

\$~28

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 360/2023 & I. A. 10540/2023 & I. A. 10542/2023 & I.  
A. 10543/2023

**MR. YUSUFFALI MUSALIAM VEETIL ABDUL KADER**

..... Plaintiff

Through: Mr. Mukul Rohatgi, and Mr. Saurabh  
Kirpal, Sr. Advocates with Mr.  
Pravin Anand, Mr. Haris Beeran, Mr.  
Saif Khan, Mr. Achuthan Sreekumar,  
Mr. Mushtaq Salim, Mr. Ranjeeta  
Rohatgi, Mr. Nikhil Arora, Mr. Rohit  
Bansal, Mr. Azhar Assees and Ms.  
Apoorva Prasad R., Advocates

versus

**MR. SHAJAN SKARIAH & ORS.**

..... Defendants

Through: Appearance not given for D-1 and D-  
2

**CORAM:**

**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

%

**26.05.2023**

**I.A. 10541/2023 (Exemption)**

Subject to the plaintiff filing the clear, original and legible/typed copies of any dim documents on which the plaintiff may seek to place reliance, within four weeks from today, exemption is granted for the present.

The application is disposed of.

**CS(COMM) 360/2023**

1. The instant plaint has been filed on behalf of the plaintiff seeking the following reliefs:-

- “(i) A decree and an order of permanent injunction restraining the Defendant No. 1 and all others acting for and on his behalf from making, posting, publishing, uploading, distributing and/or re-publishing any false, defamatory and libellous content against the Plaintiff or his business enterprise LULU Group on any platform whether online or offline which results in the violation of the Plaintiff's right to privacy and personality rights and right to life and which can bring disrepute and tarnish the to the Plaintiff's goodwill and reputation in India and across the globe; and*
- (ii) An order directing the Defendant No. 1 and all others acting for and on his behalf from to take down all false and defamatory content posted by them regarding the Plaintiff from all platforms, whether online or offline and a further order directing the Defendant No. 2 to immediately effectuate all orders that may be passed by this Hon'ble Court; and*
- (iii) A decree and an order granting damages to the tune of Rs 10,00,00,000 in favour of the Plaintiff and against the Defendant No. 1 with an interest at the rate of 18% per annum from the date of filing of the suit till realisation of the decree awarded; and*
- (iv) A decree and an order directing the Defendant No. 1 to make and publish a full-page retraction and an apology to the Plaintiff in the newspaper THE TIMES OF INDIA for the false and defamatory campaign made by the Defendant No. 1; and*
- (v) An order directing the Defendant No. 1 to disclose and render accounts of all sums earned by him through the various false and defamatory content as referred to in the plaint; and*
- (vi) An order granting exemplary and punitive damages and costs in favour of the Plaintiff and against the Defendant No. 1; and*
- (vii) An order directing the Defendant No. 2 to take down and*

*permanently disable the YouTube channel of the Defendant No. 1; and*

*(viii) An order directing Defendant No. 2, YouTube, to permanently disable access to all infringing content that is uploaded by Defendant No. 1, as highlighted in paragraphs 13, 14, 16, 17, 21 and 23 of the plaint, and/or any other videos identical to, or similar in content, and/or any other videos and/or content in any format, including but not limited to use of pictures, names, images, likeness that violate the rights of the Plaintiff, as specified in the plaint in line with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021; and*

*(ix) An order directing Defendant No. 3, MeitY to ensure that access is permanently disabled to all infringing content that is uploaded by the Defendant No. 1 paragraphs 13, 14, 16, 17, 21 and 23 of the plaint, and/or or any other videos which are identical to, or similar in content, and/or any other videos and/or content in any format, including but not limited to use of pictures, names images, likeness that violate the rights of the Plaintiff, as specified in the plaint; and*

*(x) Any other Order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. Learned senior counsels for the plaintiff submitted that the plaintiff is a non-resident Indian and the Chairman and Managing Director of the LuLu Group International. The Plaintiff is currently residing at Villa No. 16, Plot No. 190, Sector – W52, Al Mushrif Area, Abu Dhabi, United Arab Emirates. The plaintiff is involved in many social, charitable and humanitarian activities in India as well as in the Gulf countries and he is actively involved in protecting the interests of Non-Resident Indians and fostering social and communal harmony amongst the NRI's in the Gulf. The plaintiff is an internationally known figure whose name is held in high regard by the general public in light of his extensive commercial, social and philanthropic

activities for the last 50 years.

