, the expression "unlawful acts" also goes way beyond the specified subjects delineated in Article 19(2).

121. It must first be appreciated that Section 79 is an exemption provision. Being an exemption provision, it is closely related to provisions which provide for offences including Section 69-A. We have seen how under Section 69-A blocking can take place only by a reasoned order after complying with several procedural safeguards including a hearing to the originator and intermediary. We have also seen how there are only two ways in which a blocking order can be passed-- one by the

Designated Officer after complying with the 2009 Rules and the other by the Designated Officer when he has to follow an order passed by a competent court. The intermediary applying its own mind to whether information should or should not be blocked is noticeably absent in Section 69-A read with the 2009 Rules.

122. Section 79(3)(b) has to be read down to mean that the intermediary upon receiving actual knowledge that a court order has been passed asking it to expeditiously remove or disable access to certain material must then fail to expeditiously remove or disable access to that material. This is for the reason that otherwise it would be very difficult for intermediaries like Google, Facebook, etc. to act when millions of requests are made and the intermediary is then to judge as to which of such requests are legitimate and which are not. We have been informed that in other countries worldwide this view has gained acceptance, Argentina being in the forefront. Also, the Court order and/or the notification by the appropriate Government or its agency must strictly conform to the subject-matters laid down in Article 19(2). Unlawful acts beyond what is laid down in Article 19(2) obviously cannot form any part of Section 79. With these two caveats, we refrain from striking down Section 79(3)(b).

123. The learned Additional Solicitor General informed us that it is a common practice worldwide for intermediaries to have user agreements containing what is stated in Rule 3(2). However, Rule 3(4) needs to be read down in the same manner as Section 79(3)(b). The knowledge spoken of in the said sub-rule must only be through the medium of a court order. Subject to this, the Information Technology (Intermediaries Guidelines) Rules, 2011 are valid.

*** 124.3. Section 79 is valid subject to Section 79(3)(b) being read down to mean that an intermediary upon receiving actual knowledge from a court order or on being notified by the appropriate Government or its agency that unlawful acts relating to Article 19(2) are going to be committed then fails to expeditiously remove or disable access to such material. Similarly, the Information Technology (Intermediaries Guidelines) Rules, 2011 are valid subject to Rule 3 sub-rule (4) being read down in the same manner as indicated in the judgment."

67. The Court also was considering the challenge to the provisions of the Information Technology (Intermediaries Guidelines) Rules, 2011 (hereinafter referred to as "the Rules", for short). The Rules were brought into force after 2011. It was made under Section 87 of the Act. Rule 3 provides for due diligence to be observed by the intermediary. It is obliged to publish the Rules and Regulations and the Privacy Policy and User Agreement. The intermediary is to intimate the user not to use certain matter which include defamatory matter. Rule 3(3) of the Rules provided that the intermediary was not to knowingly host or publish any information, inter alia, contained, as specified in sub-rule (2). Thus, under the Rules, the intermediary could not knowingly host or publish information which was, inter alia, defamatory. Rule 3(4) of the Rules, read as follows:

"3. Due diligence to be observed by intermediary.-- The intermediary shall observe following due diligence while discharging his duties, namely--

*** (4) The intermediary, on whose computer system the information is stored or hosted or published, upon obtaining knowledge by itself or been brought to actual knowledge by an affected person in writing or through email signed with electronic signature about any such information as mentioned in sub-rule (2) above, shall act within thirty-six hours and where applicable, work with user or owner of such information to disable such information that is in contravention of sub-rule (2).

Further the intermediary shall preserve such information and associated records for at least ninety days for investigation purposes.""

16. Defendant No.1, therefore, cannot completely wash its hands of the contents of the article on the ground that it is only an intermediary and cannot be held responsible for the statement that is published on its platform. Defendant No.1 professes itself to be an encyclopedia and people at large have a tendency to accept the statements made on the web pages of Defendant No.1 as gospel truth. The responsibility, therefore, of Defendant No.1 is higher. This Court is not dwelling further on this aspect while considering the present application.

17. Before dwelling into the issues in the present application, this Court is inclined to reiterate the settled positions of law with regards to pre-trial ad interim injunctions with respect to a defamation suit.

