



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO. 33254 OF 2022
IN
SUIT (L) NO. 33253 OF 2022**

Serum Institute of India Pvt. Ltd. & Anr. ... Applicants/Plaintiffs

In the matter between

Serum Institute of India Pvt. Ltd. & Anr. ... Plaintiffs

Versus

Yohan Tengra & Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 3344 OF 2023
IN
SUIT (L) NO. 33253 OF 2022**

Ambar Koiri ... Applicant/Orig.
Defendant No.3

In the matter between

Serum Institute of India Pvt. Ltd. & Anr. ... Plaintiffs

Versus

Yohan Tengra & Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 39735 OF 2022
IN
SUIT (L) NO. 33253 OF 2022**

Ambar Koiri ... Applicant/Orig.
Defendant No.3

In the matter between

Serum Institute of India Pvt. Ltd. & Anr. ... Plaintiffs

Versus

Yohan Tengra & Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 1146 OF 2023
IN
SUIT (L) NO. 33253 OF 2022**

Ambar Koiri ... Applicant/Orig.
Defendant No.3

In the matter between

Serum Institute of India Pvt. Ltd. & Anr. ... Plaintiffs

Versus

Yohan Tengra & Ors. ... Defendants

Mr. Aspi Chinoy, Senior Advocate, a/w Mr. Chetan Kapadia, Mr. Hitesh Jain, Mr. Yuvraj Sing, Monisha Mane Mr. Bijal Vora, Pranav Nair i/b Parinam Law Associates, for Plaintiff Nos. 1 and 2 in S(L)/33252/2022/Applicants in IAL/33254/2022.

Mr. C. Keswani a/w Mr. Dinesh Pednekar i/b Shailesh Poria i/b Economic Laws Practice, for Defendant No 6 in S(L)/33253/2022 and in IA(L)/33254/2022.

Mr. Vedchetan Patil a/w Saransh Jain, Sneha Dey, Sunayana Kashid for Defendant No.7.

Ishwarlal Agarwal a/w Dipali Ojha, Meena Thakur, Pratik Jain Saklecha, Snehal Surve, Hania Shaikh, Sourav Khanna, Vikas Pawar, Sohan Agate, Samkit Shah for Defendant No. 1 in S(L)/33253/2022.

Mr. Vijay Kurle and Tanveer Nizam a/w Ms. Dipali Ojha, Meena Thakur, Mr. Pratik Jain Saklecha, Snehal Surve, Hania Shaikh, Sourav Khanna, Sohan Agate, Vikas Pawar, Samkit Shah for Defendant No.2 in S(L)/33253/2022.

Mr. Nilesh C. Ojha i/b Abhishek Mishra a/w Dipali Ojha, Meena Thakur, Pratik Jain Saklecha, Snehal Surve, Hania Shaikh, Sourav Khanna, Sohan Agate, Vikas Pawar, Samkit Shah for Defendant No.3 in S(L)/33253/2022.

CORAM : R.I. CHAGLA, J.

RESERVED ON : 13th FEBRUARY, 2023.

PRONOUNCED ON : 5th JUNE, 2023.

JUDGMENT :

1 By the present Interim Application, the Applicants/Plaintiffs are seeking to restrain the Defendant Nos.1 to 5, (themselves and through their servants, agents, assigns and/or any person claiming by or through them) from making and/or publishing and/or reproducing and/or circulating and/or speaking and/or communicating, any derogatory and defamatory statements i.e., the defamatory videos and the defamatory contents as mentioned in Exhibits E to K of the Plaint and/or any like nature in any medium including television, print media and/or the internet and/or whatsapp in any manner whatsoever. Further

consequential relief has been sought inter-alia against Defendant Nos.1 to 5 to forthwith delete and/or remove the defamatory videos and the defamatory contents at Exhibits E to K of the Plaint from their respective websites and social media platforms and to issue an unconditional apology stating that the defamatory contents were baseless, unsubstantiated and unwarranted. The relief has also been sought against YouTube and Twitter and other social media platforms in particular, Defendant Nos.6 and 7 or social media accounts, in like nature to the aforementioned relief.

2 The Plaintiffs have filed the defamatory Suit against the Defendants in respect of statements/contents/posts uploaded on the websites/links/twitter handles of the Defendants which they claim are *per se* defamatory and referred to as Defamatory Content Nos.1 to 6, in paragraph 15 (f) to 15 (p) of the Plaint. In the tabular form at paragraph 15 (p) of the Plaint, the Plaintiffs have set out as one of Defamatory Contents, being Defamatory Content No.6 which is as under :

Sr. No.	Date of Post	Posts
1.	2 nd October 2022	“Our taxpayer money is being used to murder millions! High time we shut down the @SerumInstIndia #arrestadarpoonawalla...”

2.	30 th September 2022	“ChaloPune #ArrestAdarPoonawala...”
3.	28 th September 2022	“Arrest Adar Poonawalla...”
4.	26 th September 2022	“A Humdust has been issued by Bombay High Court for Adar Poonawala for Dr. Snehal Lunawat’s vaccine murder case.”

3 According to the Applicants/Plaintiffs these statements/ contents/posts which the Defendants have uploaded on their websites/links/twitter handles make false and defamatory statements against the Applicants/Plaintiffs.

4 Plaintiff No.1 is a Company incorporated under the Company’s Act, 1956 and Plaintiff No.2 is the Chief Executive Officer (CEO) of Plaintiff No.1. The father of Plaintiff No.2 viz. Dr. Cyrus Poonawalla founded a registered partnership firm under the name and style of “Serum Institute of India”, to carry on the business, inter alia, as manufacturer and trader of vaccines at affordable prices. In or about May 1984, Plaintiff No.1 was promoted by Dr. Cyrus Poonawalla to take over the business of the partnership firm “M/s. Serum Institute of India” and to carry on the business of the said firm.

5 The Plaintiffs have in paragraph 3 of the Plaint stated that Plaintiff No.1 is currently ranked as India's No.1 biotechnology company, manufacturing highly specialized lifesaving biologicals like vaccines using cutting edge genetic and cell-based technologies, antisera and other medical specialties. The Plaintiff No.1 is well-known not only in India but across the world and is one of the few private limited companies with a tremendously high turnover and has come to achieve this position with its own funds and resources and without public participation in equity. The Plaintiffs have thereafter in paragraph 4 of the Plaint stated that they are recipients of various awards and accolades and have received worldwide recognition for the work done by them in the field of medicine and pharmaceuticals. They have set out some of the awards and recognition received by Plaintiff No.1. They have further set out the qualifications of Plaintiff No.2 as well as the awards and accolades received by Plaintiff No.2, for his contribution in the field of medicine, in paragraph 5 of the Plaint.

