
(2007) 10 MAD CK 0117

In the Madras High Court

Case No : CRP. (PD) No. 3299 of 2007 and M.P. No's. 1 and 2 of 2007

The Managing Director, Makkal Tholai Thodarpur Kuzhuman
Ltd.

APPELLANT

Vs

Mrs. V. Muthulakshmi

RESPONDENT

Date of Decision : 26-10-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1
Constitution of India, 1950 — Article 227

Citation : (2007) 5 CTC 694 : (2007) 4 LW 942 : (2007) 6 MLJ 1152

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : T.V. Ramanujam for C.A. Diwakar, for the Appellant; N. Manoharan,
for the Respondent

Judgement

P. Jyothimani, J.—The defendant in O.S. No. 5644 of 2007 is the revision petitioner. This Civil Revision Petition is directed against the

order of the learned first appellate Judge, the VI Addl. Judge, City Civil Court, Chennai dated 12.10.2007 passed in CMP No. 1924 of 2007 in

C.M.A. No. 104 of 2007 filed by the respondent in C.R.P., granting an order of interim injunction till 26.10.2007 against the revision petitioner

from telecasting the tele-serial either in the name of ""Maveeran Veerappan"" or ""Santhana Kadu"" including its advertisement and trial version of tele-

serial about the petitioner's husband Veerappan in any form.

2. This Revision is filed under Article 227 of the Constitution of India. The respondent has filed the suit for permanent injunction restraining the

revision petitioner from publishing, broadcasting telecasting the serial ""Maveeran Veerappan"" and projecting the name, identity and interpretation of

M. Veerappan in any form and in any name which relates to M. Veerappan or his life history and events without the plaintiff's written consent. The suit has been laid on the basis that such telecast about the husband of the plaintiff will spoil the identity of her husband Veerappan and also will damage the plaintiff's present life and her children studies in future. It is also her claim that such publication would amount to violation of right to privacy which is available to her, being the wife of the deceased husband. The defendant in the suit, who is the revision petitioner has in fact filed the written statement taking the stand that there is no question of privacy inasmuch as every body know about the life and story of the said deceased Veerappan and therefore it is a matter of public domain. In such circumstances, the privacy concept will not arise. It is also the defence of the defendant that the episode which relates to the life of Veerappan will only receive an understanding and sympathy from public and the intention is not to humiliate either the deceased person or his wife and children. It is also their defence that for the past two and half decades the people of the State were informed and knew about Veerappan and his activities and it is not as if by the telecast, people will come to know for the first time about him.

3. Pending the suit, the plaintiff filed I.A. No. 14951 of 2007 praying for an order of interim injunction. It is stated that pending suit, there has been an ad interim injunction. Ultimately the injunction application was heard by the learned Trial Judge and by elaborately discussing the entire arguments advanced by both sides, the learned Trial Judge has dismissed the injunction application, however stating that ""the respondent (revision petitioner herein) is hereby ordered that the petitioner and her daughters should not be suffered to any social stigma, by broadcasting the tele serial Santhana Kaadu"". While dismissing the said application, the Trial Judge has held as follows:

As such the claim of the petitioner cannot be entertained as the claim itself is not maintainable as the respondent can have the broadcast of the telecast serial ""Santhana Kaadu"" as it would not infringe or cause any stigma to the petitioner and her daughters. That the respondent could take all precautions that it is not making or causing any social stigma on the petitioner and her daughters. Hence, in the result, that the petition be the same

stands dismissed and it is devoid of merits with the observations made in the order.

4. It was as against the said considered order, the plaintiff has filed an appeal in C.M.A. No. 104 of 2007, which is pending on the file of the VI

Additional Judge, City Civil Court, Madras. Pending the appeal, the plaintiff has moved C.M.P. No. 1924 of 2007 praying for an interim

injunction as prayed for in the Trial Court. It was in that application, the first appellate Judge has granted the following order:

In the trial court *ex parte* injunction granted from the date of filing petition to dispose of that petition i.e., from 14.09.2006 to 17.09.2007. Till date

the film is not tele-casted. Hence the petitioner made out the *prima facie* case and if the telecast is postponed the respondent will be not prejudice.