18. The Apex Court in *Bloomberg Television Production Services India Private Limited and Other v. Zee Entertainment Enterprises Limited*, (2025) 1 SCC 741, has held as under:-

"4. The threefold test of establishing : (i) a prima facie case, (ii) balance of convenience, and (iii) irreparable loss or harm, for the grant of interim relief, is well-established in the jurisprudence of this Court. This test is equally applicable to the grant of interim injunctions in defamation suits. However, this threefold test must not be applied mechanically [*DDA v. Skipper Construction Co. (P) Ltd.*, (1996) 4 SCC 622, para 38 : (1997) 89 Comp Cas 362.] , to the detriment of the other party and in the case of injunctions against journalistic pieces, often to the detriment of the public.

While granting interim relief, the court must provide detailed reasons and analyse how the threefold test is satisfied. A cursory reproduction of the submissions and precedents before the court is not sufficient. The court must explain how the test is satisfied and how the precedents cited apply to the facts of the case.

5. In addition to this oft-repeated test, there are also additional factors, which must weigh with courts while granting an ex parte ad interim injunction. Some of these factors were elucidated by a three-Judge Bench of this Court in *Morgan Stanley Mutual Fund v. Kartick Das* [*Morgan Stanley Mutual Fund v. Kartick Das*, (1994) 4 SCC 225 : (1994) 81 Comp Cas 318] , in the following terms : (SCC pp. 241-42, para 36) "36. As a principle, ex parte injunction could be granted only under

exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are--

- (a) whether irreparable or serious mischief will ensue to the plaintiff;
- (b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;
- (c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;
- (d) the court will consider whether the plaintiff had acquiesced for some time and in such circumstances it will not grant ex parte injunction;
- (e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.
- (f) even if granted, the ex parte injunction would be for a limited period of time.
- (g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court."

6. Significantly, in suits concerning defamation by media platforms and/or journalists, an additional consideration of balancing the fundamental right to free speech with the right to reputation and privacy must be borne in mind [R. Rajagopal v. State of T.N., (1994) 6 SCC 632] . The constitutional mandate of protecting journalistic expression cannot be understated, and courts must tread cautiously while granting pre-trial interim injunctions. The standard to be followed may be borrowed from the decision in *Bonnard v. Perryman* [*Bonnard v. Perryman*, (1891) 2 Ch 269 (CA)] . This standard, christened the "Bonnard standard", laid down by the Court of Appeal (England and Wales), has acquired the status of a common law principle for the grant of interim injunctions in defamation suits [*Holley v. Smyth*, 1998 QB 726 (CA)] . The Court of Appeal in *Bonnard* [*Bonnard v.*

Perryman, (1891) 2 Ch 269 (CA)] held as follows : (Ch p. 284) "... But it is obvious that the subject-matter of an action for defamation is so special as to require exceptional caution in exercising the jurisdiction to interfere by injunction before the trial of an action to prevent an anticipated wrong. The right of free speech is one which it is for the public interest that individuals should possess, and, indeed, that they should exercise without impediment, so long as no wrongful act is done; and, unless an alleged libel is untrue, there is no wrong committed; but, on the contrary, often a very wholesome act is performed in the publication and repetition of an alleged libel. Until it is clear that an alleged libel is untrue, it is not clear that any right at all has been infringed; and the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions."

(emphasis supplied)

7. In *Fraser v. Evans* [*Fraser v. Evans*, (1969) 1 QB 349 : (1968) 3 WLR 1172 (CA)] , the Court of Appeal followed the *Bonnard* principle and held as follows :

(QB p. 360) "... insofar as the article will be defamatory of Mr Fraser, it is clear he cannot get an injunction. The Court will not restrain the publication of an article, even though it is defamatory, when the defendant says he intends to justify it or to make fair comment on a matter of public interest. That has been established for many years ever since (*Bonnard v. Perryman* [*Bonnard v. Perryman*, (1891) 2 Ch 269 (CA)]). The reason some times given is that the defences of justification and fair comment are for the jury, which is the constitutional tribunal, and not for a Judge. But a better reason is the importance in the public interest that the truth should out. ..."

(emphasis supplied)

8. In essence, the grant of a pre-trial injunction against the publication of an article may have severe ramifications on the right to freedom of speech of the author and the public's right to know. An injunction, particularly *ex parte*, should not be granted without establishing that the content sought to be restricted is "malicious" or "palpably false". Granting interim injunctions, before the trial commences, in a cavalier manner results in the stifling of public debate. In other words, courts should not grant *ex parte* injunctions except in exceptional cases where the defence advanced by the respondent would undoubtedly fail at trial. In all other cases, injunctions against the publication of material should be granted only after a full-fledged trial is conducted or in exceptional cases, after the respondent is given a chance to make their submissions.