6 The Plaintiffs have stated that Defendant No.1 claims to be a social media influencer and uses his YouTube channel called 'Anarchy for Freedom India' (Defendant No.2) to post several videos. Defendant No.1 uses his twitter handle that goes by his own name 'Yohan Tengra

@ytengra' to post various content. Defendant No.3 claims to be a member of the Committee of Awaken India Movement and has been appearing in the alleged defamatory videos as mentioned in the Plaintiff. Defendant No.4 is an online news portal which has re-shared the alleged defamatory content by Defendant No.3 as set out in the Plaintiff. Defendant No.5 is John Doe/ Mr. Ashok Kumar whose co-ordinates and addresses are unknown to the Plaintiffs who are creating/publishing/uploading/recirculating/reproducing the alleged offending material. Defendant Nos.6 and 7 are social media intermediaries which primarily or solely enable online interaction and allow the users to create, upload, share, disseminate, modify or access information using its services.

7 It is necessary to give a brief background of the facts which has led to the filing of the present Suit and Interim Application.

8 Plaintiff No.1 had manufactured a vaccine named 'COVISHIELD'. The vaccine had been manufactured on the patented Oxford-Astrazeneca technology. The reason for manufacture of the vaccine and the approvals obtained from the Drug Control General of India from time to time, are set out in paragraphs 15(a) and 15(b) of the Plaintiff. The Plaintiffs have stated that the entire world was facing and

continues to suffer the Covid-19 pandemic which infected more than 61 crores people in the world and claimed over 65 lakh lives. The Indian scientists had also become part of the global fight against the disease and Indian Companies had been working on the said vaccines for Covid-19, thus joining global efforts to find a quick preventive for the deadly infection which had been spreading rapidly across the world.

9 The Plaintiffs have further stated in paragraph 15 (c) of the Plaint that Plaintiff No.1 upon manufacturing the said vaccine named 'Covishield' has been recognized for administering 1.50 billion doses of said vaccine in India itself, which was the highest amongst all vaccinations for corona virus introduced till date. Plaintiff No.1 worked tremendously towards developing and producing almost 250 million doses of vaccines per month.

10 One Dilip Lunawat filed Writ Petition No.5767 of 2022 before this Court against the Plaintiffs and a few others. The Writ Petition had been filed seeking compensation and other reliefs on the ground that the daughter of the Petitioner had allegedly suffered from adverse effects of immunization of Covishield vaccine which resulted in her death. On 26.08.2022, this Court passed an order issuing notice to the Plaintiff No.1

as well as other Respondents in Writ Petition No.5676 of 2022, which was made returnable on 17.11.2022. By the said order this Court recorded that 'Hamdast' was allowed.

11 The Plaintiffs claim to have on 26.09.2022 come across tweets posted online on twitter and other websites/links of the Defendants wherein they claim that false, disparaging and malicious allegations and statements against the Plaintiffs were being published and circulated. This has been referred to as Defamatory Content Nos.1 to 6 in paragraphs 15(f) to (p) of the Plaint. These include a video by Defendant No.3 re-shared on Defendant No.4's YouTube channel, showing Plaintiff No.2 being hung to death by a rope. Further, on 28.09.2022, Defendant No.1 through his YouTube channel, Defendant No.2 i.e. 'Anarchy for Freedom India' had uploaded a video calling the Plaintiffs 'criminals', 'murderers' and thereby encouraging the public at large to approach the location of Plaintiff No.1 in 50 to 100 cars on 01.10.2022 to handover the 'Hamdust' that was issued to Plaintiff No.1.

12 Defendant No.1 on 29.09.2022 through his YouTube channel, titled 'Anarchy for Freedom India' is seen making an appeal to the public at large to gather at a certain location in Pune to handover the 'Hamdust'

to Plaintiff No.1. Defendant No.1 in the said video is claimed to have made defamatory and derogatory statements claiming that the Plaintiffs have allegedly murdered people openly and taken law into their own hands. The Plaintiffs have also been termed as “criminals’.

13 Defendant No.1 on 30.09.2022 through his YouTube channel is seen inciting anger and hatred among the general public against the Plaintiffs by influencing them that the Plaintiffs have allegedly committed a murder. Defendant No.1 had also circulated a video by whatsApp whereby it appears that Defendant No.1 is gathering people in huge crowds and is encouraging them to chant that Plaintiff No.2 be arrested and Plaintiff No.1 shut down.

14 Defendant No.1’s posts on his twitter handle forms part of Defamatory Content No.6, which has also been reproduced hereinabove and includes a post on 02.10.2022 to the effect that tax payer money is being used to murder millions and Plaintiff No.1 be shut down.

15 On 01.10.2022, the Plaintiffs addressed complaints to the Commissioner of Police, Pune and Senior Inspector, Hadapsar Police Station, against Defendant No.3’s group i.e. Awaken India Movement seeking precautionary measures against their team in respect of the illegal

march against Plaintiff No.1 to incite hatred and enmity.

16 The Plaintiffs have thereafter filed the present Suit on 17.10.2022 for the aforementioned relief.

17 Defendant No.3 has in the present Suit filed an Interim Application (L) No.39735 of 2022 for recording a finding under Section 340 of Cr.P.C. that the Plaintiffs described as accused have filed a false affidavit in this Court that the Covishield vaccines are completely safe. Defendant No.3 has placed reliance upon the Writ Petition filed by Dr. Lunawat and claimed that the death of Dr. Snehal Lunawat was due to the side effects of Covishield. Defendant No.3 has claimed that there is deliberate and malafide suppression of relevant material facts which would reveal that there are many deaths found due to side effects of Covishield vaccines, including the death of Dr. Snehal Lunawat and that many European countries have banned the said vaccines due to the death causing side effects. It is contended that this material has been suppressed by the Plaintiffs in order to obtain an order in the Interim Application filed by them in the present Suit by filing false and misleading affidavit and thereby have abused the process of the Court and committed contempt of Court. Consequential relief has been sought for prosecution

of Directors and responsible Officers of Plaintiff No.1 under Section 340 of Cr.P.C. and other relief as per Section 340 and 340(1) of the Cr.P.C. as well as holding the Plaintiffs guilty of contempt under Section 12 of the Contempt of Courts Act r/w Article 215 of the Constitution of India. This Interim Application has been filed together with Interim Application (L) No.3344 of 2023 which is also for relief of recording a specific finding as per Section 340(1) of the Cr.P.C. and similar relief is sought for as in Interim Application (L) No.39735 of 2022. There is an Interim Application No.1146 of 2023 filed by Defendant No.3 seeking a striking of the Plaint under Order VII Rule 11 of the Code of Civil Procedure and for dismissal of the Suit on ground of suppression and false statements on oath by the Plaintiffs. At the outset of the hearing, this Court had with the consent of the parties, proceeded to hear all the Interim Applications filed in the present Suit together.