On the other hand if telecasted the petitioner apprehension will be ruined. Hence interest of justice, injunction is granted till 26.10.2007. Further

arguments will be heard on 26.10.2007.

5. It is admitted across the Bar that this order was passed by the learned First Appellate Judge after hearing both the counsel for the petitioner as

well as the respondent at length. On the face of it, it is seen that the learned First Appellate Judge having heard the case in full, has passed a single

line order of injunction without assigning any reason except stating that the petitioner's apprehension that her reputation will be ruined, especially in

the circumstances when the trial Court has elaborately discussed the arguments by both sides while dismissing the injunction application. It is as

against the said order, the defendant in the suit, who was the respondent in CMP before the first appellate Court, has filed the present Civil

Revision Petition before this Court under Article 227 of the Constitution of India.

6. Mr. T.V. Ramanujam, learned Senior Counsel appearing for the petitioner would submit that even though it is true that an appeal lies against

such an order under Order 43 Rule 1 of CPC, since the order has been passed by the VI Additional Judge of the City Civil Court, Chennai, the

appeal should lie in High Court. As a matter of abundant caution, the petitioner has filed an application in M.P. No. 2 of 2007 for converting the

CRP itself filed under Article 227 of the Constitution of India as C.M.A. In any event, it is the contention of the learned Senior Counsel that on the

face of the order of the learned First Appellate Judge, the order is perverse and it

cannot be said that this Court while exercising jurisdiction under

Article 227 of the Constitution of India cannot give any suitable direction to the Trial Court in spite of the fact that the appeal lies against the order.

7. It is his further contention that the basic claim of the plaintiff in the suit is privacy, which cannot be available in this case because the life and story

of said Veerappan has been in existence and every body in the State is aware since this matter has been published widely. He has also relied upon

an elaborate enquiry conducted by Justice Sadasiva Commission while making enquiry about the atrocities stated to have been committed by the

police while hunting the said Veerappan. He also relied upon various publications like Nakeeran Publication etc., wherein the whole story of said

Veerappan has been clearly published and people in the State are very much aware of that. While that being so, it cannot be stated that there is

any privacy and by telecasting, her personal life and her daughters studies in future will get affected, can never be taken as a stand for the purpose

of filing of suit. Therefore, he would contend that the suit is not maintainable and it is an abuse of process of law. He would also submit that in such

circumstances when there is no privacy, the question of getting consent by the petitioner for the purpose of publishing does not arise.

8. On the other hand, Mr. Manoharan, learned Counsel for the respondent/plaintiff would vehemently contend that when the CRP under Article

227 of the Constitution of India is not maintainable, question of filing an application to convert CRP as that of CMA cannot be entertained. His

contention is that when the revision petitioner is having an effective remedy of appeal, even if it is before this Court under Order 43 of CPC, he has

to be directed only to go before the appellate Court and he cannot be permitted to argue the case under Article 227 of the Constitution of India.

That apart, he would also rely upon the right of privacy. His contention is that as long as Veerappan was live, there was no privacy, because he

was having the right to defend by himself. It was only after his death, (Veerappan died on 19.10.2004), the cause of action of privacy in respect of

husband's life arose in favour of the plaintiff as well as her daughters and it was her duty to maintain the dignity and decorum of the family since any

publication which is derogatory to the name of the husband will certainly affect the children of the plaintiff as well as their future. His further

contention is that the First Appellate Judge, while granting injunction has considered the balance of convenience and it was on that basis only an order of injunction was granted. Therefore, it does not warrant any interference.

