

MAGNA PUBLISHERS CO. LTD. & ORS.

A

v.

SHILPA S. SHETTY

DECEMBER 12, 2007

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

B

*Defamation:*

*Publication of defamatory articles in a magazine against a film actress—Filing of suit by the actress for damages and injunction restraining publisher from publishing the articles—Single Judge of High Court granting interim injunction—Affirmed by Division Bench of the High Court— On appeal, Held: Interim order granting injunction continues to be operative—High Court to dispose of the suit at the earliest.*

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D

**Respondent-a film actress filed a suit for damages of Rs.20 crores against the appellant-publishers of a magazine on the ground that the articles published in the magazine were defamatory in nature and would affect her career and for injunction restraining the appellants from publishing such articles. Single Judge of the High Court granted interim injunction. The order was affirmed by the Division Bench of the High Court. Hence the present appeal.**

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**Disposing of the appeal, the Court**

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**HELD: 1.1. The matter relates to an interim order and while granting leave, the prayer for grant of interim relief was refused by this Court. In other words, interim order passed by the Single Judge as upheld by the Division Bench of the High Court continues to be operative. The High Court is requested to explore the possibility of early disposal of the suit pending before it. [Para 11] [741-F-G]**

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**1.2. No opinion has been expressed on the merits of the case. [Para 11] [741-G]**

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 344 of 2002.

From the final Judgment and Order dated 16.7.2001 of the High Court of Judicature at Bombay in Appeal No. 128 of 2001 in Notice of Motion No. 25 of 2001 in Suit No. 36 of 2001.

B E.C. Agrawala, Mahesh Agarwal, Rishi Agrawala and Amit Kumar Sharma for the Appellants.

S.K. Bhattacharya for the Respondent.

C The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Heard learned counsel for the parties.

D 2. It appears that vide an interim order dated 12.1.2001, the High Court granted ad interim injunction and a Division Bench of the Bombay High Court refused to interfere.

3. A brief reference to the factual aspects would suffice:

E 4. The respondent filed a suit claiming that she is a film actress of good standing. Certain articles were published in the magazine published by the appellants called 'Stardust'. A suit for damages of Rs.20 crores alleging that the articles are defamatory in nature and would affect her career and for injunction restraining the appellants from publishing defamatory articles was filed. Notice of motion for interim injunction was taken out. Learned Single Judge was of the *prima facie* view that the articles deal with the personal life and are defamatory in nature and granted interim injunction. The interim injunction reads as follows:

G "Therefore, as directed in the case of *Indian Express Newspapers* (supra), a modified injunction is hereby granted restraining the defendants from republishing the three articles and/or from writing and publishing any defamatory article in the nature of the three articles alleging that the plaintiff is having relationship with other actors or a married man, which will operate till the disposal of the suit."

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5. The said order dated 12.01.2001, as noted above, was challenged in appeal. A

6. Before the Division Bench, the stand was that the interim injunction granted was beyond the prayer made in the notice of motion. The High Court noted that in notice of motion, the prayer was in the following terms:

“That pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to issue an order and injunction restraining the defendants from in any way or manner carrying our defamatory, allegations and imputations in future against the plaintiff”. B

7. The Division Bench was of the further view that the Learned Single Judge had not granted interim protection beyond what was prayed and was covered by the prayer. C

8. The other stand before the Division Bench was that moment justification is pleaded, there can be no interim protection. This plea was also rejected stating that a person cannot be defamed by allowing such publications in future. Justification shall be required to be established at the time of hearing of the suit by leading evidence. D

9. There were certain other stands relating to lack of pleadings about the reputation and character. The Division Bench found that also to be without substance. The appeal was accordingly dismissed. E

10. Learned counsel for the appellant reiterated the stand taken before the Division Bench. Mr. Bhattacharye, learned counsel for the respondent supported the order. F

11. We find that the matter relates to an interim order and while granting leave, the prayer for grant of interim relief was refused. In other words, interim order passed by learned Single Judge as upheld by the Division Bench continues to be operative. Therefore, without expressing any opinion on the merits of the case, we think it proper to dispose of the appeal without interference. We, however, request the High Court to explore the possibility of early disposal of the suit No.36/2001. G

12. The appeal is disposed of accordingly.