18 Mr. Aspi Chinoy, learned Senior Counsel appearing for the Plaintiffs has submitted that the said vaccine “Covishield” was developed and manufactured by Plaintiff No.1 and when clinical trial of AZD1222 (ChAdOx1 nCoV-19) vaccine was conducted, it was given to healthy adults in the United Kingdom before the commencement of the research study at Plaintiff No.1. In phase I and II of the clinical trials conducted in

United Kingdom, there were no serious adverse reactions. The United Kingdom Medicines and Healthcare products Regulatory Agency (MHRA) had approved Astra Zeneca vaccine on 30.12.2020. The Astra Zeneca vaccine also received the conditional authorization from European Medicines Agency (EMA) in January, 2021.

19 Mr. Chinoy has further submitted that considering the robust immune response to the vaccine, Plaintiff No.1 applied to the Government of India seeking permission to conduct further clinical trials in India. After an evaluation of the data generated on the vaccine in phase I and II of the Oxford University trial of ChAdOx1 nCoV-19 (dubbed as Covishield in India), the Drugs Controller General of India gave an approval to Plaintiff No.1 to perform Phase II and III clinical trials based on the recommendations of the Subject Expert Committee (SEC). Thereafter, Plaintiff No.1 in collaboration with Indian Council of Medical Research (ICMR) commenced observer blind, randomized, controlled Phase II and III clinical trials of Covishield vaccine at 15 different centres, across the Country. No causally related serious adverse event was recorded during these clinical trials. The safety, efficacy and immunogenicity of the Covishield vaccine was established in Phase II and III studies. Upon the Plaintiff No.1 submitting the safety, immunogenicity and efficacy data of

Phase II/III clinical trials of Astra Zeneca vaccine carried out in U.K., Brazil and South Africa, permission for “restricted use in emergency situation” was granted on 02.01.2021 following which the said vaccine was included in the National Covid-19 vaccination program which commenced on 16.01.2021.

20 Mr. Chinoy has submitted that after a further rolling review of clinical trial data, the Covishield vaccine was approved for regular use on 27.01.2022. The Plaintiff No.1 has administered 1.50 billion doses (1500 million doses) of Covishield vaccine in India (of the total of 2019 million doses administered) till the end of 2022.

21 Mr. Chinoy has referred to the Committees been set up for Adverse Events Following Immunization (AEFI) which comprised of State level and National level AEFI Committees. These Committees have clinical experts, such as medical specialists, forensic medical specialist and public health specialists and representatives of WHO and UNICEF and carried out documentation, investigation and causality assessment. Mr. Chinoy in this context has referred to the affidavit of Union of India which has been annexed to the Plaintiffs’ affidavit in rejoinder at page 209 of the Interim Application and portions of which have also been extracted by

Defendant No.3 in his affidavit in reply. Mr. Chinoy has submitted that in the Union of India's affidavit which was filed in the case of '*Rachana Gangu and Another vs. Union of India*' before the Supreme Court, the Union of India had referred to the finding of the Committee for AEFI viz. "that there was a very miniscule but definitive risk of Thromboembolic events. The reporting rate of these events in India is around 0.61 million doses, which is lower than 4 cases/million reported by U.Ks Regulator Medical and Health Regulatory Authority (MHRA)". The Union of India has accordingly stated that the occurrence of AEFI was and is still a very rare event, at a far less frequency than that observed in Europe. The Union of India has referred to the Advisory dated 17.05.2021 and the statement of WHO to state that a causal relationship between the Astra Zeneca/Covishield vaccine and Thrombosis with Thrombocytopenia Syndrome (TTS) is considered plausible although the biological mechanism for the syndrome is being investigated. The available AEFI data from India does not suggest an overall increase in clotting conditions such as deep venous thrombosis or pulmonary embolism following covid-19 vaccines. Reported rates of thrombo embolic events following covid-19 vaccines are in line with expected number of diagnoses of these conditions. Both conditions occur naturally and are not uncommon. The

Union of India has stated that “covishield, the Covid-19 vaccine, continues to have a definite positive benefit risk profile, with tremendous potential to mitigate the severity of infections and reduce deaths due to Covid-19 across the world and in India. Over 15.3 crore doses of Covishield have been administered as of 08.05.2021 in India”.

22 Mr. Chinoy has referred to paragraph 35 of the Union of India’s affidavit which states as under :

“35. It may be noted that as on 30.09.2022 there have been a total of 26 AEFI cases of TTS reported in India, out of which in 14 cases, the individual recovered after hospitalisation and in 12 cases the individual passed away. The reporting rate of TTS in India is .001 per one lakh doses administered making it an extremely rare event”.

23 Mr. Chinoy has thereafter referred to the defamatory content Nos.1 to 6 set out in the Plaint as well as annexed at Exhibits E to K to the Plaint and which the Plaintiffs came across on 26.09.2022 from the tweets posted on twitter and videos uploaded on YouTube by Defendant Nos.1 and 3. He has submitted that Defendant Nos.1 and 3 have falsely and maliciously stated :

- i) that the Plaintiffs had “murdered millions” by their vaccines;
- ii) that Plaintiffs 1 and 2 were accordingly criminals and murderers;
- iii) that Plaintiff No.1 should accordingly be shut down and
- iv) that Plaintiff No.2 should be arrested and jailed for murder.

24 Mr. Chinoy has submitted that the transcripts/English translations of the videos uploaded and the tweets posted have been annexed in full at Exhibits E to K to the Complaint and the aforementioned defamatory and malicious statements made in each of the said videos and tweets have been separately highlighted and extracted in the Complaint and the Interim Application. Mr. Chinoy has submitted that these defamatory statements have been made in spite of the aforementioned affidavit of the Ministry of Health and Family Welfare of the Union of India in ***Rachana Gangu*** (supra) having referred to a noted scientific paper in the journal Lancet which estimated that the access to/ use of Covid-19 vaccines is estimated to have prevented at least 4 million deaths in India. Further, reference is made to the case of Jacob Puliyel wherein the Supreme Court

has referred to the “National AEFI Surveillance Secretariat” and setting up of a ‘well defined mechanism for collection of data relating to adverse events that occur due to Covid vaccines’, and had rejected the submission/allegation ‘that the surveillance system of AEFI’s in this Country is faulty and the correct figures of those who have suffered any side effects, severe reactions or deaths post inoculation have not been disclosed’.