9. Both the counsel relied on various Judgments to substantiate their respective contention.

10. It is relevant to point out at this stage that as against the impugned order of the First Appellate Judge, the CRP was moved and this Court by

an order dated 13.10.2007 has recorded an undertaking given by the learned senior Counsel on behalf of the revision petitioner, which is as

follows:

The Revision petitioner submits that they will not telecast about the personal life of the plaintiff and her daughters while telecasting the said

Santhana Kadu"". The serial will depict about Veerappan based on public records and field information

and granted an order of interim stay of the operation of the impugned order of the First Appellate Judge passed in CMP No. 1924 of 2007 in

CMA No. 104 of 2007 dated 12.10.2007 and the said order continues as on today.

11. I have heard the learned senior Counsel for the revision petitioner as well as the learned Counsel for the respondent and perused the entire records.

12. At the outset, I actually decided to have the interim order passed by this Court dated 13.10.2007 to be continued so that status-quo can be

maintained with a direction to the VI Additional Judge to dispose of the appeal on merit at an early date. However, both the learned senior

Counsel as well as the learned Counsel for the respondent would submit that an order on merit would be required. On the one hand, it is the

contention of Mr. T.V. Ramanujam, learned senior Counsel that inspite of hearing the case for few hours, the learned First Appellate Judge has

passed a single line order without assigning any reason. On the other hand, it is the contention of Mr. Manoharan, that after the matter was moved

before the High Court that the tele-serial has to be telecasted, it is necessary that final decision should be arrived at.

13. Even though I am aware that any detailed observation about the merit of the case will affect the parties since the suit is still pending, it is

necessary for me to deal with some of the aspects which are argued by both the

counsel.

14. Both the learned senior Counsel for the petitioner as well as the learned Counsel for the respondent have relied upon the Judgment of the

Supreme Court in *R. Rajagopal alias R.R. Gopal and Another Vs. State of Tamil Nadu and Others*, . That was a case relating to one Auto

Shankar, who was convicted for six murders and was sentenced to death, who had written autobiography in jail and handed over the same to his

wife for being delivered to his advocate with a request to publish the same in the petitioner's magazine. When the said Autobiography was sought

to be published, the issue arose as to whether a citizen of this country can prevent any person from writing his story or biography? and whether

such unauthorised writing infringe the citizen's right to privacy? And also the issue arose in that case about the fundamental right guaranteed under

Article 19(1)(a) of the Constitution of India.

In that case, while deciding the issue regarding right to privacy, the Supreme Court has observed that right to privacy arose from the law of Tort

which results in damages in case of infringement. The Supreme Court has held that right to privacy is clubbed into two aspects, one is law of Tort

wherein the consequential action is for damages resulting from unlawful evasion of privacy and secondly in case of constitutional recognition,

wherein the right created against the Government. In paragraph 9 of the said Judgment, the Supreme Court has held as follows:

The right to privacy as an independent and distinctive concept originated in the field of Tort law, under which a new cause of action for damages

resulting from unlawful invasion of privacy was recognised. This right has two aspects which are but two faces of the same coin "(1) the general

law of privacy which affords a tort action for damages resulting from an unlawful invasion of privacy and (2) the constitutional recognition given to

the right to privacy which protects personal privacy against unlawful governmental invasion. The first aspect of this right must be said to have been

violated where, for example, a person's name or likeness is used, without his consent, for advertising "or non-advertising" purposes or for that

matter, his life story is written "whether laudatory or otherwise" and published without his consent as explained hereinafter. In recent times,

however, this right has acquired a constitutional status. We shall proceed to

explain how? Right to privacy is not enumerated as a fundamental right in our Constitution but has been inferred from Article 21.

15. The Supreme Court has also while discussing elaborately the fundamental right to privacy, has held that it is no doubt true right to privacy is guaranteed, which form part of right to life under Article 21 of the Constitution of India. But that right will be changed in a case where a person voluntarily thrust himself into controversy. Therefore, as per the dictum laid down by the Supreme Court, right to privacy is available as long as the privacy is maintained by the parties. If the privacy comes out to public, the question of retaining the privacy does not arise. The wordings of the Hon"ble Supreme Court in paragraph 26 of the said Judgment are as follows:

(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.

