

CS

.Vs. .

07.01.2026

Present:

, Ld. counsel for plaintiff.

Sh. Manish Sindhwani & Sh. Babban Bhai, Ld. counsels for
defendant with defendant.

Final arguments heard.

List for orders on 14.01.2026.

07.01.2026

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**IN THE COURT OF
NORTH-EAST DISTRICT, KARKARDOOMA COURTS, DELHI**

In the matter of

CS No.

CNR No.

XXXXXX

W/o Sh.

D/o XXXXXX

XXXXXX

..... Plaintiff

versus

S/o Sh.

House

Also At:-

..... Defendant

Date of institution : 17.09.2024

Reserved on : 07.01.2025

Date of Decision : 14.01.2026

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JUDGMENT

1. The identity of the plaintiff has been withheld considering the facts of the case and the reasons thereof shall become evident as I proceed to pen this judgment.
2. Plaintiff has sued the defendant for the tort of defamation seeking damages of Rs.20 lacs along with *pendente lite* and future interest. The plea is based on two documents namely (a) the divorce petition bearing HMA no. _____ filed by defendant against plaintiff on the ground of adultery; (b) police complaint dated 18.04.2024 made by defendant to various police authorities including DCP, District North-East, Seelampur, Delhi.
3. As per plaintiff, in para 10 of the aforesaid divorce petition, defendant has alleged that he had come to know that *plaintiff and one _____ used to shoot their obscene videos in public/online for commercial purpose.*
4. Again, as per plaintiff, in para 5 of the above referred police complaint, defendant had alleged that plaintiff and said _____ are involved in the work of preparing obscene videos (*ye dono milkar ashleel video banane ka dhandha karte hain*).
5. As per plaintiff, the said claims of defendant are highly defamatory and hence, she has sued the defendant for damages.
6. Plaintiff married defendant on 03.02.2024 and soon after in April, 2024 defendant filed for divorce *inter alia* on the ground of adultery

against the plaintiff. The said allegations made in the petition bearing HMA no. are stated to be defamatory.

7. Additionally, she has also sought a decree of permanent injunction seeking to restrain the defendant and other persons from spreading, creating or publishing any remarks of any kind which may defame the reputation or goodwill or image of the plaintiff in the eyes of general public.
8. Defendant has resisted the suit of the plaintiff by filing a written statement praying for dismissal of the suit. He does not dispute the filing of the divorce petition bearing HMA as well as filing of police complaint dated 18.04.2024.
9. He has claimed that his claim of adultery is in fact true and thus, truth is a complete defence in a case of defamation. Additionally, he claims that plaintiff was in a physical relationship with a person named before their marriage and even thereafter. He claims that plaintiff recorded her private moments with a person named and such recordings were saved for commercial purposes. It is his case that he never published the said claims to any third party and the assertions were only made in the divorce petition and the police authorities. This, as per him, are protected communications in law and therefore, he cannot be held liable for any defamation or asked to pay any damages.

10. Based on pleadings of the parties, following issues were framed vide order dated 22.05.2025, which read as under:-

- i) Whether plaintiff is entitled to a decree of damages as prayed for in prayer (a) of the plaint? OPP*
- ii) Whether plaintiff is entitled to a decree of permanent injunction as prayed for in prayer (b) of the plaint? OPP*
- iii) Relief.*

11. Plaintiff examined herself as PW-1 by way of her affidavit in evidence Ex.PW1/1 as her only witness. She relied upon the following documents:

S. No.	Nature of Documents	Exhibit/Mark
1.	Aadhar card of the plaintiff.	Ex.PW1/A (OSR)
2.	Wedding Card.	Mark A
3.	Marriage photograph.	Ex.PW1/B
4.	Police complaint dated 25.04.2024 filed by the plaintiff.	Mark B
5.	Police complaint dated 02.05.2024 filed by the plaintiff.	Mark C
6.	Copy of FIR No. of IT Act 2008.	Ex.PW1/C
7.	Screenshots of Whats-app chatting between plaintiff and defendant.	Ex.PW1/D (colly.)
8.	Certified Copy of Petition U/s 13 (1) (i) & (ia) of HMA 1955 bearing No. HMA filed by the defendant against the plaintiff.	Ex.PW1/E
9.	Office copy of the legal Notice dated 17.08.2024 sent to the defendant through speed post vide postal receipts dated 20.08.2024.	Ex.PW1/F (colly.)
10.	Postal delivery reports/tracking reports downloaded from official website of Indian Post.	Ex.PW1/G (colly.)
11.	Certificate under Section 63 Bharatiya Sakshya Adhiniyam, 2023.	Ex.PW1/H

