

Shaviya Sharma vs Squint Neon & Ors. on 22 February, 2024

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision

+ CS(05) 134/2024 & I.A. 3999/2024 & I.A.

SHAVIYA SHARMA

Through: Mr. Raghav Awasthi,
Tiwari, Advs. (

versus

SQUINT NEON & ORS.

Through: Mr. Deepak Gogia,
Nautiyal, Advs. (9205109664)
Mr. Neel Mason,
Ms. Pragya Jain
Mathur, Advs. f
9461588999)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The Plaintiff, in the present suit, posted a tweet on her social media handle 'X' (formerly known as Twitter) which was a comment about an interview of a public political figure. It is the case of the Plaintiff that she had tweeted anonymously from her 'X' handle. However, considering the political figure involved in her tweet, various posts and tweets appeared on multiple Twitter handles, the identities of whom is not available at this point, wherein comments were made against the Plaintiff. In some of the said tweets her entire professional identity, photographs, image was also disclosed and an email was written to her employer.

3. It is averred by the Plaintiff that the present case is the one of 'Doxing', wherein the various Defendants have searched for and published private information about the Plaintiff on the internet with malicious intent.

4. It is submitted on behalf of the Plaintiff by Mr. Awasthi, Id. Counsel, that the Petitioner had not tweeted against the public political figure but against the person who had written a tweet i.e., Squint Neon-Defendant No.1. Further, Id. Counsel also relies on the judgement of Swami Ramdev v. Juggernaut Books Pvt. Ltd. and Ors. (MANU/DE/3565/2018) and Justice K.S. Puttuswamy (Retd.) v. Union of India (MANU/SC/1044/2017) to highlight the issue in the present case and to state that every individual should have a right to be able to exercise control over his/her own life and image as

portrayed to the world and to control commercial use of his/her identity. This also means that an individual may be permitted to prevent others from using her image, name and other aspects of her personal life and identity for commercial purposes without consent.

5. The said tweet was posted on 17th January, 2024 and the subsequent objectionable tweets were posted immediately thereafter i.e., on 18th January, 2024, 19th January, 2024, etc. It is submitted on behalf of the Plaintiff that she is a professional person working abroad and she does not wish to be trolled and the manner in which a malicious campaign has been launched against her on online platforms is leading to enormous harassment and embarrassment in her professional and personal life.

6. On the last date, i.e., 20th February, 2024, notice was issued to Platform 'X' (formerly known as Twitter). Mr. Deepak Gogia, Id. Counsel appears and submits that there are six objectionable tweets as per the Plaintiff out of which five could be removed and the Basic Subscriber Information (hereinafter, 'BSI') details could be disclosed. However, one of the tweet at page 6 cannot be held to be objectionable and, thus, no order deserves to be passed.

7. Insofar as e-mail dated 19th January, 2024 is concerned, the same is a Gmail address and the Plaintiff seeks banning of the Gmail address itself.

8. Having seen the record, it emanates that the first tweet by the Plaintiff is, in fact, not an anonymous tweet. It bears the same initials as her name and her photograph has also been posted as the display picture of her Twitter handle as confirmed by the counsel. Thus, the Plaintiff's presumption this was an anonymous tweet would be incorrect.

9. The Plaintiff's Counsel submits that the Plaintiff does not wish to post any such tweets and she has already taken down the original tweet which led to these turn of events. It is submitted on Plaintiff's behalf that the said tweet was merely an attempt against Defendant No.1, though, the language seems to suggest otherwise. On her behalf it is submitted that she expresses regret for the said initial tweet.

10. The Plaintiff is clearly a professional person against whom various comments are being made on the internet which are offensive, defamatory and derogatory. Though the initial tweet of the Plaintiff may have been the cause, considering her professional and personal standing, this Court is of the opinion that the offending tweets, at this stage, ought to be removed inasmuch as harm could be caused to her reputation and her person. In the opinion of this Court, the present case does not fully constitute a suit against 'Doxing' as the identity of the Plaintiff was not completely anonymous, as anyone who knew the Plaintiff could have easily figured that the tweet was by her, due to her initials and her photograph in the tweet posted by her.