25 Mr. Chinoy has referred to the figures prior to causation analysis and which shows that for the period till November, 2022, a total of 219.86 crore (2198.60 million) doses of Covid vaccines have been administered in the Country. During this period a total of 92,114 AEFI cases (0.0042%) have been reported, of which 89,332 (0.041%) were minor AEFI cases and a total of 2782 cases were serious and severe AEFI’s (0.00013%). He has submitted that in view of the figures being prior to causation analysis, any such severe AEFI’s including death cannot be attributed to vaccination till the same is causally assessed by the National AEFI Committee.

26 Mr. Chinoy has submitted that there have been a total of 26 AEFI cases of TTS (Thrombosis and Thrombocytopenia Syndrome)

reported in India, out of which in 14 cases the individual had recovered after hospitalization and in 12 cases the individuals had passed away. The reporting rate of TTS in India is .001 per one lakh doses administered, making it an extremely rare event.

27 Mr. Chinoy has submitted that the defamatory statements made by Defendant Nos.1 to 4 wherein the Plaintiffs have been referred to as having “murdered millions” by making available their Covishield vaccine and that the Plaintiffs are consequently “murderers” and “criminals” and Plaintiff No.1 should be shut down and Plaintiff No.2 arrested and put in jail, are ex facie false, totally baseless, defamatory and have been made recklessly and malafide. Defendant No.3 has not referred to and produced any material/basis whatsoever to justify such ex facie false and defamatory allegation that the Plaintiffs have “murdered” “millions” by making available the 1st Plaintiff’s Covishield vaccine for the Governments vaccination program. He has submitted that Defendant No.3 in the affidavit in reply, has only referred to four civil writ proceedings and one criminal writ proceeding filed by individual Petitioners claiming compensation for their relatives/children who have died post vaccination. Defendant No.3 has in his affidavit in reply himself referred the aforementioned affidavit dated 23.11.2022 filed by Dr. Veena

Dhawan, Additional Commissioner (Immunization) Ministry of Health and Family Welfare before the Supreme Court in *Rachana Gangu* (supra).

28 Mr. Chinoy has submitted that the complete absence of any material to support/justify the Defendants' defamatory allegations of the Plaintiffs vaccine having murdered millions and the facts stated by the Union of India in the aforementioned affidavit which has also been relied upon by Defendant No.3 in the affidavit in reply establish the false, baseless and malafide nature of the defamatory allegations and negate any possibility of the Defendants being able to justify these allegations at any stage.

29 Mr. Chinoy has referred to the allegations made in the affidavit in reply of Defendant No.3 which includes that Canada's Health Department having in November, 2021 issued a warning about 'Thrombocytopenia' being a potential side effect of the Astra Zenica Covid-19 vaccine and WHO in July, 2021 having issued a warning about Guillain Barre Syndrome (GBS) being caused due to Covishield. He has submitted that these allegations do not in any way justify or support the baseless/false allegations made by Defendant Nos.1 to 4. He has referred to the statement of 26.07.2021 of WHO which in fact records that cases

may occur co-incidentally following vaccination. For example rare cases of GBS have been observed following seasonal influenza vaccines and vaccines to protect against shingles, but it is not known if the vaccines cause GBS. Further, the European Medicines Agency had issued a statement that 'GBS be listed as a very rare side effect of Covid-19 vaccine'. WHO statement itself concludes that the potential benefits of both the Janson and Astra Zenica Covid-19 vaccines continue to outweigh any potential risk of GBS, particularly given the increase in the more transmissible Delta Variant.

30 Mr. Chinoy has submitted that the allegation made in the affidavit in reply of Defendant No.3 that since March, 2021 around 21 European countries have banned the Covishield Astra Zenica vaccine is misleading. He has submitted that Astra Zenica's vaccine was only paused as a temporary measure and it was never banned in any European Country.

31 Mr. Chinoy has submitted that it is well settled including in the decision of this Court in *Shree Maheshwar Hydrel Power Corporation Ltd. vs. Chitroopa Palit and Anr.*¹ which has referred to the earlier decisions of this Court and the judgments of the Supreme Court in *S.*

¹ 2003 SCC Online Bom 702

*Rangarajan vs. P. Jagjivan Ram*², and *R. Rajagopal vs. State of Tamil Nadu*³; that in India a mere plea of justification would not be sufficient for denial of interim relief. The Defendants, apart from taking a plea of justification would have to show that the statements were made bonafide and were in public interest, and that the Defendants have taken reasonable precaution to ascertain the truth, and that the statements were based on sufficient material which could be tested for its veracity. The Courts are very much entitled to scrutinize the material tendered by the Defendants so as to test its veracity and to find out whether the said statements were made bonafide and that whether they were in public interest. Therefore, in India, even at the interlocutory stage, the Court is very much entitled to look into the material produced by the Defendants for the plea of justification, so as to test its veracity with regard to the allegations, alleged to be defamatory.

32 Mr. Chinoy has submitted that Defendant Nos.1 to 4 by their making false and reckless allegations and despite material which conclusively negates and establishes the falsity of the same, the Defendants have in their affidavit in reply reiterated the false and defamatory statements and intend to carry on making such false

2 (1989) 2 SCC 574

3 (1994) 6 SCC 632

defamatory statements. Moreover, Defendant No.3 has falsely alleged that millions of vaccine deaths have occurred in the Country. This is prejudicial to public interest and public health in as much as it is a false and malafide attempt to malign the Government's National Covid vaccine Program and to spread vaccine hesitancy. Accordingly, the Plaintiffs have made out a strong case for grant of interim relief.

33 Mr. Nilesh Ojha, learned Counsel appearing for Defendant No.3 has made submissions on behalf of the Defendants. He has submitted that there is suppression of material facts in the pleadings/affidavits filed by the Applicants/Plaintiffs and for which proceedings under Section 340 of the Cr.P.C. be instituted against them. He has submitted that without prejudice to this contention, the Plaintiffs have failed to provide any basis for grant of interim relief. He has submitted that there are no details given by the Plaintiffs of any witness in whose estimation the image of the Plaintiffs is lowered. He has in that context relied upon the decision of the Supreme Court in ***Subramanian Swamy vs. Union of India***⁴.

