

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

Civil Miscelaneous Appeal No.351 of 2020

JUDGMENT: (*Per Hon'ble Sri Justice M.S. Ramachandra Rao*)

This Appeal is preferred against the order and decree dt.24.08.2020 in IA.No.93 of 2020 in OS.No.23 of 2020 on the file of the Special Sessions Judge for SC/STs (POA) Act Cases-cum-VII Additional District Judge, Nalgonda.

2. The appellants herein are defendants 1 and 2 in the above suit.

The case of the respondent/plaintiff

3. The respondent/plaintiff filed the said suit against the appellants for a perpetual injunction restraining the appellants from releasing, publishing, exhibiting publicly or privately, selling, promoting or advertising or recreating in the form of drama or serial or any other literary or artistic expression in respect of the person 'Pranay', and in particular, a motion picture in the name of "Murder" allegedly being made by the appellants on the life of the respondent/plaintiff.

4. The case of the respondent/plaintiff was that she fell in love with one Pranay and got married to him on 30.01.2018 but this was not accepted by her father, one Maruthi Rao, who was trying to persuade her to come back to his house; that she refused to accept her father's request; she got pregnant and has gone for medical checkup at Jyothi Hospital at Vinobha Nagar, Miryalaguda which is close to her matrimonial home on 14.09.2018 accompanied by her husband and mother-in-law; after they came out of the hospital at about 13.30 hours, her husband Pranay was attacked and stabbed with a knife several times and he died on account of said injuries.

5. She alleged that police filed an FIR against Sri Maruthi Rao, her father and others accusing them of committing offences under Section 302 read with 34 and Section 120B of IPC, and 109 of IPC and also Section 3(ii)(v) of SC/STs (POA) Act, 1989; subsequently, charge sheet was filed and a case was registered as SC.No.70 of 2019, which is pending before the Special Judge for trial of SC/STs (POA) Act Cases, Nalgonda; that in the meantime her father, Maruthi Rao, who was Accused No.1 in the said criminal case died on 08.03.2020 and a

Crime No.112/2020 under Section 174 Cr.P.C. was registered.

6. She alleged that without her consent, the appellants collected the real life story, photographs and videos of herself and her husband, late Pranay Kumar, and also of her father, late Maruthi Rao, from various sources illegally with a dishonest intention to cause insult and to defame her in public; and basing on the said information, the appellants had decided to start making a film by the name “Murder” to be produced by the 2nd appellant.

7. She alleged that on the occasion of ‘Father’s day’ on 21.06..2020 at 5.00 p.m. the appellants released the poster of the film “Murder”; before its release and thereafter the 1st appellant posted a message on his Twitter account and also gave interview in social media, electronic and print media how they were going to make the said movie on the basis of the true story of the respondent and her deceased husband, Pranay Kumar, and her deceased father, Maruthi Rao, without taking the consent of the family members of the deceased and the respondent.

8. She alleged that on account of same, several bad comments came to be made by unknown persons on

Whatsapp and Twitter on the personal life of the respondent and her husband, for which she suffered insult and mental agony. She contended that such needless publicity made by the appellants attracted a range of public opinion, seriously prejudicing her private life and causing her much sorrow.

9. According to her, the 1st appellant had a reputation of making of money out of miseries of other people's lives and he had a record for raking up controversies and commodifying personal tragedies and mishaps of personal lives of others.

10. She contended that the 1st appellant tweeted in social media that the movie 'Murder' was going to be a heart wrenching story based on the respondent and her father - ' Saga of the Danger of a father loving a daughter too much' and that such a sad father's film was being launched on Father's day i.e. 21.06.2020.

11. She also placed reliance on the another tweet issued in the social media by the 1st appellant mentioning that the character based on the respondent's life in the film "Murder" was being played by an actress by name Avancha Sahithi.

12. According to her, on 23.06.2020, appellants had again tweeted about the movie by saying that it is "MARUTHI RAASINA AMRUTHA PRANAYA GADHA'" mentioning the names of the respondent, her husband and father; and that on 20.06.2020 he tweeted poster of the film of the actress playing the character of the respondent in the said picture.

