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Delhi High Court holds that truthful and scientifically backed content shared in good faith by social media influencers is not defamation or disparagement

A single judge of the Delhi High Court (“**Delhi HC**”) in *San Nutrition Private Limited vs. Arpit Mangal and Ors.*¹, while rejecting grant of an interim injunction, has held that influencers are not liable for defamation or disparagement when the information shared by them is true, not misleading and without malicious intent.

Brief facts

Arpit Mangal (“**Defendant No. 1**”), a social media influencer, published videos on the YouTube platform *inter alia* reviewing DC Doctor’s Choice Iso Pro (“**Product**”) marketed by San Nutrition Private Limited (“**Plaintiff**”). Defendant No. 1’s videos on the Product were based on independent laboratory reports (“**Lab Reports**”) and comparison with other competitor products in the market. Relying solely upon Defendant No. 1’s videos, Kabir Grover (“**Defendant No. 2**”) and Manish Keswani (“**Defendant No. 3**”) posted similar videos on YouTube. Avijit Roy (“**Defendant No. 4**”) also published videos on the Product after self-testing it with a kit developed by a competitor brand and used Plaintiff’s mark in the thumbnail of the videos.

Being aggrieved by these videos published by Defendant Nos. 1 to 4 (“**Impugned Videos**”) which showed the Plaintiff and the Product in negative light, the Plaintiff filed a suit along with an interim injunction application. While Defendant No. 1 appeared and opposed the interim injunction application, Defendant Nos. 2 to 4 did not appear before the Delhi HC.

In the interim injunction application, the Plaintiff *inter alia* contended that: (a) the Impugned Videos contained false, malicious and misleading statements about the Plaintiff and the Product with an attempt to defame and disparage; (b) the damage caused to the Plaintiff was visible from the negative comments/reviews on the Impugned Videos, e-commerce websites along with the decline in the sales of the Product; and (c) the Impugned Videos contain the name/pictures/videos of the Product and also shows the Plaintiff’s mark which amounts to unauthorised and wrongful use of Plaintiff’s trademark and copyright.

Defendant No. 1 *inter alia* contended that the statements made in his videos were: (a) fair comments issued in public interest, based on scientific evidence, and were protected under the right to exercise freedom of speech and expression under Article 19(1)(a) of the Constitution of India (“**Constitution**”); and (b) based on truth substantiated by verifiable Lab Reports accredited under applicable laws. Defendant No. 1 also contended that the use of Plaintiff’s marks in his videos was covered under fair use and does not violate the Plaintiff’s intellectual property rights.

¹ 2025 SCC OnLine Del 2701

Issue

Whether the Impugned Videos were defamatory, disparaging and infringed upon the Plaintiff's trademarks?

Findings and Analysis

The Delhi HC rejected the Plaintiff's interim application and *inter alia* observed as follows:

1. in cases of defamation, the defence of truth or justification has been recognised as a complete defence and the onus of proving the truth of the statement is on the defendant.² The defence of truth cannot be defeated solely on account of malice;³
2. the defence of fair comment applies if the defendant establishes that: (a) he believed the statements to be correct based on the facts available to him; and (b) there was no malice behind the statements. The onus of proving malice in such cases lies on the plaintiff;⁴
3. commercial speech is protected under Article 19(1)(a) of the Constitution. However, if such speech is deceptive, unfair, misleading or untruthful, it would be restricted under Article 19(2) of the Constitution.⁵ Further, commercial speech would amount to disparagement if the 3 (three) fold test of falsehood, malicious intent and special damage is established by the plaintiff;⁶ and
4. as upheld by the Supreme Court of India, the threshold for grant of interim injunctions in cases of defamation and disparagement is based on the Bonnard principle.⁷ As per the Bonnard principle, interim injunctions in cases of defamation and disparagement should not be granted unless the defence set up by the defendant is eventually bound to fail in trial; and
5. for any case on infringement under Section 29A of the Trade Marks Act, 1999, a defendant would have to use the plaintiff's registered trademark in the course of his trade or commercially exploit the same.⁸

Based on the above principles and in the facts of the case, the Hon'ble Delhi HC *prima facie* held that the Plaintiff had failed to discharge its burden of proof in establishing that the statements made in the Impugned Videos were palpably false, misleading, malicious and/or were bound to fail at the stage of trial. Further, the Delhi HC also ruled that the Plaintiff had failed to establish a case for infringement of its intellectual property rights. Accordingly, the Delhi HC held that Defendant Nos. 1 to 4 were entitled to protection of free speech under the Constitution.

Conclusion

This decision highlights the need to strike a careful balance between protecting the right to freedom of speech and expression of social media influencers and preserving the reputation of businesses in an increasingly digital landscape. It underscores the importance of fostering a harmonious coexistence between individual expression and corporate honesty in the era of social media. Notably, the ruling gains further significance as it deals with circumstances for grant of an interim injunction, a form of immediate relief that businesses often seek when facing potential defamation or brand disparagement.

² *Pankaj Oswal vs. Vikas Pahwa*, 2024 SCC OnLine Del 1193

³ 2006 SCC OnLine Del 14

⁴ *Tata Sons vs. Greenpeace*, 2011 SCC OnLine Del 466

⁵ *Tata Press vs. Mahanagar Telephone Nigam Limited*, (1995) 5 SCC 139,

⁶ *Dabur India vs. Colortek Meghalaya*, 2009 SCC OnLine Del 3940

⁷ *Bloomberg Television vs. Zee Entertainment*, (2025) 1 Supreme Court Cases 741; *Bonnard vs. Perryman*, [1891] 95 All ER 965.

⁸ *Tata Sons vs. Greenpeace*, 2011 SCC OnLine Del 466

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