3. It is submitted that the Defendant No. 1 in the instant case is one Shajan Skariah, who appears to be the principal officer, Chairman/Publisher of a website and online news channel called [www.marunadanmalayalee.com](http://www.marunadanmalayalee.com). Defendant No. 1 also has a YouTube channel located at <https://www.youtube.com/@marunadanmalayali8276> which was created on 28<sup>th</sup> November, 2018 and as on 24<sup>th</sup> May, 2023, it has 1.97M subscribers and 1,658M views. Defendant No. 1 has another YouTube channel located at <https://www.youtube.com/@MarunadanTV> which was created on 25<sup>th</sup> December, 2009 and as on 24<sup>th</sup> May 2023, it has 2.45M subscribers and 1,871M views.

4. Defendant No. 2 is Google LLC and has been made a party, as the Defendant No. 1 is posting *ex-facie* false and defamatory statements and comments regarding the Plaintiff on the abovementioned channel hosted on YouTube which is owned and operated by Google LLC.

5. Defendant No. 3 is the Ministry of Electronics and Information Technology. The Plaintiff has no dispute with the Defendant No. 3 but is only seeking its indulgence to ensure that once orders of the Court are passed, all infringing, defamatory and unlawful videos posted by the Defendant No. 1, or any other videos, are delisted and disabled permanently.

6. Learned senior counsels for the plaintiffs submitted that the grievance of the Plaintiff against the Defendant No. 1 is that the Defendant No. 1 is running an online defamatory campaign against the Plaintiff and is making *ex-facie* false and defamatory statements and comments regarding the Plaintiff online. The Defendant No. 1's activities are distasteful and have been done solely with the motive of maligning the reputation and fame

enjoyed by the Plaintiff. The Defendant No. 1 has been publishing false and defamatory content about the Plaintiff ever since 2013 on his website <https://www.marunadanmalayalee.com>. All such instances of publishing defamatory contents are enlisted along with the URLs and with description in paragraphs 13, 14, 16, 17, 21 and 23 of the plaint.

7. Learned senior counsels for the plaintiff submitted that a suit has also been filed before the Additional Sub-Judge, Subordinate Judge's Court, Emakulam, Kerala and titled as ***Shri. Yusuff Ali M.A. & Anr. Vs. Shri. T.P. Nandakumar & Ors.***; OS No. 274/2020 against various parties including the Defendant No. 1 and his news channel previously for having made false and defamatory allegations and statements against the Plaintiff. In the said suit, the court had passed a detailed injunction order dated 9<sup>th</sup> April, 2021 injunctioning the Defendant herein from making and publishing false and defamatory statements, videos etc. against the Plaintiff. A complaint was also filed before the Additional Chief Judicial Magistrate-VI<sup>th</sup>, Lucknow seeking relief against the defamatory statements made by the Defendant No.1 against the Plaintiff. Vide Order dated 15<sup>th</sup> April, 2023, summons were issued on the Defendants. The said matters are *sub-judice* before the respective Courts.

8. Learned senior counsels for the plaintiff submitted that even though the said matters pertained to a different subject matter arising from a separate cause of action, despite specific and detailed injunction orders, the Defendant No. 1 continues to post defamatory and false content relating to the Plaintiff. The aforesaid clearly evince the writ large conduct of the Defendant No. 1 of carrying out a defamatory propaganda against the Plaintiff by making incorrect, false, concocted and inflammatory allegations against the Plaintiff

in order to incite public sentiments against the Plaintiff.