9. Increasingly, across various jurisdictions, the concept of "Slapp suits" has been recognised either by statute or by courts. The term "Slapp" stands for "Strategic Litigation against Public Participation" and is an umbrella term used to refer to litigation predominantly initiated by entities that wield immense economic power against members of the media or civil society, to prevent the public from knowing about or participating in important affairs in the public interest [Donson, F.J.L., *Legal Intimidation : A Slapp in the Face of Democracy* (London, New York : Free Association Books, 2000).] . We must be cognizant of the realities of prolonged trials. The grant of an interim injunction, before the trial commences, often acts as a "death sentence" to the material sought to be published, well before the allegations have been proven. While granting *ad interim* injunctions in defamation suits, the potential of using prolonged litigation to prevent free speech and public participation must also be kept in mind by courts.

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11. Undoubtedly, the grant of an interim injunction is an exercise of discretionary power and the appellate court (in this case, the High Court) will usually not interfere with the grant of interim relief. However, in a line of precedent, this Court has held that appellate courts must interfere with the grant of interim relief if the discretion has been exercised "arbitrarily, capriciously, perversely, or where the court has ignored settled principles of law regulating the grant or refusal of interlocutory injunctions". [Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel, (2006) 8 SCC 726, paras 126 & 128; Shyam Sel & Power Ltd. v. Shyam Steel Industries Ltd., (2023) 1 SCC 634, para 37 : (2023) 1 SCC (Civ) 301.] The grant of an ex parte interim injunction by way of an unreasoned order, definitely falls within the above formulation, necessitating interference by the High Court. This being a case of an injunction granted in defamation proceedings against a media platform, the impact of the injunction on the constitutionally protected right of free speech further warranted intervention."

19. In view of the abovementioned judgment, this court must consider the following for the grant of interim injunction in a defamation case - a Prima facie case, balance of convenience, and irreparable loss.

20. Material on record indicates that the Defendants No. 2 to 4 stand served. Despite service, Defendants No. 2 to 4 have chosen not to appear, no pleadings or reply have been filed by Defendants No. 2 to 4.

21. To adjudicate on the issue as to whether the impugned statements are taken from the cited sources on which they have relied upon and whether the impugned statements on the Plaintiff's page are in terms of the publishing policy of the Defendant No. 1's Platform, this Court has gone through the policy of Defendant No.1 and also the sources relied on by Defendants No.2 to 4. The policy as laid down by Defendant No. 1 is as under:-

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22. After going through the policy of the Defendant No. 1 regarding neutral point of view which states that any encyclopedic content on Wikipedia must be written from a neutral point of view, without any editorial bias. On perusal of the page pertaining to the Plaintiff, it appears that the statements on the page pertaining to the Plaintiff are all sourced from articles which are nothing but editorials and opinionated pages. Defendant No.1 which is following the policy to avoid stating opinions as facts and also professing it to be an encyclopedia has to also see as to whether the opinions are actually based on the source articles or not so that neutral policy of Defendant No.1 is not violated.

23. To deal with the contentions of the learned Senior Counsel for Defendant No.1 that the Single Publication Rule is applicable to the present case or not, this Court finds it appropriate to reiterate the law as laid down by this Court with regards to Single Publication Rule. This Court in Khawar Butt v. Asif Nazir Mir, 2013 SCC OnLine Del 4474, has held as under:-

"14. I first proceed on to determine the legal issue :

Whether, the leaving of the allegedly defamatory material on the internet/facebook page gives rise to a fresh cause of action every moment the said offending material is so left on the webpage-which can be viewed by others at any time, or whether the cause of action arises only when the offending material is first posted on the webpage/internet.

15. Learned counsel for the plaintiff has not substantiated his aforesaid submission with any case law or other academic discussion on the subject. I have, therefore, endeavored to examine the issue on my own. I have not come across any Indian case law on the subject, vis-a-vis internet publications. I have, therefore, proceeded to go beyond the Indian boundaries to see as to how this issue has been dealt with in other jurisdictions. In a nutshell, there are two conflicting legal positions, one being followed in U.K. till recently-and this is still followed in Australia, Canada and Germany, and the other in U.S.A., France and, now the U.K. The earlier U.K. view was based on a long standing rule in defamation cases-that every time an article or statement is published or republished, it creates an individual, discrete, actionable, defamatory statement upon which one can sue, generally known as the "multiple publication rule".

