

Google, Facebook benefit from illegal content: Delhi High Court

The High Court on Monday said that websites such as Google and Facebook are liable for the content, posted on their platform by users, as they benefit from the content.

Google India's counsel Neeraj Kishan Kaul argued before the Court that the complainant Vinay Rai has failed find out the bloggers or users who are posting such images and 'instead blaming the landlord for what a tenant does'. "The landlord can't be held liable for an illegal activity carried out by a tenant in his house," said Kaul in a packed courtroom.

On this, the High Court Justice Suresh Cait reacted by saying a landlord would be liable. "In this case, the landlord is benefiting from the illegal activity carried out by a tenant. Thus the landlord is liable," Justice Suresh Cait said on Google India's argument.

Hariharan, the Counsel for complainant Vinay Rai, countered Google India's argument in the High Court, that Google India does not control or benefit from the platforms, such as YouTube, Orkut or Blogger.

Hariharan said that every click on a Google owned website gets it revenue on the content. He said that Google India is wrong in stating that it is just an ad-collection subsidiary of Google Inc. "The Memorandum of Association of Google India shows that it is in the business of production of software, internet products, computer aided design, analysis, selling internet search, engineering platforms and solutions. Thus it is not only in the business of advertising, as it states."

Google India has filed a petition in the Delhi High Court to quash summons against its senior officials in a lower court, on the premise that it does not control Google.com, Blogger.com, or YouTube.com, but just collects ads on behalf of them.

The complainant countered Google India's argument that it has no control over the platforms and thus is a separate legal entity. "The memorandum also states that the office of Google India's Managing director will be vacated upon direction of Google Inc. Its trademark can also not be changed without Google Inc's permission," senior counsel Hariharan said.

He also said that entirely all, but one share, of Google India, are held by Google Inc. Just one vested with some other entity, and thus it is a direct beneficiary of the parent. "Google Inc, owns about 91294 shares in Google India. Only one share vests with some party," Hariharan said.

Facebook's lawyer Sidharth Luthra said that the evidence collected by the complainant is not testified as an electronic record, and thus can't be admitted.

Luthra, cited the the Tehelka case which he represented, where the images taken by Tehelka.com were not being admitted as electronic evidence, until the hard disk where it was stored were certified as per section 29 of Indian Penal Code.

Lawyers for Google and Facebook argued that wholesale blocking of certain so called 'obscene' keywords will limit the internet. "There is a civil parish called Penistone, in England. Blocking all content with this keyword would mean that residents of this parish might never figure on internet," said a Facebook lawyer. He also cited a similar case for the town of Scunthorpe, England.

Justice Cait said that there are about 2000 criminal complaints pending before the Court, but the Court wants to hear this matter urgently, which is very important for the nation.

India's Additional Solicitor General AS Chandhiok who was also present in the Courtroom said the government has given a sanction for prosecution of the websites in the courts. "Government held four meetings with them last year. Despite bringing to their notice the content was not removed," he added.

The High Court has given January 19th, as the next date of hearing for the case.

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