9. It is, therefore, prayed that a decree and an order of permanent injunction be issued thus restraining the Defendant No. 1 from making, posting, publishing, uploading, distributing and/or re-publishing any false, defamatory and libelous content against the Plaintiff or his business enterprise LuLu Group on any platform resulting in the violation of the Plaintiff's right to privacy, personality rights and right to life which can bring disrepute and tarnish the Plaintiff's goodwill and reputation in India and across the globe.

10. Heard learned counsel for the plaintiff and perused the record.

11. Let the plaint be registered as a suit.

12. Issue summons to defendants.

13. Learned counsels appearing on behalf of the defendant no. 1 and 2 accepted summons.

14. Learned counsel appearing on behalf of the defendant no. 1 vehemently opposed the instant suit on the ground of maintainability and also referred to the judgment of a Coordinate Bench of this Court in the case of *Ajay Pal Sharma v. Udaiveer Singh* in **CS (OS) 139/2020 dated 28.07.2020**. He submitted that this Court has no jurisdiction to adjudicate the instant suit. He also raised the objection regarding the insufficient court fees deposited for filing the instant suit.

15. Issue summons to defendant no. 3 through all modes.

16. The summons shall indicate the written statement(s) shall be filed within thirty days by the defendants from the date of receipt of summons.

17. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff.

18. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Alongwith the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

19. List before the Joint Registrar on 13<sup>th</sup> July, 2023 for completion of service and pleadings.

20. List before the Court on 22<sup>nd</sup> August, 2023.

**I.A. 10539/2023 (Under Order XXXIX Rule 1 and 2)**

1. The instant application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the plaintiff seeking the following reliefs:

*“a. An order of ex-parte ad-interim injunction restraining the Defendant No. 1 and all others acting for and on his behalf from making, posting, publishing, uploading, distributing and/or re-publishing any false, defamatory and libellous content against the Plaintiff or his business enterprise LULU Group on any platform whether online or offline which results in the violation of the Plaintiff’s right to privacy and personality rights and right to life and which can bring disrepute and tarnish the to the Plaintiff’s goodwill and reputation in India and across the globe; and*

*b. Directions to Defendants No. 2 and 3 that as and when the Plaintiff, brings to the notice of the said Defendants, information regarding resurfacing/recirculation of the videos /other content mentioned in the present application, the same shall be taken down; and*

*c. Directions to Defendant No. 2 to take down and disable the offending and defamatory videos/content posted against the Plaintiff, as mentioned in paragraphs 12, 13, 15, 16, 20, and 22 of the instant application; and*

*d. Directions to Defendant No. 3 to completely disable access to the YouTube Channel of Defendant No. 1; and*

*e. Any other order(s) as this Hon’ble Court may deem fit in the*

*facts and circumstances of the case and interest of justice.”*

2. Learned senior counsels for the plaintiff submitted that the Defendant No. 1 is running a continuous online defamatory campaign against the plaintiff and is making *ex-facie* false and defamatory statements and comments regarding the plaintiff. The defendant no. 1's activities are distasteful and have been done solely with the motive of maligning the reputation and fame enjoyed by the plaintiff. The defendant no. 1 has been publishing false and defamatory content about the plaintiff ever since 2013 on his website <https://www.marunadanmalayalee.com>.

3. Learned senior counsels for the plaintiff stated that in view of the unabated attacks on its reputation, the Plaintiff was constrained to issue a legal notice dated 10<sup>th</sup> April 2023 calling upon the said Defendant to immediately publish an unconditional apology through various media and to seize and desist from making/publishing false/malicious and defamatory remarks/articles against the Plaintiff. However, no response was received to the said legal notice from the Defendant No. 1.

4. Learned senior counsels for the plaintiff stated that the defamatory videos as mentioned in the paragraphs 12, 13, 15, 16, 20 and 22 of the instant application are only illustrative examples and there are many other false and defamatory videos, posts and contents that have been posted online by the defendant no. 1. It is also stated that the defendant no.1 by way of the contents/videos is also tarnishing the reputation of and defaming the highest officers and constitutional functionaries of the nation.

