

(1984) 10 BOM CK 0005

In the Bombay High Court

Case No : Notice of Motion No. 1712 of 1984 in Suit No. 1770

Indian Express Newspapers (Bombay) Pvt. Ltd. and Another	APPELLANT
Vs	
Jagmohan Mundhara and Another	RESPONDENT

Date of Decision : 12-10-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1
Copyright Act, 1957 — Section 14

Citation : AIR 1985 Bom 229

Hon'ble Judges : M.S. Jamdar, J

Bench : Single Bench

Advocate : T.P. Andhyarujina, G.E. Vahanvati and G.E. Vahanvati, instructed by Mulla and Mulla Company, for the Appellant; Rajiv S. Mohite, for the Respondent

Judgement

1. This Notice of Motion is taken out by the plaintiffs against the defendants for restraining by an order and injunction of this Court from in any manner distributing, circulating or releasing or offering the movie "Kamla" produced by the first defendant in any manner for public or private exhibition at any theatre, cinema, movie hall, etc. In India and for ordering the defendants to deliver up all the prints and copies, scripts, trailers, documents and all other materials, articles and things pertaining to the said film Kamla for destruction and also for appointment of the Court Receiver or some other fit and proper person as receiver of the script, prints trailers, copies, stills documents, publicity materials and all other materials, articles and things relating and pertaining to the movie Kamla.

2. The first plaintiff company publishes several newspapers, including the daily "Indian Express". The Indian Express is published from several cities in India, including Delhi and is claimed to have largest combined circulation amongst all the daily newspapers in the country. The second plaintiff is a journalist working for the first plaintiff company. He did some extensive research and investigation into the flesh trade that flourished in Madhya Pradesh (M.P.) and purchased a

woman by name Kamla from village Shivpuri in M.P. for Rs. 2,300/-. He then wrote series of articles which were published by the first plaintiff in the issue of Indian Express Dt. 27th, 29th and 30th April, 1981 and 2nd May 1981. The article Dt. 25th was published in the issue of 27th April, 1981 under the heading "Buying girls from circuit house" and was described as express special. It narrated in detail the efforts of the second plaintiff in approaching the right persons, resistance faced by him, the circumstances under which he decided to buy a woman so as to expose the flesh trade, the manner in which the deal was struck, as to how the woman Kamla was brought to New Delhi and as to how the second plaintiff escorted the woman to his residence at New Delhi. This article opened with these words :--

"Yesterday, I bought a short-stature skinny woman belonging to a village near Shivapuri in Madhya Pradesh for Rs. 2,300/-. Even I find it hard to believe that I have returned to the Capital this morning buying this middle aged woman for half the price one pays for a buffalo in Punjab."

The publication of the said article created sensation all over the country. In M.P. the official spokesman for the Government addressed a press conference, the police swung into action to check trafficking in women in the Dholpur area and a furore was created amongst various organisations, including women's organisations. The second news report appeared in the issue of Indian Express Dt. 29-4-1981 under the head line "M.P. Government orders probe". As per the report the M.P. Government ordered inquiry into the flesh trafficking racket in the northern parts of the State exposed by the Indian Express correspondent Ashwini Sarin. The Government also directed the police to register offence under the relevant provisions of law for the purchase of a woman for Rs. 2,300/- from the flesh market of M.P. and asked the Commissioner of Chambal division to make an inquiry for finding out the full facts of the story published in the Indian Express. The official spokesman of the Government, however, clarified that it was not the intention of the Government to arrest the reporter or harass him in any way. It was also mentioned in the said news report that when asked to comment on the move of the M.P. Government, the Executive Director of the Indian Express, In charge of investigation, stated that the Government of M.P. had reacted in the most predictable manner and that a petition was already filed in the Supreme Court praying the Court to initiate remedial measures of several kinds. It was also mentioned that it was anticipated that the government concerned will attempt to cover up their past inaction by launching a case against the concerned journalist and hence the Executive Director had written to five eminent persons, including Judges, informing them about the investigation and the intention to purchase a woman so that the facts could be placed before the public in sufficient details to spur it to force the authorities to take corrective action.