12. PW-1/plaintiff was cross-examined at length by the counsel for the defendant.

13. I may note that defendant did not examine any witness despite opportunity.

14. Final arguments heard. Record perused.

15. Based on the evidence led before this court, the issue-wise finding in the matter is as under:

Issue no. (i)

i) Whether plaintiff is entitled to a decree of damages as prayed for in prayer (a) of the plaint? OPP

16. The case of the plaintiff is based on two defamatory publications. First is the divorce petition filed by defendant bearing HMA no. . As far as the said defamatory publication is concerned, the same is protected in law as defendant is entitled to claim absolute privilege qua the same. It is to be noted that defendant wants divorce from plaintiff on the ground of adultery and making of statements in this regard to the court of competent jurisdiction for divorce cannot be said to cause the tort of defamation. Making of the said petition essentially qualifies as judicial privilege as defendant is seeking his statutory remedy against the plaintiff and thus, statements made before the concerned court in the petition bearing HMA no. Ex.PW1/E (OSR) cannot be termed as defamation. Plaintiff is entitled to absolute privilege on that count and thus, cannot be held liable for filing of the said petition.

17. At this stage, it may be noted that plaintiff in her own petition before this court as well as in her evidence led before this court in Ex.PW1/1 has admitted that after her marriage with defendant on 03.02.2024, she had physical relationship with one . She herself has placed

on record various Whats-app communications Ex.PW1/D (exchanged between plaintiff and defendant) admitting that she was in a physical relationship with the said individual. Though, she claims that she was being black-mailed by the said individual and she had even initiated an FIR against _____ bearing FIR no. _____ u/s 323/506/376/494 IPC and Sec. 67 of I.T. Act at PS Nawabad, Jhansi, still, the fact of the matter remains that as per her own admissions, she was in a relationship with a third person after her marriage to defendant. Thus, by her own admission, there is truth in the claim of defendant that plaintiff was committing adultery.

18. Thus, in my humble opinion, as far as the claim of defendant qua adultery is concerned (made in the divorce petition Ex.PW1/E), the same cannot be held to be actionable to entitle the plaintiff for any damage.
19. Counsel for the plaintiff argued that apart from the claim of adultery, defendant had claimed in para 10 of his divorce petition that purportedly plaintiff and _____ used to shoot their obscene videos in public online for commercial purpose. This fact is stated to be defamatory.
20. In my humble opinion, the said assertion of defendant made in the divorce petition is still pending adjudication and would also be protected under absolute privilege being a statement made in connection with judicial proceedings. There is no specific statute applicable in India covering tort of defamation and in a number of

cases decided by various courts, it is now well established principle of law that any statement made by a party to a proceeding is absolutely privileged being part of judicial proceedings. Such statements are in the nature of statements made in the *well of the court* and are thus, protected. In this regard, I may place reliance on a judgment passed in the matter of **Natthi Ji Muleshwar vs. Lal Hai Ravidutt (1889) ILR 14 Bombay 97**. The said judgment was taken note of by the Bombay High Court in **Ms. Kamalini Manmade vs. Union of India (1967) 69 BOM LR 512**.

21. In the present case, the plea of defendant for divorce *inter alia* on the ground of adultery is still pending adjudication and it remains to be seen as to whether the allegations of plaintiff shooting obscene videos with _____ for the purposes of commercial use is or is not proved. But, since the said statement is made in the course of judicial proceedings in the *well of the court*, the same shall have to be treated to be absolutely privileged. No authority was brought to my notice to hold otherwise.
22. Plaintiff had placed on record a few judgments dealing with the case of criminal defamation. The said judgments cannot help the case of plaintiff. No judgment dealing with tort of defamation were brought to my notice to suggest that even statements made in court would be liable for damages even when the same are *prima facie* relevant for the adjudication of the case and the said case is yet to be decided.

