**Summary and outcome**

The High Court of Delhi vacated the interim injunction orders placed on the defendants by the Court, which had stopped them from publishing posts, articles, and reports containing sexual harassment allegations against the plaintiff, Mahesh Murthy, a well-known venture capitalist, in a defamation case filed by the plaintiff against the defendants. The Court held that the tests of necessity and proportionality were not satisfied, and the balance of convenience did not favor the plaintiff.

**Fact**

**T**he plaintiff Mahesh filed the suit, seeking an Rs. 2,50,000 decree and a permanent injunction restraining the defendants from publishing any material referencing the plaintiff's allegedly inappropriate behavior. The plaintiff obtained interim injunction orders on 18.04.2017 against Defendant nos. 1-12 and on 28-04-2017 against Defendant nos. 13-18. The plaintiff's case was that he is a well-known venture capitalist enjoying goodwill in society. The defamatory material containing the inappropriate behavior of the plaintiff was published by Defendants no. 1 and 2, 15 and 16, which was propagated or reproduced by the other defendants. Defendant no. 1 published a report detailing the inappropriate behavior of the plaintiff on LinkedIn; this inspired Defendant no. 2 to share her account through Defendant nos. 5 and 6's web portal 'Indian CEO.' The plaintiff states that Defendants no. 1 and 2 were disgruntled by his rejection of their business proposals and therefore published defamatory posts against him. Subsequently, Defendant no. 4 published an article detailing sexual harassment in the start-up ecosystem in India on Defendant no. 3's website, yourstory.com, based on the accounts of Defendants no. 1 and 2.

Similarly, Asian Age, Defendant no. 7, and Deccan Chronicle published articles based on these accounts. Defendant no. 8 is the founder of shethepeople.tv, and Defendant no. 9, a business partner of Defendant no. 2, shared the published derogatory comments against the plaintiff on the social networking site Facebook. Defendant no. 10 is a documentary maker who allegedly sent defamatory messages to the plaintiff, and The Unicon Baba tweeted defamatory statements against the plaintiff on Defendant no. 11's website.

The plaintiff's case is that social media posts, journalistic articles, and reports contain defamatory statements and raise common questions of law and fact. Therefore, all were impleaded together. Subsequently, by order dated 28.04.2017, Defendants no. 13-18 were added as parties. Defendant no. 13 published an article titled "Mahesh Murthy in New Sexual Misconduct Charges; Seedfund says had heard other rumours" on the website factordaily.com, administered by Defendant no. 14. This article is based on allegations made by Defendants no. 15 and 16. In addition, it contains allegedly malicious statements from Defendants no. 17 and 18.

It was the case of the plaintiff that the said posts were defamatory. They were intended to lower the plaintiff's reputation in the eyes of the public and hamper his fundamental right to live with dignity, which is protected under Article 21 of the Constitution.

**Decision review**

The main issue before the Court was whether the interim injunction granted by the Court against publication should be continued. Justice Jayant Nath delivered the judgment for the Court.

The plaintiff, relying on Subramaniam Swamy v. Union of India, Swatentar Kumar v. Indian Express Ltd. and Ors., and Swami Ramdev v. Juggernaut Books Pvt. Ltd., argued that the right to freedom of speech and expression, under Article 19 must be balanced against the right to live with dignity under Article 21, and that the reputation of a person cannot be allowed to be sullied for the other's freedom of free speech. The defendants relied on Shashi Tharoor v. Arnab Goswami, where the Court concluded that there is no absolute rule in India that the courts don't have the power to pass pre-publication injunctions. The Court stressed the two-pronged test of necessity and proportionality that must be satisfied to postpone publication. Further, the injunction order should only be made if reasonable alternate methods would not prevent the said risk.

After examining the facts, at the outset, the Court stated that there was no correlation between the publications done by Defendant no. 1 at LinkedIn, Defendant no. 2 at Indianceo, and Defendants 15 and 16 at Factordaily, and that each arose out of separate alleged incidents. Further, relying on the two-pronged test of necessity and proportionality and that of reasonable alternative methods, it could not be said prima facie that the defendants had no case or were misusing their freedom of speech and expression to tarnish the plaintiff's reputation. Defendants no. 1, 2, 15, and 16 shared their unpleasant experiences with the plaintiff. The plaintiff's allegation that Defendants 1 and 2 were disgruntled because the plaintiff rejected their business proposals appeared to be a bald plea. Further, by the plaintiff's own admitting, Defendants no. 15 and 16 were successful individuals, and no reason to conclude that their publications were malafide.

The Court concluded that the defendants had the right to exercise their freedom of speech and expression and that the plaintiff had failed to make a prima facie case in his favor. Further, the balance of convenience was also against the plaintiff, and accordingly, the interim injunction orders were vacated.

**Decision Direction**

The decision expands freedom of speech and expression by holding that the interim injunction against publication can be granted only when the two-pronged test of necessity and proportionality is satisfied, and it is established that there is no other reasonable alternate method.

**Significance**

The decision relates to a defamation lawsuit brought by a plaintiff against several defendants who allegedly published negative statements about him on various platforms (LinkedIn, Indianceo, and Factordaily).

The Court examined the facts presented and found that each alleged publication incident by the defendants was separate and unrelated. The Court then applied a two-pronged test to determine whether the defendants had a case and whether their freedom of speech was being misused. The Court found that the defendants had the right to exercise their freedom of speech and expression and that the plaintiff had failed to make a prima facie case in his favor. In addition, the balance of convenience was also against the plaintiff. As a result, the interim injunction orders were vacated, meaning that the Court reversed any prior order to prevent the defendants from continuing to publish their statements about the plaintiff.