3. On 29th April, 1981 itself the M.P. Government issued a clarification stating that the offence registered by the police in connection with the flesh trade was

not directed against Aswini Sarin. However, on 29th itself the Delhi Police went to Arya Samaj Home where Kamala was admitted to arrest her. On learning this, the second plaintiff and two others viz. Coomi Kapoor and Arun Shourie of the Indian Express filed a Writ petition in the Supreme Court for various reliefs, including a direction to the authorities to take steps to check the racket in sale and purchase of girls. The Division Bench of the Supreme Court consisting of Justice P. N. Bhagawati and justice K. Varadarajan, while issuing notice to the Union of India and the Governments of M.P., U.P., Rajasthan and Delhi directed that Kamla should not be removed from Arya Samaj Home till disposal of the case or till another suitable home was found for her. Efforts to find out a suitable home for Kamla continued till November 1981, but before she could be transferred to another home, she was found missing from Pataudi House, Daryaganj Orphanage, as stated in the news report Dt. 24-11-1981 published in the Indian Express. As per news report Dt. 25-11-1981, Kamla remained untraced. As per the news report Dt. 1-2-1982, the Supreme Court directed the Commissioner of police Delhi to try his best to trace Kamla and report to the Supreme Court by March 15 the progress of the investigation into the disappearance of Kamla from the orphanage. But Kamla was not traced.

4. The first defendant who graduated with degree in Electrical Engineering from I.I.T Bombay, and got M.B.A. and Ph.D. degrees from Michigan University and also Master of Arts Degree in Advertising and carries on business in the firm name and style as "Smriti Pictures", is the producers of the movie "Kamla", the script of which is written by the eminent play-right Vijay Tendulkar, the second defendant. The second defendant is also the writer of play "Kamla" and according to the defendants the script of the film Kamla is a cinematographically adapted version of the script of the play. As claimed by the second defendant in his affidavit in reply Dt. 22-8-1984, the play Kamla was scripted by him in July/ September, 1981 and that from October, 1981 onwards the play was staged about 150 times in 32 cities in 7 languages. It appears that the script of the play is published in book form and is freely available.

5. The name of the film is the name of the woman purchased by the second plaintiff. The title of the drama is the same. The central theme of the movie is purchase of Kamla in flesh market by a journalist by name Jaisingh Jadhav in order to focus the attention of the government and public at large on the rampant flesh market flourishing in the areas bordering M.P., U.P. and Rajasthan States. Jaisingh gives shelter to Kamla in his house till contrary to the wishes of his wife Sarita, he decides to put her in an orphanage. Jaisingh is shown to be a dominating personality who completely subjugates his wife. Sarita had also mentally adjusted herself to be a dutiful wife of her ambitious and dominating husband. However, while Kamla was staying in Jaisingh's house, she innocently asks Sarita as to for what amount she was bought by her husband. This activated a thought process in Sarita's mind and she started feeling, which feeling got stronger and stronger with each incident, that she was also her husbands slave. Jaisingh treated her contemptuously and in a quarrel sparked off

as a result of shifting Kamla from Jaisingh's house to the orphanage, he tells his wife in unmistakable terms that it was his will that would prevail in his house. Sarita's mind revolts and she prepares to leave her husband.