5. It is further submitted that despite court orders and other legal proceedings, the defendant no. 1 is till date continuing to post such false and



defamatory videos and content regarding the plaintiff with impunity leaving the plaintiff with no other option but to approach this Court seeking an urgent order of injunction against the defendant no.1.

6. *Per contra*, learned counsel appearing on behalf of the defendant no.1 vehemently opposed the instant application on the ground of maintainability and also referred to the judgment of a Coordinate Bench of this Court in the case of ***Ajay Pal Sharma v. Udaiveer Singh*** in **CS (OS) 139/2020 dated 28.07.2020**. He submitted that this Court has no jurisdiction to adjudicate the instant suit as well as the application.

7. Learned counsel appearing on behalf of the defendant no. 2 submitted that if the defendant no. 1 does not remove the offending and defamatory videos/content posted against the plaintiff as mentioned in the paragraphs 12, 13, 15, 16, 20 and 22 of the instant application within 24 hours, the defendant no. 2 shall remove all the videos as mentioned above.

8. Heard learned counsels for the parties.

9. Issue notice.

10. Learned counsels appearing on behalf of the defendants no. 1 and 2 accepted notice.

11. Issue notice to defendant no. 3 through all modes.

12. Reply(ies) be filed within four weeks.

13. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.

14. Right to privacy and Right to a Dignified Life under Article 21 are Fundamental Rights enshrined in the Constitution. Every person has the inalienable right to live a dignified life without discrimination and without being defamed. The Defendant No. 1's comments *prima facie* seem to be a misuse of the liberties where in the garb of freedom of speech and

expression, the Defendant No. 1 is unnecessarily targeting the Plaintiff and his business group and posting false and defamatory content about the Plaintiff. As per the statement by the learned senior counsels for the plaintiff, the defendant no.1 by way of the contents/videos is also tarnishing the reputation of and defaming the highest officers and constitutional functionaries of the nation.

15. It is pertinent to take note that even though the right to free speech and expression is a fundamental tenet of liberty which is considered to be an indispensable part of an effective democracy, the same does not give an absolute right to abuse one's freedom to defame others. The law related to defamation is one such reasonable restriction on the freedom of speech as prescribed under the Constitution.

16. Upon a bare perusal of the contents of the plaint and the content posted by the defendant no.1 on record before this Court, a *prima facie* case is made out against the defendant no. 1. Accordingly, in view of the *prima facie* case being made out as well as in the interest of protection of rights of the plaintiff, this Court is of the opinion that in the instant case, an *ad-interim* injunction merits to be granted.

17. Hence, the following order is passed:

### **ORDER**

- a) The defendant No.1 is directed to forthwith take down all/any content published by it on any platform/social media platforms including that of the defendant no. 2 i.e. YouTube in relation to the plaintiff as mentioned in the paragraphs 12, 13, 15, 16, 20 and 22 of the instant application within the next 24 hours;
- b) Till the next date of hearing, the defendant no. 1 is also restrained

from using any platform/social media platforms including that of the defendant no. 2 i.e. YouTube for making any comments/remarks in relation to the plaintiff herein; and

- c) Upon the failure of the defendant no.1 to carry out the direction as mentioned hereinabove, the defendant no. 2/Google LLC/YouTube is directed to take down all distasteful and defamatory content published by the defendant no.1 on its platform using the aforementioned channels on the URLs as mentioned in the paragraphs 12, 13, 15, 16, 20 and 22 of the instant application, and to suspend the operation of the channels owned by the defendant no.1 till the next date of hearing.

18. List before the Joint Registrar on 13<sup>th</sup> July, 2023 for completion of service and pleadings.

19. List before the Court on 22<sup>nd</sup> August, 2023.

**CHANDRA DHARI SINGH, J**

**MAY 26, 2023**  
**gs/@k**