16. The multiple publication rule was first developed in England in the case of Duke of Brunswick v. Harmer, (1849) 14 QB 185. In 1847, the Duke was given a copy of the newspaper that contained material defamatory of him which had been published 17 years earlier.

While upholding the claim for damages as being within limitation, the Court held that the limitation period of 6 years re-started when Duke viewed the publication. In Godfrey v. Demon Internet Limited, (2001) QB 201, the same rule was applied to the internet. Moorland J observed:

"In my judgment the defendants, whenever they transmit and whenever there is transmitted from the storage of their news server a defamatory posting, publish that posting to any subscriber to their ISP who accesses the newsgroup containing that posting. "

17. The U.K. Government in a consultation paper-(the Multiple Publication Rule CP 20/09) describes the multiple publication rule as follows:

"The effect of the multiple publication rule in relation to online material is that each "hit" on a webpage creates a new publication, potentially giving rise to a separate cause of action, should it contain defamatory material. Each cause of action has its own limitation period that runs from the time at which the material is accessed. As a result, publishers are potentially liable for any defamatory material published by them and accessed via their online archive, however long after the initial publication the material is accessed, and whether or not proceedings have already been brought in relation to the initial publication."

18. The effect of the Multiple Publication Rule is that the limitation period runs from the date of the last publication of the defamatory statement, allowing the affected party to sue many years after the statement was first made. In the case of archived materials, an action could follow decades after the original publication of the material.

19. The Multiple Publication Rule has been followed by the Australian Courts in *Dow Jones & Co. Inc v. Gutnick*, (2002) HCA 56. The High Court of Australia explicitly rejected calls to abolish the said rule in favour of the Single Publication Rule. The court rejected the argument that the Single Publication Rule be adopted for policy reasons, as it would be impossible for a publisher on the internet to protect itself against all the laws in every jurisdiction of the world. The High Court held that defamation proceedings sought to strike a balance between both- the rights of the publisher and the person who is the subject of the publication and whose rights would be severely constrained by the Single Publication Rule advocated by the applicant *Dow Jones & Co. Inc*.

20. There were several occasions when the English courts rejected the call to abandon the Multiple Publication Rule. Reference may be made to *Berezovsky v. Michaels*, (2000) 1 WLR 1004 and *Loutchansky v. Times Newspapers Ltd.*, (2002) QB 783. Lord Philips of Worth Matravers MR, while delivering the court's judgment observed:

"We do not accept that the rule in the *Duke of Brunswick* imposes a restriction on the readiness to maintain and provide access to archives that amounts to a disproportionate restriction on freedom of expression. We accept that the maintenance of archives, whether in hard copy or on the Internet, has a social utility, but consider that the maintenance of archives is a comparatively insignificant aspect of freedom of expression. Archive material is stale news and its publication cannot rank in importance with the dissemination of contemporary material. Nor do we believe that the law of defamation need inhibit the responsible maintenance of archives. Where it is known that archive material is or may be defamatory, the attachment of an appropriate notice warning against treating it as the truth will normally remove any sting from the material."

Leave to appeal to the House of Lords was rejected.

21. An appeal was then preferred before the European Court of Human Rights (ECHR), seeking to enforce the newspapers right to freedom of expression under Article 10 of the European Convention of Human Rights (reported as *Times Newspapers Ltd.*-(Nos. 1 and

2) v. United Kingdom, (2009) EMLR 14). While recognizing the importance of the press in disseminating information and acting as a public watchdog, the ECHR observed that the press also had the responsibility to protect the rights and reputations of the private individuals about whom it wrote. It was held that the interference with the rights of the press, in the facts of that case, was not disproportionate. It was held that the newspapers could have continued to maintain its archive without fear of litigation, had they placed a notice with the archived material thereby indicating that it was the subject of litigation, or had been found to contain defamatory comments-a solution

offered by the Court of Appeal in that case. Since the action had been initiated within 18 months of the publication taking place, it was held that the defendant had not been required to defend an action many decades after the first publication had been made. Significantly, the court held:

"The Court would, however, emphasise that while an aggrieved applicant must be afforded a real opportunity to vindicate his right to reputation, libel proceedings brought against a newspaper after a significant lapse of time may well, in the absence of exceptional circumstances, give rise to a disproportionate interference with press freedom under Article 70."