6. Meanwhile a minister, who was offended by the exposure of the flesh trade, takes to task the proprietor of the newspaper in whose employment Jaisingh was. The proprietor of the newspaper is shown to be a friend of the Minister, they being together in jail in freedom movement and was expecting that in the forthcoming elections the minister friend of his would oblige him by sponsoring his candidature. The proprietor feels that his chances were marred by the articles exposing the flesh trade and he scolds the editor of the newspaper, expresses his displeasure about Jaisingh and indirectly hints that the matter should be completely hushed up. This is brought out in a talk between the proprietor (Shetji) and the Editor Jaipal in a car scene. In a subsequent scene the Shetji has a talk on phone with one Behari, who assures him that the task would be accomplished. Thereafter the woman Kamla is kidnapped from the orphanage and Jaisingh is sacked from his job. Jaisingh who was expecting a big reward and promotion for the great fame which he brought to the newspaper by his investigative journalism is shocked, gets drunk and turns violent and abuses the proprietor Ramgopal, calling him a "Capitalist Pig". On seeing Jaisingh's plight Sarita changes her mind, and escorts him to the bed room. There the film ends.

7. The first defendant held a preview of the film Kamla at the Excelsior theatre on 16-2-1984 and a report appeared in the June 1984 issue of Celebrity as follows :--

" "Kamla" the film produced and directed by Sr. Jagmohan Mundhra (who made the film "Suraag" earlier). The film is close to the play "Kamla" written by the noted playwright Vijay Tendulkar who has also written the script for the film. For those who do not know, the story is about a journalist who buys a woman in a village and brings her to the coty - his home, to prove how blatantly flesh trade is carried on , in our country. His wife who is educated and talented realises with Kamla's catalytic presence in her house that her own status in the house is not any better than Kamla's. even the journalist realises how his seniors exploit him. So you see, the film is not only about the exploitation of a single parson but that of all people."

8. The second defendant also gave an interview to the magazine "Show Time" and discussed the movie Kamla. This interview was published in the June issue of the said magazine. The first plaintiff felt that by filming movie Kamla the company's copyrights in the story and the articles published in the Indian Express by the second plaintiff were infringed and that original story depicted the plaintiffs in a defamatory situation. The first plaintiff and the editor of the Indian Express therefore, served the first defendant with a notice Dt. 20-6-1984 and called upon him, without prejudice committed the offence of defamation, to seek first plaintiff's consent and permission to exhibit the film with an assurance that all objectionable, defamatory and derogatory remarks about the proprietor and/

or the press and untrue facts which reflect on the first plaintiff are deleted from the film. The first defendant refused to oblige and gave a detailed reply to the plaintiffs notice. the plaintiffs, therefore, filed the suit for permanent injunction and claimed a sum of Rs. 5,00,000/- as damages as per the particulars given in Ex. H annexed to the plaint and took out the present Notice of Motion for the aforesaid reliefs.

9. Both sides have filed their exhaustive affidavits and also the relevant articles and newspaper reports and also the scripts of the drama and the film.

10. According to the plaintiffs the entire sequence of events on which the articles were based by the second plaintiff appears to have been bodily lifted and taken by the defendants and converted into a film thus infringing the copyright of the plaintiffs in the said articles. It is also their case that considering the defendants have developed the story using the same name, the same sequence of events and situation and that persons at large would not know the truth or otherwise of the twists and distortions given by the defendants, the said twists and distortions are bound to be associated with the plaintiffs, giving an impression that the management of the first plaintiff was responsible for disappearance of the girl Kamla from he orphanage, that it succumbed to political pressure and victimised the second plaintiff, that the second plaintiff is a domineering husband who treats his wife with contempt and that the married life of second plaintiff was almost destroyed by the upheaval caused in the mind of the second plaintiffs wife because of the purchase of a woman by him.

11. Both the defendants denied that the film is based on the articles written by Shri Sarin. They also asserted that they did not infringe any copyright in favour of the plaintiffs. The second defendant denied having read any of the said articles. According to him, he had read an article in "India Today" which contained a fictionalised version of a journalist buying a girl, and that a paragraph in that article about the girl innocently questioning the well educated and liberated wife of the journalist as to for what amount she was bought by her master, inspired him to make the play Kamla which sought to depict the plight of Indian women. According to him, the script of the film is a cinematographically adaptable version of the script of his play. The first defendant admitted having read the articles but asserted that the play "Kamla" which was running packed houses and not the articles, provided instant material for the film is pure work of fiction and at the very beginning of the film it has been clarified that the characters in the film do not bear any resemblance to any real life characters.