13. She alleged that she got issued a legal notice through her counsel, Sri V.Raghunath on 30.06.2020 asking the appellants to desist from meddling with her personal life in any manner, be it a film or a picture or a novel, which invades her privacy in any manner, that the same was received by the appellants and that they issued a reply notice on 08.07.2020 denying the contents of the legal notice got issued by her.

14. She contended that the intention of the appellants in making the movie 'Murder' is a direct intrusion and invasion of the private life of the petitioner, that the appellants do not have any manner of right to do so, that it affects her private life, and her 'right to privacy' is a part of her 'right to live'.

15. She also stated that on 28.07.2020, the appellants released the 'trailer' of the said movie and that in the said

trailer, the respondent had found her original name and her real life character and also that of her husband, Pranay Kumar; that the appellants were supporting a criminal publicly through the said movie; it is dangerous and damaging to the civil society; and in any event, they could not have made the movie without taking her consent. She stated that the movie was proposed to be released in the 1st week of August, 2020 and the appellants ought to be restrained from releasing the same.

IA.No.93 of 2020

16. Along with the said suit, she filed IA.No.93 of 2020 on 29.07.2020 for a temporary injunction restraining the appellants from releasing, publishing, exhibiting publicly or privately, selling, promoting, advertising or recreating in the forms of drama or serial or any other literary or artistic expression in respect of Pranay, particularly, the proposed motion picture in the name of “Murder” made on the life of the respondent, till the disposal of the suit.

The stand of the appellants/defendants:

17. Counter affidavit was filed by the appellants opposing grant of interim relief to the respondent.

18. They stated that on 21.06.2020, 1st appellant released poster of the film 'Murder' and that there was no need for him to take permission of the respondent for making a fictional cinematographic film. It is stated that the 1st appellant was in the film industry for more than 30 years and had made many films and he had not created any problems to anybody till date.

19. He also stated that the story of his movie was not known to anybody except to his unit, that it was not released anywhere till date, and only on the basis of apprehension, the respondent had filed the suit.

20. He also denied that he had any bad intention in making film 'Murder'. It is stated that in media several things are said but they can only be verified after seeing the film.

21. He stated that only to cause loss to the appellants, the suit had been filed with false allegations; that in the plaint, the respondent had only mentioned about her family incidents and not about the incidents in the script; and there was no balance of convenience in favour of the respondent and no irreparable loss would be caused to her.

The order of the Trial court

22. Before the trial Court, the respondent marked Exs.P1 to P8 but the appellants did not mark any documents.

23. By order dt.24.08.2020, the trial court granted interim injunction as prayed for by the respondent/plaintiff.

24. Before the trial court, an objection was raised by the appellants that the documents filed by the respondent, in particular, Ex.s P1 to P6 do not satisfy the mandatory provision under Section 65-B of the Indian Evidence Act and that documents No.7 and 8 are only photostat copies, but the Trial court rejected the said objection stating that it was an admitted fact that the documents, which are filed by the respondent along with the IA had been posted by the appellants and are original printouts taken from the Twitter, Facebook and other electronic media. It held that therefore the same can be received in evidence and genuineness of the same can be dealt with only after full-fledged trial.

25. The trial court then referred to Ex.P1, which is a print out from Twitter, Instagram, social media, whatsapp messages dt.21.06.2020, which showed that

1st appellant tweeted in the social media on 21.06.2020 at 1.59 p.m., posting the original photographs of the respondent, her deceased husband and father of the respondent, with a message that “*on the occasion of Father's Day I am launching the first look poster of a film based on the tragic story of Amrutha and her over loving father Maruthi Rao at 5.00 p.m., today*”.

26. It also referred to Ex.P2, which is again a print from Twitter, Instagram Social Media, Whatsapp Messages dt.22.06.2020, which showed a poster with a message posted by 1st appellant stating that very apt description for the story of the movie ‘Murder’ is “*Maruthi rasina amrutha pranaya gadha*”.

27. It next referred to Ex.P3 print out dt.23.06.2020 at 9.51 a.m., which is a similar message showing that 1st appellant had posted on the twitter, etc., stating that the film ‘Murder’ is “*Maruthi vadinchina pranayamrutha vishada gadha*”.

28. It then referred to Ex.P4 dt.05.07.2020 containing similar messages in which 1st appellant stated that his film is a creative work on a subject, *which is in the public domain*; and Ex.P5 print out dt.28.07.2020 which clearly stated that the 1st appellant’s next film is based on the

true story of Amrutha and her deceased father Maruthi Rao.