34 Mr. Ojha has submitted that there is gross suppression of material facts including the Writ Petition (C) No.5767 of 2022 filed by

4 (2016) 7 SCC 221

Dilip Lunawat. There is also suppression of Criminal Writ Petition No.6159 of 2021 filed on 23.11.2021 by Smt. Kiran Yadav vs. State of Maharashtra and Anr. calling the Plaintiffs mass murderer and seeking Narco Test and death penalty for the Plaintiffs.

35 Mr. Ojha has referred to various articles in the news published in India by biotech express on 30.11.2021; Indian Bar Association on 25.11.2021 and Published Worldwide in Children Health Defence (USA) on 20.01.2022. He has submitted that in these articles, specific reference is made to the Plaintiffs as mass murderers. He has submitted that despite the very same statements which the Applicants/Plaintiffs have referred to as defamatory, the Plaintiffs have failed to proceed against those publications.

36 Mr. Ojha has further submitted that the Plaintiffs have suppressed, twisted and concealed facts and made submissions during the course of the hearing that Defendant No.1, Defendant No.3 and their NGO Awaken India Movement have no connection with the Court case filed by Dilip Lunawat. This is contrary to the record which shows that these Defendants are pursuing cases of Criminal Prosecution and mass murder charges against the Plaintiffs and other co-accused.

37 Mr. Ojha has submitted that there should be a meaningful reading and not casual reading of the Plaint. Failure to make out a single cause of action is a sufficient ground to dismiss the Suit under Order VII Rule 11 of the C.P.C. He has submitted that in the present case no cause of action has been made out in the Plaint. He has referred to the decision of the Supreme Court in *Shree Surya Developers & Promoters vs. N. Sailesh Prasad*⁵ in this context.

38 Mr. Ojha has submitted that the Plaintiffs are misusing the process of this Court as an instrument to harass and create pressure upon witnesses and complainants. He has referred to the decision of this Court in *SNP Shipping Services Private Limited vs. World Tanker Carrier Corporation*,⁶ in this context. This Court had held that though so-called libelous articles have been published, no action has been so far taken either against the publications or the authors of the articles. Accordingly, it was held that the Suit was frivolous, vexatious and scandalous and abuse of the process of the Court.

39 Mr. Ojha has submitted that the present Suit is not maintainable as proper remedy lies under Article 215 of the Constitution

5 (2022) 5 SCC 736

6 (1999) SCC OnLine Bom 584

of India. He has submitted that since the main grievance of the Plaintiffs is regarding misreporting of the proceedings before the Division Bench in the case of death of Dr. Snehal Lunawat, the Constitution Bench of the Supreme Court has in the case of *Sahara India Real Estate Corporation Limited vs. SEBI*,⁷ held that the proper remedy is to file a Petition under Article 215 of the Constitution before the Division Bench.

40 Mr. Ojha has referred to the decision of the Delhi High Court in *Tata Sons Limited vs. Greenpeace International*,⁸ wherein the Delhi High Court has held that the Courts, the world over, have set a great value to free speech and its salutary catalyzing effect on public debate and discussion on issues that concern people at large. The issue, which the Defendants in that case sought to address, was considered to be one of public concern. The Court was of the opinion that granting an injunction would freeze the entire public debate on the effect of the port project on the Olive Ridley turtles' habitat. That, plainly would not be in public interest; it would most certainly be contrary to established principles. Reliance has been placed on the words of Walter Lippman viz. "The theory of the free press is not that the truth will be presented completely or perfectly in any one instance, but that the truth will emerge from free

7 (2013) 10 SCC 603

8 (2011) SCC OnLine Del 466

discussion”.

41 Mr. Ojha has submitted that the present Suit filed by the Plaintiffs is nothing but an attempt to obstruct the fundamental duties of the Defendants and therefore, the Plaintiffs are liable to be saddled with heavy cost and in that context has relied upon *National Stock Exchange of India Limited vs. Moneywise Media Private Limited*⁹, *Indirect Tax Practitioners’ Association vs. R.K. Jain*¹⁰ and *Aniruddha Bahal vs. State*¹¹.

42 Mr. Ojha has further referred to the judgment of this Court in the case of *Essel Infraprojects Ltd. vs. Devendra Prakash Mishra & Ors.*¹² in support of his submission that it was not adequate for the Applicants/Plaintiffs merely to annex the entire article/statement/report/transcript. Where the Plaintiff complains of a book or long article, he must specify the passages which he alleges to be defamatory. Rather than merely pleading the whole book or article, the defamatory words must be set out in the Plaint. Mr. Ojha has submitted that in the present case the Plaintiff has failed to set out the defamatory words in the Plaint.

9 MANU/MH/2384/2015

10 (2010) 7 SCC 2821

11 2010 (110) DRJ 102

12 (2015) AIR Bom. R 482

43 Mr. Ojha has relied upon judgments in *Prabhakaran vs. Gangadharan*¹³; *Joy Anto vs. C.R. Jaison & Ors.*¹⁴, and *Radhakrishnan Gurusamy & Ors. vs. M.R. Vinit Srivastava*¹⁵ and *Shivaji Rao Gaikwad vs. S. Mukunchand Bothra*¹⁶, which have held that filing a pleadings in a Civil Court constitutes Publication under Section 500 of I.P.C. and is actionable under Sections 499/500 of I.P.C. This is in context of Mr. Ojha's submission that the Writ Petition pending in this Court namely Writ Petition filed by Dilip Lunawat, similar statements which are alleged in the present case to be per se defamatory had already been made/published and accordingly, the Defendants should not be restrained from making same/similar statements.

44 Mr. Ojha has also relied upon the decision of the Delhi High Court in *Mahesh Murthy vs. Pooja Chauhan & Ors.*¹⁷ and *Kailash vs. Vijendra Gupta*¹⁸ in support of his submission that there can be no restraint orders on grounds of defamation in that the Defendants have referred to material to support/ justify the statements and hence, the Defendants could not be acting malafide.

13 (2006) SCC OnLine Ker 302

14 Manupatra/KE/0632/2021

15 Manu/TN/3491/2021

16 2018 SCC OnLine Mad 3541

17 MANU/DE/1346/2020

18 (2022) SCC OnLine Del 679

45 Mr. Ojha has referred to the articles published across the world wherein there is an appeal to prohibit the use of such vaccines. He has submitted that the paper published in Lancet which is relied on by the Plaintiffs is a mathematical model and not real data. The said article is in fact prepared and created on the sponsorship given by the partner of the Plaintiffs i.e. Bill & Milind a Gates Foundation.