12. No doubt the central theme of the articles published by the second plaintiff and that of the drama and movie is the same, though the emphasis in the drama and the movie is more on human bondage, particularly of Indian women. The articles published by Ashiwini Sarin also contain an autobiographical account of the part actually played by him in the affair. He has presented the whole affair in his own style. But that at the most would give the plaintiffs copyright in respect of these articles. There cannot, however, be a copyright in an event which has

actually taken place. There is a distinction between the materials upon which one claiming copyright has worked and the product of the application of his skill, judgment, labour and literary talent to these materials. Ideas, information, natural phenomena and events on which an author expends his skill, labour, capital, judgment and literary talent are common property and are not the subject of copyright. As held by the Supreme Court in *R.G. Anand Vs. Delux Films and Others*, "There can be no copywriting in an idea, subject matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner, arrangement and expression of the idea by the author of the copyrighted work." The form, manner or arrangement of a drama and movie are materially different from a newspaper article and by very nature of the media there is fundamental and substantial dissimilarity the mode of expression of the idea in a newspaper article and in a stage play or in a movie. Prima facie, therefore, the claim in respect of infringement of copyright appears to be misconceived.

13. The contention that the movie and the drama are works of pure fiction, cannot be accepted. It is not an accident that Kamla is the title of the play and the movie. She is also the central character of both the play and the movie. As mentioned above, the central theme of the film and the stage play on which it is based is the same viz. purchase of a woman by name Kamla by a journalist to highlight the flesh trade flourishing in some parts of the country. It may be that the defendants did not personally know the second plaintiff. It may also be that they may not have any desire to defame the plaintiff. Their object may well be to depict how each one is a slave of somebody also and they might have used the theme as a backdrop to forcefully convey the message. But it is immaterial that the defendants did not intend to refer to the plaintiffs or did not intend to defame them. As held in *E. Hulton and Co. v. Jones* 1910 AC 20 "in an action for libel, it is not defence to show that the defendant did not intend to defame the plaintiff, if responsible people would think the language to be defamatory of the plaintiff". Same view has been taken on *Cassidy v. Daily Mirror* (1929) 2 K.B. 331; *Yousoupoff v. Metro Goldwyn Meyor* (1934) 50 T.L.R. 581; *Newstead v. London Express* (1940) 1 K.B. 507 and *Ross v. Hopkins*.

14. It is not necessary that all the world should understand the libel; it is sufficient if those who knew the plaintiff can make out that he is the person meant. As observed by Alverstone C.J. in *Jones v. Hulton* (1909) 2 K.B. 444:--

"There is abundant authority to show that it is not necessary for everyone to know whom the article refers; but if in the opinion of a jury, a substantial number of persons who knew the plaintiff, reading the article, would believe that it refers to him, in my opinion an action, assuming the language to be defamatory, can be maintained; and it makes no difference whether the writer of the article inserted the name or description unintentionally or by accident, or believing that no person existed corresponding with the name or answering the description. If upon the evidence the jury are of opinion that ordinary sensible

readers, knowing the plaintiff would be of the opinion that the article referred to him, the plaintiff's case is made out."

The question really is how ordinary sensible men having the special knowledge would understand the innuendo complained of. In *Morgan v. Odhams Press Ltd.* (1971) 1 WLR 1239, the House of Lords per majority held as follows:--

"Held (1) (Lord Guest and Lord Donovan dissenting) that in determining the impression that would be left on the mind of the reader regard should be had to the character of the article and the class of reader likely to read it; that the relevant impression to be taken into consideration was that which would be conveyed to an ordinary sensible man (having knowledge of the relevant circumstances) reading the article casually and not expecting a high degree of accuracy that in order to be defamatory of the plaintiff the article complained of had to contain something which, to the mind of a reader with the knowledge of the relevant circumstances, contained defamatory imputations and pointed to the plaintiff as the person defamed....."