23. Thus, in my humble opinion, defendant cannot be held to have committed the tort of defamation by filing the divorce petition *inter alia* on the ground of adultery along with the allegation that plaintiff indulges in commercial shooting of obscene videos.
24. Now, the other defamatory publication is stated to be a police complaint dated 18.04.2024 Ex.X. This document is not disputed between the parties. Defendant wrote a written complaint to various police authorities including DCP, North East, Delhi claiming that his wife is involved in obscene activities and she is having illicit relationship with . He further claims in the said complaint that his wife and the said individual together make obscene videos for work.
25. Counsel for the plaintiff argued that the said statements made to the police are *per se* defamatory and thus, defendant should be held liable to pay compensation to plaintiff. On the other hand, counsel for the defendant claimed that his client is entitled to absolute privilege qua the said statement also. Additionally, it was argued that if the same is not available to the defendant, defendant should be allowed **qualified privilege** qua the aforesaid communication in as much as defendant had an interest in protecting himself against any possible allegations from the plaintiff after he found out about the adulterous relationship between plaintiff and said . He argued that in the said complaint, plaintiff has specifically reported to the police the threat extended to him by plaintiff. He drew the attention of this court to para 6 of the said complaint wherein it is averred that plaintiff had

threatened the defendant that in case he brought the factum of adultery etc to the knowledge of any person, plaintiff and _____ would ruin the life of plaintiff; multiple cases shall be foisted on the plaintiff and his family members so that they spend their entire life in jail; they would be got killed; plaintiff also threatened that she is in possession of various obscene videos of the defendant which she shall upload on social media.

26. It is the argument of counsel for defendant that the entire police complaint should be read as a whole and a single statement should not be read in isolation. It was further argued that if one reads the plaint, affidavit in evidence as well as the cross-examination of plaintiff/PW-1, it is abundantly clear that plaintiff continued her physical relationship with [redacted] even after her marriage to defendant on 03.02.2024. Counsel submitted that at that time, defendant acted as a reasonable person by intimating the police about the said relationship and police were under an obligation to investigate the same.

27. Additionally, counsel argued that intimating the police about an illegal act cannot be termed as defamatory and thus, on the basis of said police complaint, no liability can be fixed qua the defendant.

28. Plaintiff herein is essentially aggrieved by the claim of the defendant made in police complaint Ex.X dated 18.04.2024 that **plaintiff and are involved in the work of making obscene videos.**

29. In the police complaint Ex.X, defendant not only claims about some obscene videos/photographs, he also claims about various threats extended to him by plaintiff. If one reads the entire document Ex.X, it appears that at that time defendant was *inter alia* reporting the factum of threats purportedly extended by plaintiff to defendant along with the existence of some obscene material.

30. Now, obscenity is a punishable offence in India and making or dealing in such obscene videos is also an offence under the IPC r/w the Information Technology Act. Defendant claims in his complaint to police Ex.X that he has evidence to support the said claim. Now, considering the fact that as per the Whats-app messages placed on record by the defendant, it appears that there were some photographs/videos of plaintiff and sharing some intimate moments amongst themselves. In this regard, reference can be had to the Whats-app chat dated 25.04.2024 [forming part of Ex.PW1/D (colly.)] wherein plaintiff herself claims that purportedly used to intimidate her using some photos/videos. Thus, defendant's claim that plaintiff and shot some videos of their intimate scenes appears to be correct. Now, whether the said videos/photos were shot for personal use or for some other work (as alleged by the defendant in his police complaint Ex.X) is a matter of investigation for the police.

31. Suffice is to say that the complaint made by defendant to police would fall within the four corners of qualified privilege. This is because, the said statement was made by defendant to police *inter alia* on the basis

of some supporting evidence which defendant had. Defendant claimed that he has the relevant photographs/videos which he can show to the police. There were Whats-app messages exchanged between the parties where plaintiff herself admitted to such photographs/videos. Thus, defendant was fairly making a complaint to the police as he apprehended a threat from the plaintiff qua her assertion that in case defendant did not keep quiet about her relation with _____ or about the videos/photographs, he and his family may face various litigations. Since he claimed to possess various photographs/videos, which as per him were obscene, it can be said that he had an interest to report the same so that the matter may be investigated for the truth to come out.

32. The principle of qualified privilege was explained in the case of **Pandey Surendra Nath Sinha & another vs. Bageshwari Pd.** AIR 1961 **Patna 164** by the Hon'ble Patna High Court. In the said case, the Patna High Court was dealing with a case where a police complaint was made against an individual and such complaint was claimed to be defamatory to the plaintiff. The Hon'ble Patna High Court in the said case explained the principle of qualified privilege in the following terms:

“55. Qualified Privilege : In order, however, to decide the question of qualified privilege, raised by the appellants, it would be useful, at this very stage, also to know, what is a qualified privilege? what are its essentials? and, in what respect does qualified privilege differ from an absolute privilege?”