That is not to say that the Plaintiff can be harassed or trolled on the internet in a manner so as to cause her harassment or embarrassment especially, by writing to her employer etc.

11. There can be no doubt that acts of Doxing if permitted to go on unchecked could result in violation of right to privacy. It is observed that Doxing hasn't been defined in the Indian legal landscape, nor has it been made a statutory offence in India. The term 'Doxing' comes from the phrase 'dropping documents' or 'dropping dox' on someone, which appears to have originated in 1990s, that involved uncovering and revealing the identity of people who fostered anonymity.¹ It is further observed that even if doxing is not used as a tool for sexual harassment, these factors also contribute to the harms of having personal information revealed on the Internet as there is disclosure/ public release of an individual's private, sensitive, personal information. The omnipresent nature of the internet, coupled with easy access to technology has ensured that a person's real and virtual lives are merged. Consequently, whatever happens online has very real life i.e., offline repercussions for a subject. The internet affords a comparatively large audience, thereby statistically increasing the chances of any violence occurring in response to Doxing, and so when a subject's information is floated on air for the entire world to peruse, especially in certain serious situations threats and violent calls may crop up from any part of the world. Doxing is different from other forms of cyber-bullying and cyber-harassment, as the risk of putting the subject in physical danger increases exponentially. When a potential offender gets hold of the subject's personal information, such as where she lives, it becomes easier for him to translate online threats into real life violence. On the other hand, however, any information which is openly available or accessible is used for legitimate purposes, there can be no complaint. Thus, the Court has to strike a delicate balance between access to open information and safeguarding of privacy.

Honan, M. (2014). What is doxing? Wired. <http://www.wired.com/2014/03/doxing/>.

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12. Be that as it may, aggrieved parties/ individuals in cases of Doxing cannot be rendered remedy-less, because the individual would have suffered an injury as the privacy of the individual is breached. The dearth of literature on this subject in the Indian Context does not prevent this Court from resorting to the law of torts to balance the scales of justice as also to provide reliefs under the laws of privacy in terms of the judgement of K.S. Puttaswamy v. Union of India, [(2017) 10 SCC 1] and R. Rajagopal v. State of T.N., [(1994) 6 SCC 632].

13. In the present case, since the Plaintiff's posts are stated to have been taken down it would suffice to direct that the five URLs (attached as Annexure 1) be taken down by platform 'X'-Defendant No.9. In addition, Defendant No.9 i.e., 'X' shall reveal the basic subscriber information of the alleged tweets of Defendant Nos. 1 to 7 to the Plaintiff within one week.

14. Defendant No.10 i.e., 'Google LLC' shall reveal, within one week, the details of Defendant No.8 in whose favour the said Gmail address is registered. The information disclosed shall be used only for the purpose of legal proceedings.

15. The said offending tweets shall be taken down within 72 hours in terms of the intermediary guidelines.

16. For the disclosure of the BSI by 'X' and disclosure by Google LLC one week time is granted. Upon the disclosure being made, the Plaintiff is permitted to take steps in accordance with law.

17. Upon receiving the requisite information from Defendant Nos. 9 and 10, the Plaintiff shall implead the said parties. Ld. Counsel for the Plaintiff to file a fresh amended memo of parties. Upon amended memo of parties being filed summons to the parties impleaded, be issued.

18. I.A. 4000/2024 is, accordingly, disposed of in the above terms.

19. List before the Joint Registrar on 29th April, 2024.

20. List before Court on 20th August, 2024.

PRATHIBA M. SINGH, J.

FEBRUARY 22, 2024 dj/bh (corrected & released on 1st March, 2024) Annexure -1 -List of URLs