(The Dissent by the two judges was only in respect of the conclusion that the article in question in that case complied with the condition)

15. It is also no defence to say that people would not believe the imputations to be true. In *Morgan's* case (citation supra) Lord Morris of Borth-y-Gest expressed agreement with the following observations made by Goddard L.J. in *Hough v. London Express Newspaper Ltd.*, (1940) 2 K.B. 507:--

"If words are used which impute discreditable conduct to my friend he had been defamed to me, although I do not believe the imputation, and may even know that it is untrue."

16. The article written by Shree Sarin created a furore all over the country. The story that a journalist employed by the first plaintiff, purchased a woman at grave risk, received wide publicity. Conscience of right minded readers of Indian Express was shocked by the disclosures made in the article. The action taken by the second plaintiff was too unusual and its ramifications were of wide that even a casual reader of the articles published by the second plaintiff is referred to when something is said, written or depicted on a stage or on the screen about a journalist who had purchased a woman.

17. Once the identity of the journalist is established, the identity of his employer follows. Admittedly, the second plaintiff is in the employment of the first plaintiff as a journalist with the newspaper "Indian Express", whose claim that it is a pioneer newspaper in the field of investigative journalism is not disputed. In the play and the movie the journalist is shown to be attached to the newspaper "Delhi Express". Taking into consideration the fact that Indian Express is published from Delhi also the innuendo is unmistakably directed against the Indian Express.

18. Reference to the proprietor Ramgopal brings the identity closer to those

readers who knew that Ramnath Goenka has controlling interest in the first plaintiff company. The fact that in the film the proprietor of the newspaper is shown as an individual while the first plaintiff is a limited company does not destroy the identity. The individual in the film symbolises the management.

19. The identity of the woman is also established beyond doubt. As a matter of fact, it is not concealed. In the wide publicity given to the film, since the beginning, it was made known to the public that the film was based on real life event and that "Kamla" was in the news again".

20. Once the identity of the journalist is established, the entire characterisation of the journalist who is shown to be dominating husband. Who treats his wife as a slave, is defamatory of the first plaintiff. To depict that his action in purchasing a woman, sparked off a psychological transformation in the mind of his wife and almost destroyed his married life, is bound to lower him in the estimation of the members of the public who know him. To show that the management of the newspaper succumbed to political pressure, went to the length of taking steps to kidnap the girl and cause her disappearance to hush up the whole affair and sacked the very journalist who by his brilliant piece of investigative journalism enhanced the reputation and business of the newspaper is per se defamatory. There is great substance in the contention of the plaintiffs that the consequence of the additional sequences of events introduced in the film would be that (a) the people are bound to believe that the marital life of the second plaintiff underwent strain and conflict and that (b) people are bound to associate the newspaper called "Delhi Express" (in the film) with the Indian Express and assume that in actual fact also the publisher of the Indian Express succumbed to political pressure and victimised the second plaintiff, thus lowering their prestige and image in the eyes of the right thinking members of the society.

21. It is sought to be urged on behalf of the defendants that the acts attributed in the film to the proprietor (Shetji) are of personal nature and are such as cannot be attributed to a company. Hence if a reasonable man does make any association, such association would only be with some real life person associated with the first plaintiff and such real life person would entail loss of personal reputation for which he, and not the company can sue for defamation. The Shetji in the film was guided by personal consideration and neither in the car scene nor in the telephone scene he acted on behalf of the management. The reference to "Capitalist pig" cannot be to a company.