16. While concluding the said Judgment, the Supreme Court has held as follows:

Applying the above principles, it must be held that the petitioners have a right to publish, what they allege to be the life story/autobiography of Auto Shankar insofar as it appears from the public records, even without his consent or authorisation. But, if they go beyond that and publish his life story, they may be invading his right to privacy and will be liable for the consequences in accordance with law. Similarly, the State or its officials cannot prevent or restrain the said publication.

17. It is relevant to point out that both the learned senior Counsel for the revision petitioner as well as the respondent relied upon the same

Judgment. A reading of the said Judgment would reveal that right to privacy is enumerated as a fundamental right in our Constitution under the

concept of life under Article 21 of the Constitution of India. As long as right to privacy in right to life is maintained and once this has become

public, the question of continuation of that right does not arise and absolutely, there is no difficulty in accepting the same. As far as the present case

is concerned, it is admitted that publications have been made in the past 20 years about the life and story of Veerappan and therefore question of

retaining privacy is still in controversy. In any event, this matter is to be decided by the Trial Court.

18. The contention of the learned Counsel for the respondent Mr. Manoharan that right to privacy continues and takes the new turn after the death

of Veerappan, who died on 19.10.2004 is also baseless because even during the life time of Veerappan himself, the publications have been made

admittedly and he has not taken any steps for the purpose of opposing. The same question of continuation of privacy after his death is not at all an

acceptable argument. In any event, it is true that the petitioner and the daughters have got right to privacy to be maintained but I do not understand

as to how the right to privacy of the petitioner and her children are going to be affected especially in the circumstances when the Trial Court while

deciding about the interlocutory application has infact safeguarded the interest of the plaintiff and her daughters and further this Court while

admitting the revision has also recorded the undertaking given by the learned senior Counsel for the revision petitioner categorically stating that right

to privacy of the plaintiff and her daughters will not be affected and there will not be humiliation to the plaintiff and her daughters.

19. Now coming to the question of maintainability of the revision under Article 227 of the Constitution of India, as I have stated earlier the revision

petitioner as an abundant caution has in fact filed an application to convert the revision under Article 227 of the Constitution of India as that of

C.M.A. There is no dispute that even though an appeal has to be filed, the appeal shall come before this Court and therefore there is no difficulty

to convert the revision as that of appeal.

20. Be that as it may, the question that has to be considered in this case is when the lower Court closing its eyes and especially after hearing both

parties at length, passed an order in one line in a very sensitive matter, which was dealt with by the Trial Court in a detailed manner, whether this

Court can only be a silent spectator having a right to superintendence over the lower Court's order under Article 227 of the Constitution and that

is the crux of the issue which is involved in this case.

21. In Salem Cooperative Sugar Mills Ltd. Vs. S. Kuppannan, (judgment delivered by P.D. Dinakaran, J.), while dealing with the jurisdiction of

this Court under Article 227 of the Constitution of India, in respect of an order passed under Order 39 Rule 1 and 4 of CPC, against which an

appeal lies as per Order 43 of the CPC, has held that High Court cannot be a silent spectator when the person seeking an order of injunction has

approached this Court with unclean hands since there is a flagrant violation of equity and justice, powers under Article 227 can be exercised, in

spite of the availability of the right of appeal.