46 Mr. Ojha has submitted that the record shows that the Plaintiffs are still selling their deadly vaccine without publishing all the side effects. The Plaintiffs in the Plaint have built their case on the premise that the vaccines are completely safe. It is nowhere mentioned that the vaccines are having death causing side effects. There are T.V. interviews, tweets, articles published by the Plaintiffs showing the complete safety of the Covishield vaccines and by which the people are misled and forced to enter into a danger zone. The law mandates publishing all side effects of the vaccine to the beneficiaries prior to vaccinating them. This is not followed with the ulterior purposes of making profits. He has submitted that the vaccines have caused mass murder which is borne out from the articles published.

47 Mr. Ojha has thereafter referred to the decision of the Supreme Court in *Jacob Pulivel vs. Union of India*¹⁹ which has upheld the system of AEFI investigation. He has submitted that in context of the death of Dr. Snehal Lunawat such Report of AEFI Committee is of evidentiary value as per Section 35 of the Evidence Act and order of compensation be granted to the victim on that basis.

48 Mr. Ojha has submitted that as per settled law when there is delay in filing a Suit for defamation then injunction cannot be granted. The limitation starts from the date of publication. The present Suit is barred by limitation for not filing a case against the first publication of charges of mass murderer against the Plaintiffs. He has submitted that the first Publication of mass-murderer charges against the Plaintiffs was on 17.10.2021 in a complaint on affidavit to the police. The second Publication was on 25.10.2021 in pleadings in Criminal Writ Petition No.6159 of 2021 in the case of Smt. Kiran Yadav. The third Publication was news of the above said case in India, America and across the world. These publications have been referred to. In view of no case being filed against those Publications, the Plaintiffs cannot now file any Suit against those publications because it is barred by limitation for one year.

19 (2022) SCC OnLine SC 533

49 Mr. Ojha has submitted that as per Section 342 of Cr.P.C. and law laid down by the Supreme Court and this Court, the accused Adar Poonawalla and Serum Institute are liable to be imposed with heavy costs which are proportionate to the amount involved in the dispute. In that context has relied upon the decision of this Court in *Godrej & Boyce Manufacturing Co. Pvt. Ltd. vs. Union of India*²⁰ as well as in the decision of the Supreme Court in *Dr. Sarvepalli Radhakrishnan vs. Union of India*²¹ .

50 Mr. Ojha has thereafter make submissions on Section 340 of the Cr.P.C. He has submitted that there is falsity of the version given by the Plaintiffs in the Interim Application which is ex-facie proved to be false from the records of the case itself and the sound proof given by the Applicant/Defendant No.3 and also admissions made by the Plaintiffs. He has submitted that though the Plaintiffs had filed the reply affidavit to the application under Section 340 of the Cr.P.C., it is well settled, that the Court conducting enquiry under Section 340 of Cr.P.C. cannot allow the accused to take part in the proceedings contemplated. The accused can participate in the proceeding only after this Court directs prosecution and the Magistrate issues process against them. He has referred to various

20 (1991) SCC OnLine 496

21 (2019) 14 SCC 761

case laws in this context. He has submitted that in view of the suppression and concealment and twisting of material facts, there are serious offences against the administration of justice committed. In order to save the purity and sanctity of Court proceedings it is mandatory to initiate prosecution against the accused. He has relied upon the decision of the Supreme Court in *Afzal vs. State of Haryana*²² which has held that a person neither making candid submission nor tendering apology and then creating false evidence in subsequent affidavit should be prosecuted and punished under perjury and contempt.

51 Mr. Ojha has submitted that in the present case the Plaintiffs have failed to disclose that European Countries have stopped administering covishield/Astra Zeneca to persons below the age of 40. Further, WHO have related Covishield vaccines to GDS. False statements have been made on oath that Dr. Snehal Lunawat's death was not due to Covid vaccine and there was no death causing side effect. He has further submitted that there is failure to disclose the Canada warning on 09.11.2021 regarding Thrombocytopenia risk and WHO warning regarding GBS risk. A false statement has been made with regard to vaccines being safe and that Plaintiffs have worked to stop the pandemic.

22 (1996) 7 SCC 397

He has submitted that on account of the false statements made in the affidavit, a case is made out for prosecution against the accused under Section 340 of Cr.P.C.

52 Mr. Ojha has also submitted that due to the false statement of facts the plaint suffers from fundamental defect and without any cause of action being made out requires to be rejected under Order 7 Rule 11 of the C.P.C.

53 Having considered the submissions, in my view the present Suit being a defamatory Suit is required to be considered in that light. The issue which falls for consideration is whether the statements which have been published by the Defendants (annexed at Exhibits E to K of the Plaint) are per se defamatory. A mere plea of justification taken by the Defendants will not be sufficient for denial of interim relief. This Court has laid down the principles of law in India with regard to grant of interlocutory relief in a civil action of libel and has held that the principals of law in England and in India are different. In this context it is necessary to refer to the decision of this Court in *Shree Maheshwar Hydrel Power Corporation Ltd.* (supra) wherein in paragraph 49 of the said decision, this Court held as under :

“49. After having heard the learned Counsel for both the parties at length and after perusal of the impugned judgment and order and also the various judgments cited by both the parties, it is clear that in any event, the principles of law in England and in India with regard to grant of interlocutory reliefs in a "civil action for Libel are different. In England, the principle of law is that in case of an action for defamation, once the defendants raise the plea of justification at the interim stage, the plaintiff will not be entitled to an interlocutory injunction. To put in other words, in England, a mere plea of justification by the defendant would be sufficient to deny the plaintiff any interim relief. As far as India is concerned, as has been clearly held by this Court in the judgments referred to hereinabove, specially the judgment of this Court in the case of Dr. Yashwant Trivedi v. Indian Express Newspapers (Bombay) Private Ltd. dated 21st March, 1989 and the judgment of appellate Bench dated 29th June, 1989 with regard to the same matter in appeal, the judgment of this Court in

Purshottam Odhnvji Solanki v. Sheela Bhatta dated 3rd December, 1990, judgment of this Court in the case of Mrs. Betty Kapadia v. Magna Publishing Co. Ltd. dated 22nd July, 1991, and the judgment in the case of Indian Express Newspapers (Bombay) Ltd. v. M/s. Magna Publishing Co. Ltd., dated 21st July, 1995, it is clear that in India, a mere plea of justification would not be sufficient for denial of interim relief. The defendants, apart from taking a plea of justification will have to show that the statements were made bona fide and were in public interest, and that the defendants had taken reasonable precaution to ascertain the truth, and that the statements were based on sufficient material which could be tested for its veracity. Therefore, in India, the Court is very much entitled to scrutinise the material tendered by the defendants so as to test its veracity and to find out whether the said statements were made bona fide and that whether they were in public interest. Therefore, in India, even at the interlocutory stage, the Court is very much entitled to look into the material

produced by the defendants for the plea of justification, so as to test its veracity with regard to the allegations, alleged to be defamatory.”