22. Therefore, even though the ECHR did not interfere with the decision of the English Court in the facts of the case, it did indicate that if the action was brought after a significant lapse of time, the situation could well have been different.

23. The Canadian Courts have also followed the earlier British Multiple Publication Rule. In *Carter v. B.C. Federation of Foster Parents Association*, 2005 BCCA 398, the court of appeal for British Columbia preferred to follow the then prevailing English legal position over the American view by observing:

"7... Although it is difficult to find an express statement in the Canadian cases about the single publication rule, the clear tendency of the authorities in my view is in favour of the English and the Australian position and not in favour of the American position".

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24. I may also refer to the decision of the Court of Appeal for Ontario in *Shatif v. Toronto Life Publishing Co. Ltd.*, (2013) ONCA 405. While considering the issue, section 6 of the Libel and Slander Act, R.S. 01990 c.L. 12 was considered by the court, which reads as follows:

„An action for a libel in a newspaper or in a broadcast shall be commenced within three months after the libel has come to the knowledge of the person defamed, but, where such an action is brought within that period, the action may include a claim for any other libel against the plaintiff by the defendant in the same newspaper or the same broadcasting station within a period of one year before the commencement of the action", (emphasis supplied)

25. The court rejected the Single Publication Rule- applied by the American Courts, with the following observation:

"[31] However, the single publication rule has been rejected in England : see *Berezovsky v. Michaels*, [2000] 2 All E.R. 986 (H.L.); *Loutchansky v. Times Newspapers Ltd.*, [2002] Q.B. 783 (C.A.); in Australia : see *Dow Jones and Co. Inc. v. Gutnick*, [2002] H.CA 56, 2010 C.L.R. 575; and by the British Columbia Court of

Appeal : see *Carter v. B.C. Federation of Foster Parents Assn.*, 2005 BCCA 398(CanLII), 2005 BCCA 398, 257 D.L.R. (4th) 133. And the motion judge refused to apply the rule in this case.

[32] I, too, would not apply the single publication rule for three reasons. First, the rule does not fit comfortably with the words of s. 6 of the Act. The single publication rule is based on publication of an alleged libel. Successive publications are considered a single publication and the date of the first publication triggers the running of the limitation period. Under s. 6 of Ontario's Act, the date when the libel first came to the plaintiffs' knowledge, not the date of publication, triggers the running of the limitation period.

[33] Moreover, the recapture provision in s. 6 is inconsistent with a single publication rule. A simple example will illustrate the inconsistency. Take a case where the same libel is published and later republished, and the plaintiff sues for damages for the republished libel. Section 6 would allow the plaintiff to recapture the earlier libel. In effect, s. 6 recognizes two separate libels; the single publication rule recognizes only one.

[34] Second, the jurisprudence of this court has, implicitly at least, rejected the single publication rule. In *Weiss v. Sawyer*, (2002) 61 O.R. (3d) 526 (C.A.), at para. 28, Armstrong J.A. affirmed the traditional English rule: "Every republication of a libel is a new libel."

[35] Third, even if we were to consider a single publication rule in Ontario, I would not apply it across different mediums of communication. In my opinion, it would be unfair to plaintiffs to apply the rule to publications that are intended for different groups or that may reach different audiences. Even in American-

states that apply the single publication rule, at least one state, California, has rejected its application for reprinting or republication in a different form : see *Kanarek v. Bugliosi*, (1980) 108 Cal. App. 3d 327. Also, the Restatement of the Law, Second : Torts (American Law Institute, 1977) states that the single publication rule does not include separate aggregate productions on different occasions. If the publication reaches a new group, the repetition justifies a new cause of action. See s. 57 7A.

[36] Applying the single publication rule where, as in this case, the original publication is in print and the republication is on the internet could create a serious injustice for persons whose reputations are damaged by defamatory material. A plaintiff may not want to expend the time and resources to sue for an alleged libel in a magazine, which has a limited circulation and a limited lifespan. The plaintiff may consider the magazine's circulation insufficient to warrant a lawsuit.