22. It is well settled that a corporation cannot suffer damages in mind or body. But as held in *Metropolitan Saloon Omnibus Co. Ltd. v. Hawkins* (1859) 4 H & N 87; *South Helton Coal Co. v. North Eastern News Association Ltd.* (1894) 1 Q.B. 133; *D.L. Caterers Ltd. v. D' Ajou* (1945) K.B. 364; *Lewis v. Daily Telegraph Ltd.* (1964) A.C. 234 and *Selby Bridge Proprietors v. Sunday Telegraph* (The Times Feb. 17, 1966) a trading corporation has a business reputation and can sue for defamation in respect of a publication calculated to injure its reputation in the way of its business. The position is succinctly stated in *Spencer Bower on*

Actionable Defamation at Pp. 278-279:--

"It is obvious that "reputation" in the sense in which alone it concerns the topic of defamation has relation to the particular person enjoying it. But it must not be forgotten that "person" for this to say, it includes both "a body of persons" and a film....". That a commercial "body of persons" has a trading character and that trading character I now clearly well established."

It may be that the innuendo or the imputation may be directed against an individual connected with the management of the commercial body of persons. But if it is of such nature as to not only defame the individual but also injure the trading character of the commercial body of persons, then both the individual as well as the commercial body will have a cause of action to sue for defamation. To suggest that the management of the newspaper in the hands of an individual who is susceptible to political pressure, is prepared for his personal gain to victimise honest and fearless journalists who have enhanced the reputation of the newspaper by some original investigative journalism and has no qualms of conscience in suppressing truth by any means even by abetting crimes, certainly injures the trading character of the newspaper , which has acquired reputation for integrity and fearless .The first plaintiff ,therefore, has as such right to sue for defamation as the individual whom the defamation conduct is attributed in the film.

23. Relying on the decision in *Bonnard v. Perryman* and *Monson v. Mandame Tussaund Ltd.* (1819) 2 CH 269 : (1891) 4 All. ER 1051, it was urged on behalf of the defendants that interim injunction in a libel action can be granted in the clearest case and the present case is not one such case. Clearest case is defined as one where any jury could say that the matter complained of was libellous and where if the jury did not so find, the Court would set aside the verdict as unreasonable. In both these matters interim injunction was refused not on the ground that the matter complained of was not libellous but on different grounds. In *Bonnard v. Parryman* the order granting injunction was reversed in appeal on the ground that the defendant had averred that he would be able to justify the libel. In *Monson's* case also the order granting injunction was reversed in appeal on the basis of evidence tendered in appeal to show *prima facie* that *Monson* had given sittings for making his wax model and had authorised its exhibition in the manner done by the *Waxwork Exhibitors*. In *Woodward v. Hutchins* (1977) 2 All ER 751 interim injunction was refused on the ground that publication of the truth was more in the public interest than protecting confidential material. None of these grounds exist in the present case which as demonstrated above satisfies the definition of a clearest case of defamation. The defendants have not averred that they would be able to prove that whatever is shown in the film is true. There is also nothing to show that the plaintiff have consented to the dramatising of the event in the manner in which it is sought to be done. No public interest is involved in portraying the plaintiffs in a defamatory way.

24. No importance can be attached to the fact that at the very beginning of the film, a clarification is given that the film bears no relation to real life characters because such clarification generally has exactly the opposite effect. The viewers of the film on reading the clarification assume to the contrary and on the belief that the film does bear relation to real life characters try to find out by refreshing memories and knowledge about events and personalities as to who these real life characters are who are sought to be portrayed in the film.

25. Shri Rajiv Mohite urged that the plaintiff are guilty of laches and delay and are, therefore, disentitled to the relief of temporary injunction. It was contended that no action was taken by the plaintiffs even though the play "Kamla", on which the film is based, was staged to packed houses since Oct. 1981 in 32 cities in seven major Indian languages. It was also pointed out that in the wide publicity given to the film since the project was launched, it was made known that the film is based on the play "Kamla" and one of the periodicals in which the publicity was given was the Weekly "Screen", which is published by the first plaintiff company itself. The plaintiff never raised any protest over the play, not when the decision to make a film based on the play was announced and thus indicated by their silence that they had no objection to a film based on the play being produced. It was further urged that the film is ready for release, that the first defendant has spent huge amount on the project incurring heavy debts in the process and has already sold distribution rights in several regions and hence to grant temporary injunction under such circumstances, and especially in view of the aforesaid conduct of the plaintiffs, would cause hardship to the first defendant

26. It was well selected that although the court is satisfied that the words complained of are prima facie libellous and untrue, it will refuse interlocutory injunction where the plaintiff has been dilatory in making his application or has by his conduct disentitled himself to such relief, e.g. has expressly or impliedly encouraged, acquiesced in or assented in or assented to the publication of which he complains.