54 Thus, it is clear from the law laid down that the Defendants, apart from taking a plea of justification will have to show that the statements are made bonafide and in public interest, and that the Defendants had taken reasonable precaution to ascertain the truth, and the statements were based on sufficient material which could be tested for its veracity. This Court has held that even at the interlocutory stage, the Court is very much entitled to look into the material produced by the Defendants for the plea of justification, so as to test the veracity with regard to the allegations alleged to be defamatory.

55 In the present case, a perusal of statements/contents contended by the Plaintiffs to be defamatory content Nos.1 to 6 reveals that there are the words used against the Plaintiffs such as their having “murdered millions” by their vaccines; that the Plaintiffs are consequently “murderers” and “criminals”; that Plaintiff No.1 should be shut down and Plaintiff No.2 arrested and put in jail. Thus, it was necessary for these Defendants to produce material to justify these allegations against the

Plaintiffs.

56 Having perused the material on record, far from the Plaintiffs being “murderers” and “Criminals”, the Plaintiffs have been considered to have saved four millions lives in India as mentioned by Dr. Veena Dhawan, Additional Commissioner (Immunization) Ministry of Health and Family Welfare in her Affidavit dated 23.11.2022 filed in the Supreme Court in ***Rachana Gangu*** (supra). It is observed from the said Affidavit which has also been relied upon by Defendant No.3 in his affidavit in reply to the Interim Application that far from the Plaintiffs having murdered millions as per the impugned statement of the Defendants, there have been negligible adverse events from the vaccines administered. Dr. Veena Dhawan’s in her Affidavit has stated that against 2190 million doses administered till November, 2022 there had been a total of 26 Adverse Events Following Immunization (AEFI) cases of TTS reported in India, out of which in 14 cases the individual recovered after hospitalization and in 12 cases the individual passed away. The reporting rate of Thrombocytopenia Syndrome (TTS) in India is .001 per one lakh doses administered making it an extremely rare event. Further, she has mentioned that till November, 2022, a total of 219.86 crore (2198.60 million) doses of Covid vaccines have been administered in the Country.

A total of 92,114 AEFI cases (0.0042%) have been reported, of which 89,332 (0.041%) were minor AEFI cases and a total of 2782 cases were serious and severe AEFI's (0.00013%). The figures were stated to be prior to causation analysis and any such severe AEFI's including death cannot be attributed to vaccination till the same is casually assessed by the National AEFI Committee.

57 In the case of case of Jacob Puliyl (supra) the Supreme Court had referred to the "National AEFI Surveillance Secretariat" and had considered it to be a 'well defined mechanism for collection of data relating to adverse events that occur due to Covid vaccines'. The Supreme court rejected the submission 'that the surveillance system of AEFI's in this Country is faulty and the correct figures of those who have suffered any side effects, severe reactions or deaths post inoculation have not been disclosed'. Thus, one can rely upon the figures given by the national AEFI surveillance system and which has been relied upon by Dr. Veena Dhawan in her Affidavit.

58 This material is to be tested against the material produced by the Defendants. The Defendants have relied upon the warning issued by the World Health Organization (WHO) in July, 2021 about Guillain Barre

Syndrome (GBS) being caused due to Covishield and Canada's Health Department having in November, 2021 issued a warning about 'Thrombocytopenia' Syndrome (TTS) being a potential side effect of Astra Zenica Covid-19 vaccine. However, upon perusal of the statement of WHO dated 26.07.2021, WHO has stated that it could not confirm or rule out association with the vaccine. The cases may occur co-incidentally following vaccination. For example rare cases of GBS have been observed following seasonal influenza vaccines and vaccines to protect against shingles, but it is not known if the vaccines cause GBS. These warnings of WHO do not amount to a finding that the said Covishield vaccines of Plaintiff No.1 have murdered millions. In fact the WHO statement itself concludes that the potential benefits of inter alia Astra Zenica Covid-19 vaccines continue to outweigh any potential risk of GBS, particularly given the increase in the more transmissible Delta Variant. Further, the warning about TTS by the Canada's Health Department has to be read in the light of the findings of the National AEFI Surveillance Secretariat that the reporting rate of TTS in India is .001 per one lakh doses administered making it an extremely rare event.

59 The reliance placed by Mr. Ojha for the Defendants on the fact that since March, 2021 around 21 European countries have banned

the Covishield/Astra Zenica vaccine is in fact a misconceived reliance. The correct facts are that the said vaccine was only suspended as a temporary measure till review and was never banned in any European Country.

60 In my considered view, Defendant No.3 in the said affidavit by placing reliance upon the Dilip Lunawat Writ Petition as well as Smt. Kiran Yadav Criminal Writ Petition and the articles published around the world have sought to divert this Court's attention from the aforementioned issue in the present Suit and Interim Application. The issue arising in the present Suit is not whether the vaccines are good or bad and/or have adverse effects. Further, there is a misplaced reliance upon the order in the Dilip Lunawat Writ Petition as well as the order of the Supreme Court orders in *Rachana Gangu* (supra) as these orders other than issuing notice have not considered the issue of whether the Plaintiffs are mass murderers and/or criminals and/or their having murdered millions through their Covishield vaccine. In fact, though there may have been articles/publications where the vaccines such as those manufactured by the Plaintiff No.1 have been considered to cause deaths, this does not in any manner prevent the Plaintiffs from filing the present Suit for defamation in respect of the said contents which have been

posted/uploaded by the Defendants and which are exhibited in the Plaintiff. It has been held by the Division Bench of this Court in *Umar Abid Khan and Others vs. Vincy Gonsalves*²³ that every repetition of defamatory words “is a new publication and distinct cause of action”. Thus, this decision has taken a view contrary to the view taken by the Delhi High Court in the case of “*Khawar vs. Asif Nazir*”, as upholding the single publication rule. Being a decision of this Court, it is required to be followed.

61 Further I find no merit in the submission of Mr. Ojha that the present Suit is barred by limitation in view of there being similar articles published prior to the one year period for filing the claim for defamation. The present claim is on the basis of the publication of the Defendants which are exhibited and form the subject matter of the present Suit and though there may be a repetition of defamatory words, the present publication is a new and distinct cause of action.