[37] However, a plaintiff may well want to spend the time and money to sue if the alleged libel is on the magazine's website and accessible on the internet. Unless the article is removed from the website, its circulation is vast, its lifespan is unlimited, and its potential to damage a person's reputation is enormous. Yet, if a single publication rule is applied, the plaintiffs claim may be statute barred before real damage to reputation has occurred".

26. At this stage, I may note that the decision in this case was, inter alia, based on, firstly, the express language of section 6 of the Libel and Slander Act, as set out herein above, as also the fact that after the original publication had been made in print, the same was re-published on the internet. The re-publication of the same article on the internet would constitute a fresh publication, as it was directed towards a different set of people than those covered by the first publication in print media.

27. In Ireland, the Multiple Publication Rule was abolished by the introduction of the Defamation Act, 2009. The Government appointed legal advisory group of defamation, 2003 advocated, inter alia, introduction of the Single Publication Rule. Section 38(1)(b) of the Defamation Act, after amendment, reads as follows:

"For the purposes of bringing a defamation action within the meaning of the Defamation Act, 2009, the date of accrual of the cause of action shall be the date upon which the defamatory statement is first published and, where the statement is published through the medium of the internet, the date on which it is first capable of being viewed or listened to through that medium".

28. Recently, in the United Kingdom, the law has changed with the enactment of the Defamation Act, 2013. Section 8 has introduced the Single Publication Rule, which reads as follows:

"8. Single publication rule (1) This section applies if a person--

(a) publishes a statement to the public ("the first publication"), and

(b) subsequently publishes (whether or not to the public) that statement or a statement which is substantially the same.

(2) In subsection (1) "publication to the public"

includes publication to a section of the public.

(3) For the purposes of section 4A of the Limitation Act, 1980 (time limit for actions for defamation etc) any cause of action against the person for defamation in respect of the subsequent publication is to be treated as having accrued on the date of the first publication.

(4) This section does not apply in relation to the subsequent publication if the manner of that publication is materially different from the manner of the first publication.

(5) In determining whether the manner of a subsequent publication is materially different from the manner of the first publication, the matters to which the court may have regard include (amongst other matters)--

(a) the level of prominence that a statement is given;

(b) the extent of the subsequent publication.

(6) Where this section applies--

(a) it does not affect the court's discretion under section 32A of the Limitation Act, 1980 (discretionary exclusion of time limit for actions for defamation etc), and

(b) the reference in subsection (1)(a) of that section to the operation of section 4A of that Act is a reference to the operation of section 4A together with this section".

29. Therefore, the Multiple Publication Rule followed in the United Kingdom by the courts since *Duke of Brunswick* (supra), has statutorily been overruled. It would be interesting to observe the course of developments that may now take place in other commonwealth jurisdictions like Australia and Canada, post the aforesaid development in the United Kingdom.

30. As noticed above, the second principle is what the American Courts call the "Single Publication Rule". It states that the publication of a book, periodical or newspaper containing defamatory material gives rise to only one cause of action for defamation, which implies, that the limitation period starts to run at the time the first publication is made, even if copies continue to be sold several years later. The rule has a long history. It was first developed in 1938 in respect of newspapers, in *Wolfson v. Syracuse Newspapers, Inc*, (1939) 279 NY 716. Then it was applied to books in 1948 in the case of *Gregoire v. G.P. Putnam's Sons*, (1948) 298 NY 119. The facts of this case were that a book was originally put on sale in 1941. It had been reprinted seven times, and was still being sold from stock in 1946. The New York Court of Appeals held that the limitation period started to run in 1941, when the book was first put on sale.

31. In *Gregoire* (supra), the New York Court did not accept the rule as set out in *Duke of Brunswick* (supra), as it had its origin in an era which long antedated the modern process of mass publication. The said rule, it was held, was no longer suited to modern conditions. The court held that under such a rule, the period of limitation would never expire so long as a copy of the published material remained in stock and is made by the publisher, the subject of a sale or inspection by the public. Such a rule would thwart the purpose of the legislature which is to bar completely and forever all actions which overpass the prescribed limitation period.

32. The Single Publication Rule is encapsulated in the American Law Institutes Uniform Single Publication Act, 1952. It is set out in Article 577A of the 2nd Restatement of Torts (197) as follows:

"(1) Except as stated in subsections (2) and (3), each of several communications to a third person by the same defamer is a separate publication.

„(2) A single communication heard at the same time by two or more third persons is a single publication.