29. The Trial court therefore held that there is no dispute that the 1st appellant released the poster of his film “Murder”, that legal notice had also been issued on behalf of the respondent to the 1st appellant on 30.06.2020, which was replied on 08.07.2020, in which it is the stand of the appellants that they need not take permission of the respondent for making fictional cinematographic film; that the material on record shows that the movie being made by the appellants was based on the true story of the respondent, her deceased husband and her deceased father, as can be seen from Exs.P1 to P6; that the appellants never bothered to take consent of the respondent or family members of Maruthi Rao before proceeding with the movie and are alleging that it is being made on the basis of the news in the public domain and not any individual’s true story including the respondent.

30. It held that the film being made on an individual’s life has a serious impact on the right of privacy of the individual and their family members; that the Supreme Court in **R.Raja Gopal @ R.R.Gopal and another v.**

State of Tamilnadu and others¹ held that ‘right of privacy’ is implicit in the ‘right to life and liberty’ granted to a citizen in this country by Article 21; and everyone has to respect other’s privacy in their family life, home and in his correspondence; none can publish anything concerning the matters pertaining to the family, motherhood, child bearing without the consent of the citizen whether truthful or otherwise and whether laudatory or critical.

31. It held that the film being made by the appellants is a purely commercial venture based on the life of the respondent and her family members; that it is not relevant to consider whether the story of the film is truthful or otherwise or whether it is an attempt to make the respondent popular; and the right or privacy/personality rights of the respondent can be invoked, if it is infringed it and would have to be decided during trial as well.

32. It held that the respondent had *prima facie* established that the film if allowed to be exhibited, would cause serious prejudice to the respondent and to her

¹ 1994(6) SCC 632

family members and irreparable loss would be caused to them.

33. It also stated that a criminal case relating to the killing of the respondent's deceased husband was pending before a Criminal Court for trial and so the respondent was entitled to grant of interim injunction prayed by her against the appellants.

34. Assailing the same, the present Appeal is filed.

The present Appeal

35. Heard Sri B.Adinarayana Rao, Senior Counsel appearing for Sri K.Durga Prasad, counsel for the appellants and Sri V.Raghunath, counsel for the respondent.

Contentions of Counsel for the appellants :

36. Sri B.Adinarayana Rao, Senior Counsel appearing for the appellants sought to contend that the sad events in the life of the respondent are admittedly in public domain even according to the respondent (as can be seen from the averments made in paras 3 and 4 of the plaint wherein reference is made to the Sessions Case No.70 of 2019 filed in regard to the alleged murder of the husband of the respondent and also the death of the

respondent's father, subsequently on 08.03.2020) ; that the movie being made by the appellants is a fictional movie based on the information available in the public domain with regard to the events, such as those which occurred in the life of the respondent; that in the month of August, 2020 there was another such *honour killing* which took place in the State of Telangana; and that there is no right of privacy to be protected in the event the information comes from public records. He also offered that his client would ensure that the name of the respondent, her deceased father and her deceased husband will not figure anywhere in the proposed movie being made by the appellants, so as not to cause any embarrassment to the respondent.

Contentions of Counsel for the respondent :

37. Sri V.Raghunath, counsel for the respondent supported the reasoning of the Trial court.

38. He contended that Ex.s P1 to P6 filed by the respondent clearly indicate that the appellants had made a movie about the life story events of the respondent and had also referred to the respondent, her father Maruthi Rao and her deceased husband, Pranay, specifically in Exs.P1 to P3 and Ex.P5 poster of the movie 'Murder',

thereby violating the right of privacy of the respondent, which is guaranteed by Article 21 of the Constitution of India.

39. He placed strong reliance on the judgment of **R.Raja Gopal** 's case (1 supra) and stated that the order passed by the Trial court did not warrant any interference by this Court in exercise of its appellate jurisdiction.

Consideration by this Court;

40. From the facts narrated above, it is clear that the respondent/plaintiff is asserting her right of privacy in relation to her life story events such as her marriage with Late Sri Pranay Kumar, murder of the said Pranay Kumar allegedly by her father Maruthi Rao and others, the subsequent death of the said Maruthi Rao, and the tragedy visited on her life by these events.

