

DEVAN RAMACHANDRAN, J.

WP(C) No.32733/2023

Dated this the 6th day of October, 2023

ORDER

Every movie is an intellectual property.

2. Apart from being so, it also entails reputation, sweat, blood and aspirations of several people, not merely the producers, lead stars, or the directors.

3. The petitioner, who is stated to be a Director, impels a concern that there is now an organized racket, particularly in the 'online spectrum', of deliberately denigrating and tarnishing a movie with intention of unjust enrichment, coupled with blackmail and extortion.

4. Noticing the afore concern of the petitioner, I had, on 05.10.2023, requested Sri.Shyam Padman - learned counsel, to assist

this Court as Amicus Curiae; and today, he also confirmed that, even as per his preliminary and *prima facie* inquiry, he has sufficient materials to establish that there are such vested interests, some of whom even think that they can 'make or break movies'.

5. While the right to 'free speech' is inherent and constitutionally guaranteed, it certainly has to be tempered with reason and restraint, as is imperatively required under Article 19(2) of the Constitution of India.

6. A fair criticism of an intellectual property - be that a movie or otherwise; in contradistinction to a pernicious attempt to blackmail and extort, are two different aspects, which have to be clearly distinguished and dealt with distinctly.

7. Just as an attack on a property is a criminal offence, a pestilential review, deliberately done solely with the afore intent, is

no less, because eventually, both are attacks on tangible properties.

8. The petitioner has, therefore, impleaded the State Police Chief; and Smt.Vidya Kuriakose - learned Government Pleader, affirms that our State has a very robust monitoring system for detecting cyber crimes, headed by competent Police and Technical Officers.

9. If, the afore be so, surely, there ought to be some measures in place where Directors, Producers or other persons associated with movies can make complaints, to trigger a proper investigation and the consequences flowing therefrom - both under the Penal Law and under the laws relating to Cyber Crimes.

10. It is well recognized, without requirement of restatement, that the internet is a very powerful medium; but unfortunately, sometimes and in exceptional cases, it becomes a play ground

for the wildest predilections of vested interests, whose intents are illegal and deleterious.

11. In fact, Sri.Shyam Padman mentioned to this Court today that there is even a word for these activities, called 'Review Bombing'.

12. That said, the other Regulatory Authorities - including those under the Government of India, may also have a role to play, particularly in instances of deliberate and confutative tarnishing activities, as detailed in this writ petition. Since the petitioner is a director, he obtains a cause to project this before this Court, particularly because, as I have already said above, it would also have an impact on him and his teammates' reputation.

13. Sri.Suvin R.Menon - learned Central Government Counsel, in fact, added that the functionaries of the Central Government are also aware of this problem - not only in Kerala but in many other parts of India; and therefore, that

they will also deliberate upon this and offer suggestions.

14. Certainly, this is a welcome offer, and the respondents are invited to provide all necessary inputs, which this Court can use in future.

In the afore circumstances, I direct the learned Government Pleader to obtain specific instructions from the State Police Chief regarding the observations of this Court above, as also the suggestions to be made, in order to ensure that the Movie Industry is not subjected to denigration on account of the illegal actions of a few people, whose intent is extortion and blackmail, among such other.

The State Police Chief, through the learned Government Pleader, will also inform this Court as to if an individual or an entity can file a complaint against such activities, including unlawful and motivated 'Review Bombing'; and the

modus for such, leading to the manner of investigation and its conclusion, apart from other suggestions.

It must, however, be specifically kept in mind by the State Police Chief that, what he is now being called to respond to, is regarding action only in the cases of motivated and calculated reviews made solely to extort and blackmail; and not those which are made *bona fide*. Obviously, a scrutiny at the stage of acceptance of complaint may be required, coupled by a preliminary enquiry or investigation, before a Crime is registered. The protocols in this regard will have to be very carefully thought of, to ensure that honest and *bona fide* 'Reviews' are distinguished, from motivated and *malafide* ones.

List on 10.10.2023, for further consideration.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

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H/o