

(1954) 03 CAL CK 0023
In the Calcutta High Court

S. Jeelani

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 18-03-1954

Acts Referred:

Press (Objectionable Matter) Act, 1951 — Section 7

Citation : (1954) CriLJ 1427

Hon'ble Judges : K.C. Das Gupta, J; Debabrata Mookerjee, J

Bench : Division Bench

Judgement

K.C. Das Gupta, J.—The appellant who is the publisher of the weekly newspaper "Spotlight" published in Calcutta and was the publisher thereof, in September and October 1953 has been ordered u/s 7, Press (Objectionable Matter) Act, 1951, to deposit Rs. 5000/- as security in cash or in equivalent thereof in Government securities as he might choose to elect. This order was passed on a complaint by the Commissioner of Police that the issues of the newspaper on 5-9-1953, 26-9-1953 and 10-10-1953 contained objectionable matters as set out in the complaint.

2. Two matters arise for determination. First, whether the Sessions Judge is right in his decision that the matters mentioned which appeared in the abovementioned issues as set out in the petition of complaint were objectionable and secondly if he is right in his decision that there were sufficient grounds for demanding security for Rs. 5000/- from the publisher of the newspaper u/s 7 of the Act.

3. The matters complained of as objectionable are:

(1) In the issue dated 5-9-1953, the following words,

The present regime headed by a cowardly gang of stooges of foreign powers, has been foisted on the hapless people of Iran by Dulles & Co. who aid and abet the criminals in their misdeeds.

(2) In the issue dated 26-9-1953, the following words:

It is absolutely untrue and a damned lie of any one to say that I had met the Shah or congratulated him after his return to Iran from his flight. I am not a coward and never in my life have I had any truck with cowards.

The old man was thoroughly stirred and worked himself upto the highest pitch when denouncing General Paziollah Zahedi whom he described as a traitor in both the temporal and spiritual senses of the word, who should be dealt with in accordance with what Islam prescribes murtadd and Zindeeqq (apostate and heretic)". This appeared under the caption "Ayatolla Keshani Denounces Shah-Zehedi Regime.

(3) In the issue dated 10-10-1953 the following words:

The then prince Feisal bribed the sentries and was able to watch Shahnaz from a hole in the wall.

The two elders have gone to the extent of telling young king Feisal that the Princess is of doubtful parentage. They are reported to have said that the Iranina Monarch was unproductive owing to a certain ailment." This appeared under the caption "I will marry her even if I lose the throne.

4. Objectionable matter is defined in Section 3 of the Act in these words,

The expression "objectionable matter" means any words, signs or visible representations which are likely to-

(i) incite or encourage any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area : or

(ii) Incite or encourage any person to commit murder, Sabotage or any offence Involving violence; or

(iii) Incite or encourage any person to Interfere with the supply and distribution of food or other essential commodities or with essential services; or

(iv) Seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

(v) Promote feelings of enmity or hatred between different sections of the, people of India; or which

(vi) are grossly indecent, or are scurrilous or obscene or intended for blackmail. Explanation I, Comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different sections of the people of India,

shall not be deemed to be objectionable matter within the meaning of this section.

Explanation II. In judging whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representations and not the intention of the keeper of the press or the publisher of the newspaper or news sheet, as the case may be, shall be taken into account.

Explanation III. "Sabotage" means the doing of damage to plant or stocks, or to bridges, roads and the like with intent to destroy or injuriously to affect the utility of any plant or service or means of communication.

5. I do not think it can be doubted for a moment that the words, as set out above, in the issues referred to above are grossly abusive & thus scurrilous within the meaning of Clause (VI) of Section 3 of the Act. These therefore seem prima facie to be objectionable matter within the Act.

6. Mr. Mukherjee however contends that the mere fact that some of the words are scurrilous do not make them objectionable matter within the section taut that it is necessary that besides being scurrilous they should also be intended for blackmail. This is on the argument that the word "or" before the words "intended for blackmail" should be interpreted as "and". There is in my judgment [no substance in this contention. The three "or"s used in the clause make it quite clear that four distinct kinds of objectionable matter are included in this clause. It may very well be that some scurrilous words may be used with the intention of blackmailing of the persons abused. In that "case, the words will be "objectionable matter" with-in the Act as "scurrilous" and also as "intended for blackmail", but that is no reason for thinking that the Legislature Intended that only scurrilous words which are intended for blackmail are objectionable matter and not scurrilous words not Intended for blackmail. The ordinary grammatical meaning of the words is : that words which are grossly indecent are within the definition; words Which are scurrilous are within the definition; words which are obscene are within the definition and the words which are intended for blackmail are within the definition of "objectionable matter". I see no reason to depart from the ordinary grammatical meaning of the clause.