„(3) Any one edition of a book or newspaper, or any one radio or television broadcast, exhibition of a motion picture or similar aggregate communication is a single publication.

„(4) As to any single publication, (a) only one action for damages can be maintained; (b) all damages suffered in all jurisdictions can be recovered in the one action; and a judgment for or against the plaintiff upon the merits of any action for damages bars any other action for damages between the same parties in all jurisdictions."

33. In 2002, the New York Court of Appeals, applied the single publication rule to a website publication in *Firth v. State of New York*, (2002) NY int 88. This appeal presented the first occasion for that court to determine how the defamation jurisprudence, developed in connection with traditional mass media communications, applies to communications in a new medium-cyberspace-in the modern information age. In this case a report had been published at a press conference on 16.12.1996, and placed on the internet on the same day. The Claimant, however, did not file a claim for over a year. The Court found that the limitation period started when the information was first placed on the website, and not from each "hit" received. Levine, J. observed that"/+ addition to increasing the exposure of publishers to stale claims, applying the multiple publication rule to a communication distributed via mass media would permit a multiplicity of actions, leading to potential harassment and excessive liability, and draining of judicial resources (see *Keeton v. Hustler Mag., Inc.*, 465 US 770, 777 [1984]). The court further held that the policies impelling the original adoption of the single publication rule "are even more cogent when considered in connection with the exponential growth of the instantaneous, worldwide ability to communicate through the internet." The alternative would give "even greater potential for endless retriggering of the statute of limitations, multiplicity of suits and harassment of defendants." The court further observed that if the single publication rule is. not upheld with regard to internet publications, then "Inevitably, there would be a serious inhibitory effect on the open, pervasive dissemination of information and ideas over the internet, which is, of course, its greatest beneficial promise."

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34. The court also rejected the argument that re- publication re-triggered the period of limitation. The court observed that re-publication occurs:

"upon a separate aggregate publication from the original, on a different occasion, which is not merely "a delayed circulation of the original edition" (Rinaldi v. Viking Penguin, Inc., 52 NY2d at 435; Restatement [Second] of Torts „577A, Comment d, at 210, supra). The justification for this exception to the single publication rule is that the subsequent publication is intended to and actually reaches a new audience (see Rinaldi, 52 NY2d at 433 [Citing Cook v. Conners, 215 NY 175 (1915)]; Restatement, Comment d). Thus, for example, repetition of a defamatory statement in a later edition of a book, magazine or newspaper may give rise to a new cause of action (see Rinaldi, 52 NY2d at 433-435 [hard-cover and paperback editions of the same book]; see also Cook v. Conners, 215 NY at 179 [morning and afternoon editions of newspapers owned and published by the same individual]).

The mere addition of unrelated information to a Web site cannot be equated with the repetition of defamatory matter in a separately published edition of a book or newspaper, as in Rinaldi and Cook. The justification for the republication exception has no application at all to the addition of unrelated material on a Web site, for it is not reasonably inferable that the addition was made either with the intent or the result of communicating the earlier and separate defamatory information to a new audience."

24. According to the aforementioned decision of this Court, 'Single Publication Rule' only applies when the second publication is a verbatim reproduction of the first publication. After perusing the Articles which were being cited by Defendants No. 2 to 4 while making the impugned statements, this Court opines that the impugned statements on the Plaintiff's page are not verbatim reproduction of such articles, and these impugned statements are written in such a way which is totally contradictory to the intent with which these Articles were written and the impugned statements on the page pertaining to the Plaintiff on the Platform of Defendant No. 1 are devoid of the context of the Articles. Therefore, in the opinion of this Court, the impugned statements are ex-facie defamatory and tarnishes the professional reputation of the Plaintiff.

25. In view of the fact that Defendant No.2 to 4 have chosen not to appear despite service and this Court having perused the articles which are the source of this opinion, this Court finds that the opinion of Defendants No.2 to 4 do not represent the true picture of the articles and have been twisted by Defendants No.2 to 4. Further, this Court finds merit in the allegation of the Plaintiff that Defendant No.1 has ensured that the articles cannot be edited by anybody else, thereby putting Plaintiff in a disadvantage to rebut what is given in the page. Therefore, the present application is allowed in terms of prayer (b) and (c) of the application.

26. The application is disposed of.

SUBRAMONIUM PRASAD, J APRIL 02, 2025 RJ/y.chugh