56. Privilege is qualified where the defendant is entitled to make the statement, even if it is false, but only if he makes it honestly with respect to what he states and carefully with respect to the means by which he states it. Qualified privilege exists when the defendant is exempted from the rule of strict liability for

defamation not absolutely, but only conditionally on the absence of malice. When, therefore, an occasion of qualified privilege exists a person, provided he is not actuated by malice, is entitled to make defamatory statements about another.

On such an occasion, no doubt the right of freedom of speech prevails over the right of reputation, but only to a limited extent, that is, only when the statement is made honestly and without any indirect or improper motive and is not actuated by any malice. Qualified privilege, therefore, is an intermediate case between total absence of privilege and the presence of absolute privilege.

57. The principle, which determines whether any particular occasion is privileged, was expounded by Parke B. in *Toogood v. Spyring*, (1834) 1 Cr. M. and Rule 181, at p. 193, thus:

"The statement is protected if it is fairly made by a person in the discharge of some public or private duty, whether legal or moral, or in the conduct of his own affairs, in matters where his interest is concerned. If fairly warranted by any reasonable occasion or exigency, and honestly made, such communications are protected for the common convenience and welfare of the society; and the law has not restricted the right to make them within any narrow limits."

Amongst the chief instances of qualified privilege, which are relevant to our purpose, are also the following two:

(1) Statements made in the performance of a duty; whether legal, moral, or social; such as, Police investigating a crime; and, (2) Statements made in the protection of some lawful interest, which include statements in self-protection -- protection of oneself or of one's property, and statements made to the proper authorities in order to procure the redress of public grievances.

58. A statement, therefore, is conditionally privileged, if the person who makes the communication has an interest or a duty, legal, social or moral, to make it to the person to whom it is made, and, the person to whom it is so made has a corresponding interest or duty to receive it. This reciprocity is essential; per Lord Atkinson, in *Adam v. Ward*, (1917) AC 309, H. L. at p. 334. The privilege extends only to a communication upon the subject with respect to which privilege exists, and, does not extend to anything that is not relevant and pertinent to the discharge of the duty, or, the exercise of the right, or, the safeguarding of the interest which creates the privilege.

59. It would be useful to know the distinction between absolute privilege and qualified privilege. The points of distinction between absolute privilege and qualified privilege are the following:

"(i) In absolute privilege, it is the occasion which is privileged, and when once the nature of the occasion is shown, it follows, as a necessary inference, that every communication on that occasion is protected; in qualified privilege, the occasion is, not privileged,

until the defendant has shown how that occasion was used. It is not enough to have an interest or a duty in making a statement, the necessity of the existence of an interest of duty in making the statement complained of, must also be shown:

(ii) In absolute privilege, the defendant gets absolute exemption from liability; in qualified privilege, the defendant gets a conditional exemption from liability:

(iii) In absolute privilege, the defendant is exempted from liability even when there is malice on his part; in qualified privilege, the defendant is exempted from liability only when there is no malice on his part:

(iv) In absolute privilege, statements are protected in all circumstances, irrespective of the presence of good or bad motives; in qualified privilege, even after a case of qualified privilege has been established by the defendant, it may be met by the plaintiff proving in reply improper or evil motive on the part of the defendant, in which case the defence of qualified privilege vanishes, and the plaintiff succeeds; and,

(v) In Absolute Privilege as well as in Qualified Privilege, the defendant has to prove his plea of privilege, but with this difference that in Absolute Privilege the defence is absolute and irrebuttable by plaintiff, whereas in Qualified Privilege the defence is not absolute but rebuttable by the plaintiff.

In the case in which it is sought to rely on a defence of qualified privilege, it is for the defendant to prove the facts and circumstances which establish that the occasion was privileged. If he does so, the burden of showing actual or express malice rests upon the plaintiff, and, if this is shown, communications made even on a privileged occasion, can no longer be regarded as privileged communications. If the Court rules that the occasion was not privileged, the plaintiff is not called upon to prove actual malice. In such a case the law implies malice from the falsity of the statement.