7. Nor is there any substance In my judgment in Mr. Mukherjee"s further contention that to be "objectionable matter" the words used must have reference to Indian matters or Indian people. The first, third, fourth and fifth clauses have clear reference to India. It seems reasonable to hold that the second clause also has reference to India. But that is no reason for the conclusion that the Clause (vi) should also be restricted to words with reference to India.

8. I have therefore come to the conclusion that the words mentioned above in the three issues of Spotlight on the three dates referred to above contain "objectionable matter."

9. The more difficult question is whether the learned Judge is right hi his decision

that there were sufficient grounds for ordering deposit of security. No indication is given in the Act itself as to what should be considered to be sufficient grounds. That is left entirely for judicial determination. In this position the consideration of the interest of the country at large can be the only thing that can weigh with the Judge to satisfy him that there are reasonable grounds for ordering deposit of security. On the one hand, he has to remember that the interest of a democracy such as ours demands that the Press should be free to publish news and views as regards happenings at home and abroad; on the other hand, he has to remember that the publication of some news and some views may cause great injury to the interests of the country and it is only when an apprehended Injury to the country by the publication is so great as to outweigh in his judgment the benefit to the country's interest by unrestricted freedom to publish news and views, that he can be satisfied that there are sufficient" grounds for an order to deposit security.

10. As the objectionable matter in the Articles above refer to persons in Iraq and Iran, what the Judge has to ask himself is:

What is the injury that is likely to be caused to India's interest by such publication?

11. While we in the Courts of law are not, ordinarily concerned with the rights or wrongs of the foreign policy that has been pursued by India we have for finding a correct answer to the above question, to bear in mind the realities of the situation in which India finds itself in the international field - with reference to facts which are not disputed.

12. In the first place, we have to remember that it is less than 7 years that India has attained independence, and it can ill-afford to take risks which may be boldly taken by older states. Secondly, we have to bear in mind that India has since independence been following steadfastly a policy of friendship to all nations and of strict neutrality between the opposing camps into which some of the World's mightiest nations are divided; that this policy has enabled it to preserve peace not only within her border but has made it possible for her to make a contribution to the cessation of hostilities in Korea and by helping the cause of peace has advanced India's own interests.

Next we have to remember that India's relations with Iraq and Iran have been cordial all along; that these two countries being situated on "the border of U.S.S.R., play very important roles in maintaining the equilibrium of international relations. Lastly, we cannot overlook the peculiar position of India's relation with Pakistan, specially in view of the grave problems over Kashmir.

13. If these are borne in mind, the great Importance to India's interest of friendly relations with Iraq and Iran and of saying nothing which tends to disturb her relations with those countries by giving offence to any important section of the people of Iraq and Iran is obvious. The conclusion follows that publication of news and views which are likely to give such offence constitutes a grave danger

to the interest of India.

14. There can be no doubt at all that what was published in the issue of the 10th October as regards King Feisul of Iraq and the princes of Iran are likely to offend very seriously large section of the people of this country. India's own Interest therefore demands that publication of such news should be prevented and there are therefore clearly sufficient grounds for demanding deposit from the publisher, in view of this publication.

15. Objectionable matters in the other two issues are likely to offend many in Iran and perhaps to please some others. I do not think the risk to India's interest from the publications of these issues to be very great; but there is clearly some risk which it is unwise to take. I think as regards these also there are sufficient grounds for demanding deposit of security.

16. I am however of opinion that the security ordered by the learned Judge to be deposited is excessive. It is admitted before us that the circulation of the paper does not exceed 700 per week. In consideration of this and the nature of the objectionable matters, I am of opinion that the amount of security to be deposited should be fixed at Rs. 2000/-, The appellant is ordered to deposit this amount in cash or in equivalent thereof in Government securities as the appellant may choose. This should be done within three weeks from this date.

Debabrata Mookerjee, J.

17. I agree.