
(2001) 02 DEL CK 0029

In the Delhi High Court

Case No : LPA 272 of 1998

Media Watch Group and others

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 12-02-2001

Acts Referred:

Citation : (2001) 4 AD 393 : (2001) 91 DLT 110 : (2001) 58 DRJ 271 : (2001) 3 RCR(Criminal) 479

Hon'ble Judges : M.S.A. Siddiqui, J;B.A. Khan, J

Bench : Division Bench

Advocate : Ms. Niti Dixit, for the Appellant; Mr. Navin Chawla, for the Respondent

Judgement

Khan, (J)

1. One Kartari was allegedly raped by a Doctor. She and her husband (Dharamvir) were interviewed by respondent no.4 on behalf of Doordarshan through a women organisation-"Mahila Dakshita Samiti" which was telecast on Doordarshan's National Network on 18.3.1995. It appears that faces of both Kartari and Dharamvir were somewhat identifiable on the screen furnishing basis for this petition. The issue was first taken up by Mahila Samiti with Doordarshan but later petitioner filed this writ petition for directing respondent no.1 to frame Rules/Regulations or to issue and prescribe guide-lines for telecast of programmes featuring rape and violence victim and to restrain respondents 1 and 2 from telecasting any such programme without concealing the identity or otherwise maintaining the anonymity of such women unless a written consent was obtained by them. It was also prayed that they be directed to take action against the errant officers responsible for the telecast of controversial programme and pay compensation of Rs.1 lac to Kartari and her family jointly or severally.

2. Petitioner claims to be a media watch dog and its grievance is that R 1 to 4 had violated the right of privacy of rape victim Kartari infringing her fundamental

right under Article 21 of the Constitution, by bringing her shame and humiliation and resulting in irreparable damage to her husband who had disowned her.

3. Respondents 1 and 2 have opposed this petition on the plea that impugned programme-"Lens Eye" was telecast under "current affairs" category and Therefore the guide-lines related to news policy were applicable to it. It is explained by them that this programme was previewed by Preview Committee of Doordarshan and was cleared by it after the producer of the programme had assured that Kartari had accorded her consent for revealing her identity.

4. Respondent no.3 has also denied the allegation that Kartari's identity was revealed deliberately. It is pointed out that if Kartari and her husband had any objection in the matter they could as well have pursued their complaint or for that Mahilla Samiti could have come forward for the purpose. But the very fact that they had not joined the petitioner proved that the stand of respondents was correct. It is also submitted that the programme was intended to educate people and to create awareness in respect of violence against women and was not meant to generate any revenue or to create media sensation.

5. Writ court on consideration of the matter picked up two issues viz. whether respondent no.1 could be directed to formulate and prescribe guide-lines in the matter and whether any compensation was payable to Kartari in the facts and circumstances of the case. It set at rest the first issue by taking in regard the statement of Union counsel that the guide-lines on the subject matter and as suggested by the petitioner would be given due regard on the enactment of the Prasar Bharti Act. It also rejected the claim of petitioner for award of compensation because of disputed questions of fact involved in the matter.

6. Appellant feels aggrieved and has filed this Appeal to assail the writ court judgment. Appellant's case is that action of respondents in revealing the identity of victims of sexual violence in the programmes telecast by them without their specific consent in writing and their failure to evolve and establish mandatory guidelines applicable to producers of all such programmes amounted to infringement of fundamental rights of these victims under Articles 14, 15, 19 and 21 of the Constitution. It is submitted that these victims enjoyed the right of privacy under Article 21 and it was the duty of respondents to protect that. Its infraction by them violated their rights for which they were required to be compensated. Reliance in this regard is placed on several judgments of the Supreme Court including R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others, , Rudul Sah Vs. State of Bihar and Another, and D.K. BASU VS. STATE OF W.B. (1997) 1 SCC 447 .

7. There is no quarrel with the proposition that the victims of sexual violence also enjoyed fundamental rights including the right to live with liberty and dignity and privacy. It is also true that their rights are to be protected as much as that of any other citizen under the Constitution. But it would depend upon the facts and circumstances whether revealing of the identity of such a victim with her consent

would amount to infringement of such rights. It is a different matter whether such consent was given orally or in writing. Cases are conceivable where a victim of sexual violence may waive her rights or may not choose to enforce these. Therefore, it becomes difficult to lay down a general principle that revealing of the identity of such victim would in all events and circumstances breach the Fundamental rights under the Constitution breeding liability to pay compensation in the process.

8. In the present case it is claimed by the other side that Kartari had given her consent in the matter and had agreed to reveal the identity. This is buttressed by pointing out that neither she nor Mahila Dakshita Samiti had come forward with any such complaint. This takes sting out of Appellant's principal grievance and it is not possible for us to embark on a roving inquiry to ascertain the veracity of this claim. May be that is why writ Court had declined to interfere as the matter invoked disputed question of fact. Appellant's demand that respondent No.1 should be directed to frame Rules/Regulations/guidelines for telecast of programmes on victims of sexual and domestic violence surely deserves consideration because it cannot be left open to the sweet will and choice of every producer of such programmes to deal with such victims in disregard of the disastrous consequence it could entail for them. It would be Therefore in the fitness of things to expect respondent Union to examine this issue and to come out with a clear cut policy on the subject matter. In case any Regulations/guidelines are already in place these should be made public and if this exercise was still to be undertaken it is high time that suggestions were invited from all concerned including appellant so as to evolve a framework of such Regulations/guidelines for guidance and compliance of producers of all such like programmes.

9. Pending enforcement of such Regulations/guidelines it would be necessary to direct respondents 1 and 2 to ensure that identity of victims of sexual and domestic violence on whom such programmes were mounted was not revealed in these programmes and whenever it was found essential to do so, a written consent was required to be taken from the person concerned. Appeal is accordingly dismissed with these observations.