60. A statement made in the performance of a duty is conditionally privileged if it is made in the performance of any legal or moral duty imposed upon the person making it, provided that the person to whom the statement is made has a corresponding interest or duty to receive it. This is not to say that both parties must have a duty, or both an interest: One may have an interest and the other a duty. A statement made in the protection of an interest, even when there is no duty to make the statement, is nevertheless privileged if it is made in the protection of some lawful interest of the person making it; for example, if it is made in the defence of his own property or reputation. But here also there must be reciprocity. There must be an interest to be protected on one side and a duty to protect it on the other.

61. In order, therefore, to make out a communication to be privileged the defendant should prove (a) that there was a privileged occasion, i.e., an occasion in which he had a duty or

interest in making the communication to a person or persons who had a corresponding duty or interest to receive it; and, (b) that the communication was relevant or pertinent to the occasion. It is then for the plaintiff to prove malice of the defendant in making the statement; it is not enough for the defendant to prove that he honestly believed in the duty or interest in himself or the other person, or in the relevancy of what he said : it is necessary that the Court be satisfied that a reasonable person would have done so."

(emphasis supplied)

33. In the aforesaid judgment, the concept of qualified privilege has been beautifully explained and it has been held that when a case of qualified privilege is set up, defendant should prove that the communication made by him was on a qualified occasion and the communication was relevant to the occasion. Once the same is shown, for the plaintiff to succeed, malice should be proved.
34. In this case, admittedly, parties were sharing a matrimonial relationship as on 18.04.2024. It appears that it was around this time that defendant learnt about the relationship of plaintiff with . This fact is borne out from the Whats-app messages exchanged between the parties and also from the cross-examination of plaintiff. It was at that time that defendant also learnt about existence of some videos/photos shot by plaintiff and . Purportedly, plaintiff on being questioned about the same, threatened the defendant with dire consequences including foisting of false cases etc. It was on such occasion that defendant made a communication to the police intimating about the relationship as well as the possibility of some videos existing between plaintiff and which they have shot for work (*dhandha*).

35. In my humble opinion, the communication made to police would fall within the meaning of privileged communication as defendant was within his right to intimate the police about the same so that a fair investigation can be done qua the alleged videos/photos including the possibility of the same being used for purposes otherwise than personal consumption of parties to the said videos and also to seek protection of the police against the illegal threats purportedly given by plaintiff. In my humble opinion, there was an occasion for the plaintiff to make the said communication; with the said communication being relevant to the occasion. In turn, police were under a duty to receive the said communication also.

36. There is no evidence on record to suggest that plaintiff acted with malice against the plaintiff. Defendant had recently married the plaintiff on 03.02.2024 and soon thereafter, in April, 2024, he learnt about her relationship with a third person giving him a cause to sue her for divorce as well as to make a communication about the intimate videos/photos to police. In such circumstances, in my humble opinion, the communication Ex.X has to be read as a whole and only one line cannot be picked therefrom and read in silos. If so read, the same is protected being made on the occasion of qualified privilege available to the defendant and thus, he cannot be held liable for having made the same to the police.

37. Thus, in my humble opinion, plaintiff is not entitled to recover any damages qua either of the communications made by defendant. The

issue under consideration is accordingly decided in favour of the defendant and against the plaintiff.

Issue no. (ii)

ii) Whether plaintiff is entitled to a decree of permanent injunction as prayed for in prayer (b) of the plaint? OPP

38. Plaintiff has prayed for a decree of permanent injunction *inter alia* against *the defendant and his agents from spreading, creating or publishing any remarks, rumour, article, any statement, obscene video/s and other kinds of manner thereby defaming the reputation and goodwill/image of the plaintiff in the eyes of general public at large in any manner whatsoever.*

39. It is pertinent to note that as per record, defendant, save and except, the two communications referred in the judgment is never alleged to have made any defamatory comment or shared any video etc on any public forum against the plaintiff. The prayer made is extremely wide and vague. The said prayer, as framed, is sweeping, omnibus and bereft of particulars without any reference to time, manner or forum. It is well settled law that courts do not grant vague and blanket injunctions. Even otherwise, an injunction which is incapable of precise enforcement or effective supervision by the court is impermissible in law. In such circumstances, the said injunction cannot be granted to the plaintiff in the manner prayed.

40. Accordingly, the issue under consideration is decided against the plaintiff and in favour of the defendant.

Conclusion

41. In view of the findings returned above, the suit fails. It is dismissed.

42. Parties to bear their own cost.

43. Let a decree sheet be prepared accordingly.

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**Announced in the
open Court on 14.01.2026**

Karkardooma Courts, Delhi