62 I further do not find any merit in the submission of Mr. Ojha that the Plaintiffs have not specified the statements which are defamatory and have merely annexed the transcripts of the contents claimed to be defamatory. Having perused the Plaintiff, I am of the prima facie view that

23 (2009) SCC OnLine Bom 1676

the Applicants/Plaintiffs have made it amply clear as to which statements are defamatory and in fact have underlined the defamatory words used in those transcripts. Thus, in the present case the principles laid down by this Court in *SL Infra Project* (supra), that defamatory words must be set out in the Plaint have in fact been met.

63 The submission on behalf of the Defendants that the Plaintiffs proper remedy was not to ask for a restraining order on the ground of defamation but to file a Petition under Article 215 of the Constitution in view of there main grievance being misreporting of proceedings before the Division Bench in the Lunawat Petition, does not deserve acceptance. The Plaintiffs have not sought restraint orders on the ground of prejudice to any legal proceeding and/or administration of justice. Thus, the decision relied upon on behalf of the Defendants viz. *Sahara India Real Estate Corporation Limited* (supra) is inapplicable in the present case.

64 Further, I do not find any merit in the submission on behalf of the Defendants that though in the Lunawat Writ Petition, similar words have been used viz. “mass murderers” with reference to the Plaintiffs which amounts to publication and which the Plaintiffs allege herein as being per se defamatory, the Plaintiffs having not taken any action against

that publication and hence would be barred from taking action herein. The decisions relied upon by the Defendants in support of their contention that statements in pleadings in Court amount to publication and can be proceeded against, merely hold that the statements made in the pleadings before the Court can be the subject of a criminal prosecution under Section 499 and 500 of the C.P.C. However, these statements made in pleadings are protected by absolute privilege and cannot be made the subject matter of a Civil Suit of defamation claiming damages as has been held in the decision of this Court in *Miss Kamalini Manmade vs. Union of India*²⁴. Accordingly, the submission that a restraint order sought in the Interim Application operates to restrain any statement made by the Defendants in pleadings filed in the course any judicial proceedings is misconceived. It is well settled that absolute privilege only applies to fair reporting of proceedings “by news papers”. Only documents read/recorded in course of actual open judicial proceedings can be repeated. The mere fact that the defamatory statement might have been made in a pleading/affidavit filed in the course of judicial proceedings does not give any entitlement to the Defendant to repeat the same. The Defendants have no immunity in an

24 (1965) SCC OnLine Bom 149

action for defamation. It has been held in *Stern vs. Piper & Ors.*²⁵ that every republication of a libel is a new libel and each publisher is answerable for his act to the same extent as if the defamatory statement originated with him.

65 The decisions cited on behalf of Defendants in support of their plea of justification viz. *Tata Sons Ltd.* (supra); *Mahesh Murthy* (supra) and *Kailash Gelot* (supra) have in fact held that an injunction would not be granted in cases where the defamatory statements are such that they could not be proved true/correct at trial. Further, in *Mahesh Murthy* (supra) it has been held that the Court would grant an interim injunction where the statement is unarguably defamatory. That there are no grounds for concluding the statement may be true and there was evidence of an intention to repeat a published defamatory statement. The Court therein had applied the test in *Bonnard vs. Perryman*. Further, the Delhi High Court in *Swami Ramdev vs. Juggernaut Books Pvt. Ltd.*²⁶ has held that an interlocutory injunction ought to be granted when the Defendant contends that he will be able to justify the libel and the Court is, prima facie, not satisfied that he will be able to do so. No amount of

25 (1996)

26 2018 SCC OnLine Del 11549

damages can redeem the damage to the reputation of any person and merely because there has been previous publications on the same issue, the same does not permit any repetition of prima facie defamatory allegations.

66 Having considered the contents claimed to be defamatory in the present Suit, I am of the prima facie view that the contents are in fact per se defamatory in that there is no justification made out by the Defendants in support of the statements made which have been referred to above. I further do not find any case made out by the Defendants in support of the Interim Application filed by Defendant No.3 for recording a finding that a false affidavit have been filed in the Court. The case of suppression of facts, in my view does not arise considering that the present Suit which this Court is concerned, is a defamatory Suit and not whether the vaccine is bad. I am prima facie satisfied that the Plaintiffs have made out a case that the videos and contents at Exhibits E to K of the Plaint are per se defamatory.

67 Further, the material relied upon by the Defendants in support of their contention that prosecution be initiated under Section 340 Cr.P.C. against the Plaintiffs for suppression of documents/ articles are

of no merit considering that the material in respect of which suppression is alleged is in no way germane to the cause of action in the present Suit. In view of the present Suit being a defamatory Suit, this Court is not called upon consider the issue as to whether the vaccines are bad and/or having harmful side effects. This issue arises in an independent Writ Petition/Public Interest Litigation separately filed before this Court.

68 In view thereof there is no merit in the Interim Application (L) No.39735 of 2022 and Interim Application (L) No.3344 of 2023 as both proceed on the same footing i.e. for initiation of prosecution under Section 340 (I) of Cr.P.C.

69 Further, in view of the above findings, I do not find any merit in the Interim Application (L) No.1146 of 2023 which is filed under Order VII Rule 11 of the C.P.C. for rejection of the Complaint on the ground of suppression of material facts.

70 Accordingly, Interim Application (L) No.33254 of 2023 is partly made absolute in terms of paragraph 32 (i) and (ii) as under :

- i) Pending hearing and final disposal of the suit, Defendant Nos.1 to 5 (themselves and through their servants, agents, assigns and/or any person claiming by or through

them) are restrained from making and/or publishing and/or reproducing and/or circulating and/or speaking and/or communicating, any derogatory and defamatory statements i.e., the Defamatory Videos and the defamatory contents as mentioned in Exhibit E to K and/or of any like nature in any medium including television, print media and/or the internet and/or whatsapp in any manner whatsoever;

ii) Pending hearing and final disposal of the suit, the Defendant Nos.1 to 5 (themselves and through their servants, agents, assigns and/or any person claiming by or through them) are directed to forthwith delete and/or remove the Defamatory Videos and defamatory contents at Exhibits E to K from their respective websites and social media platforms and shall issue an unconditional apology stating that the defamatory contents were baseless, unsubstantiated and unwarranted.

71 Interim Application (L) No.33254 of 2023 is accordingly disposed of.

72 In view of the above findings, Interim Application (L) No.39735 of 2022, Interim Application No.3344 of 2023 and Interim Application No.1146 of 2023 are disposed of.

73 There shall be no order as to costs.

(R.I. CHAGLA, J.)