27. No doubt as held in Truth (N. Z.) Ltd. v. Philip North Holloway (1960) 1 W.L.R. 997 every republication of a libel is a new libel and each publisher is answerable for his act to the same extent as if the calumny originates with him. The maker of a film will be answerable for his act even though the film is based on a play and no action is taken against the playwright. But the fact that no action is taken in respect of the play which equally defamatory and the plaintiffs knowingly allowed a film to be based on the play, certainly assumes significance in the context of an interim relief of injunction.

28. Prima facie it is difficult to accept the contention that the plaintiffs were not aware that the play "Kamla" is based on the real life story involving Kamla and the second plaintiff. As claimed by the defendants, the play was also very well received , ran to packed houses and staged in seven languages in 32 major cities. The first plaintiff publishes the newspaper "Loksatta" which is very widely

circulated Marathi Newspaper and which devotes substantial space for the stage as the Indian Express itself. As mentioned above, it was known to the public that the first defendant has embarked upon producing a film Kamala on the real life story of a woman purchased by a journalist and based on a play of that name. Prima facie, therefore, it can be said that the plaintiffs who did protest against the play indirectly and impliedly consented to, or acquiesced in, the production of a film is faithful cinematographically adapted version of the play, its release cannot be restrained.

29. The script of the film, however, is not identical with the script of the play. It is true that because of the very nature of the two media and especially the limitation on presentation of events on the stage, some events which were referred to in the conversation of the characters in the play are actually shown in the film. But the film goes beyond the play and some scenes and characters are introduced in the film to highlight now even reputed newspaper managements succumb to political pressure and go to any length to please their political bosses. The car scene (conversation between Shetji and the editor) and the telephone scene (phone talk between Shetji and Behari) which are not there in the play are introduced to emphasize the gagging of the free press by the politicians. Shetji and Behari are not characters in the play. In the play it was only vaguely suggested that Jaisingh was sacked on account of political pressure and there was no suggestion at all that the proprietor of the newspaper was responsible for the disappearance of the woman from the orphanage. The name of the proprietor having controlling interest in the management of the newspaper. But in the film the innuendo is made very clear. It to some extent shifts the emphasis from human servitude to political pressure on free press and tends to malign the management to the newspaper to a great extent. To this extent the film goes beyond the play and the relevant scenes must be deleted before the film is allowed to be released.

30. The Notice of Motion, is therefore, partly allowed. The defendants are restrained in terms of prayer (a) of Notice of Motion unless and until;

(i) the following scenes are deleted from the script and the film:--

(a) the car scene - conversation between Shetji and the Editor Jaspal, shot No. 42 (internal page No. 65 of first defendant's affidavit dated 10-9-1984 and Shots Nos. 10 and 1 to 20 - Reel No. 11 (internal pages Nos. 66 and 67 of the said affidavit);

(b) the telephonic conversation between Behari and Shetji - Shots Nos 65 to 67 - Reel No. 12 (internal page No. 72 of the aforesaid affidavit);

(c) parts of shots Nos. 30 and 37 - Reel No. 13 - in which reference by name to the proprietor Ramgopal is made ;

(ii) the first defendant destroys the film and all prints thereof relating to the above mentioned scenes ;

(iii) the first defendant files his affidavit within two weeks from today affirming that the directions in clauses (i) and (ii) are complied with and gives a written undertaking that the aforementioned scenes will not be incorporated in the film any time in future.

No order as to costs.

31. Orders accordingly.