41. According to her, the right to privacy guaranteed to her by Article 21 of the Constitution of India is sought to be violated by the appellants by specifically referring to her name, her husband's name and her father's name in various social media posts, such as twitter, Instagram, whatsapp messages, posted by 1st appellant.

42. In paragraphs 3 and 4 of the plaint, she herself referred to the filing of an FIR in regard to the death of her husband allegedly caused by her father and others and a Sessions Case No.70 of 2019 pending before the Special Judge for Trial of SCs/STs (POA) Act cases, Nalgonda in relation to the same. She also referred to the death of her father, which occurred on 08.03.2020 in regard to which a Crime No.112 of 2020 which was registered under Section 174 of Cr.P.C. and which is said to be under investigation.

43. Thus, the events which have occurred in her life i.e., alleged murder of her husband and the later death of her father are admitted by her to be in public domain. The counsel for the respondent did not deny that there was also wide range reporting in the local newspapers and cable TV channels about these events. Thus, this information was in public domain.

44. It is also not disputed that in August, 2020, there was another alleged case of honor killing similar to the alleged events which took place in the life of the respondent.

45. In our view, it cannot therefore be said that the events which have occurred in the life of the respondent are in that sense unique to her and to her family alone.

46. In **R.Raja Gopal's** case (1 supra) the Supreme Court summarized the principles relating to the protection of right to privacy in the following manner:

"26. We may now summarise the broad principles flowing from the above discussion:

(1) *The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages.* Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) *The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for*

comment by press and media among others.

We are, however, of the opinion that in the interests of decency [Article 19.2] an exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above

- indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104

respectively of the Constitution of India, represent exceptions to this rule.

(4) *So far as the Government, local authority and other organs and institutions exercising governmental power are concerned, they cannot maintain a suit for damages for defaming them.*

(5) *Rules 3 and 4 do not, however, mean that Official Secrets Act, 1923, or any similar enactment or provision having the force of law does not bind the press or media.*

(6) *There is no law empowering the State or its officials to prohibit, or to impose a prior restraint upon the press/media.” (emphasis supplied)*

47. The judgment in **R.Raja Gopal**’s case(¹ supra) has also been upheld in **K.S.Puttaswamy(Retd) and Anr. vs Union Of India and Anr.**² at paras 63, 64 and 103.

48. No doubt a person undoubtedly has a right to privacy in relation to her family, marriage, procreation, motherhood and child-bearing and none can publish anything concerned with these matters without his/her consent.

49. Yet, there is an exception to the said rule i.e., that any publication concerning these aspects would become unobjectionable if such publication is based upon public

² 2017(10) SCC 1

records including court records. In other words, once the matter becomes a matter of public record, the right to privacy is no longer subsisting and it becomes a legitimate subject for comment for press and media among others. There are of course some exceptions to this exception, with which were not concerned.

50. When the events which occurred in the life of the respondent are already in public domain, she cannot plead any violation of right of privacy by the appellants in making a movie based on such events. The Trial court did not consider this aspect of the matter i.e information already being in public domain while passing the impugned order. So it's order cannot be sustained.

51. It cannot be denied that if any movie is made by specifically referring to her name, her husband's name and her father's name, much pain and anguish would be caused to the respondent, but, since the appellants have assured through their Senior Counsel that they would not use the name of the respondent, her deceased husband or her deceased father in the movie 'Murder' being made by them, we accept the said undertaking.

52. Accordingly, this Civil Miscellaneous Appeal is allowed and the order dt.24.08.2020 in IA.No.93 of 2020

in OS.No.23 of 2020 on the file of the Special Sessions Judge for SC/STs (POA) Act Cases-cum-VII Additional District Judge, Nalgonda, is set aside subject to the condition of the appellants not using or referring to the respondent or her deceased husband or her deceased father by name or the captions mentioned in twitter, social media, anywhere in the movie 'Murder' being made by them and also in the social media, printing material (posters). We also direct the respondents to publish a disclaimer that "Movie is a work of fiction and any resemblance to real life events is purely coincidental and unintended".

53. No order as to costs.

54. Consequently, miscellaneous petitions, pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

Date: 6 .11.2020

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