22. In yet another case in the case of The Andhra Social and Cultural Association Vs. R. Karuppan, (Judgment delivered by P. Shanmugam, J.),

this Court has held that when the order of the lower Court is wholly unsustainable and without jurisdiction, it has to be set aside by the High Court

under Article 227 of the Constitution of India. This Court, has in fact, dealt with various judgments of the Division Bench as well as the Supreme

Court in the following words:

The order passed by the learned judge does not satisfy the requirement of Order 39, Rule 3, CPC. The Honourable Supreme Court as well as this

Court, in a series of decisions, have directed the subordinate Courts that they should pass speaking orders in terms of Order 39, Rule 3, CPC. In

all those cases, it has been held that the requirement is mandatory that before granting an injunction without giving notice to the opposite party, the

Court shall record reasons for its opinion and that the object of granting injunction would be defeated by delay. This mandatory requirement and

the ingredients are lacking in this order. Therefore, it is clear that the impugned order does not satisfy the requirement of law. In Suryanarayana

Paper and Boards Pvt. Ltd. and others Vs. V. Padmakumar and others, , Srinivasan, J.,(as he then was), following the two Supreme Court

judgments in Morgan Stanley Mutual Fund v. Kartic Das 1994 SCC 225 and Shiv Kumar Chadha v. Municipal Corporation of Delhi 1993 (3)

SCC 1611, held that interlocutory orders of this nature are wholly unsustainable and without jurisdiction and they have to be set aside. The very

same learned judge (as he then was), in R.I. & C. Syndicate Ltd., v. Vairava Prakasam 1988 (2) LW 179, deprecated the practice of granting

such order of injunction.

23. In the case of *Pharmasivam and another Vs. Tamil Nadu Electricity Board and 2 others*, , S.S. Subramani, J., while dealing with the order

passed under Order 39 Rule 1 CPC granting injunction, has held that decree for injunction cannot be granted based on apprehension.

24. A reference to the impugned order which is the subject matter of dispute in this revision shows that the learned Judge has passed a single line

order of injunction on the basis that the petitioner apprehends that she will be ruined without assigning any reason.

25. The powers of the High Court under Article 227 of the Constitution have come before the Supreme Court on many occasions. In the case of

Surya Dev Rai Vs. Ram Chander Rai and Others, , the Supreme Court has held that the powers of the High Court under Article 226 and 227 of

the Constitution of India cannot be tied down in a strait jacket formula. The relevant portion of the said Judgment reads as follows:

Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under

Articles 226 or 227 of the Constitution cannot be tied down in a strait-jacket formula or rigid rules. Not less than often, the High Court would be

faced with a dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the

error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High

Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and

corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the

conclusion of the proceedings. But there may be cases where "a stitch in time would save nine". At the end, we may sum up by saying that the

power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience

and practical wisdom of the judge.

26. In *Smt. Shail Vs. Shri Manoj Kumar and Others*, , the Supreme Court while dealing with the Judgment in *Surya Dev Rai*'s case has held that

even though the jurisdiction under Article 227 is to be exercised sparingly and

with care and caution, it is certainly the right vested on the High Court and meant to be exercised in appropriate cases.

27. In the case of Securities and Exchange Board of India v. Arihant Cotsyn Ltd. and Ors. reported in (2005)13 SCC 498, the Supreme Court

has categorically observed the jurisdictional right of the High Court under Article 227 of the Constitution of India, as follows:

It was submitted, based on the decision of this Court in Surya Dev Rai v. Ram Chander Rai that the revisional jurisdiction of the High Court can

always be exercised where the subordinate court is found to have acted without jurisdiction or in excess of jurisdiction and for the purpose of

keeping the subordinate Court within bounds when the subordinate Court has assumed jurisdiction which it did not have or has failed to exercise

jurisdiction which it does have. There can be no dispute to this proposition of law. We, however, do not find this to be a case falling under any of

those categories. We, therefore, see no reason to interfere.

28. Therefore, the consistent judicial pronouncement by the Supreme Court as well as this Court makes it very clear that in case where the lower

Court passes an order which cannot be accepted by any prudent sense, it is always open to the High Court under Article 227 of the Constitution

of India to correct the same by exercising the right of superintendence.

29. The reliance placed on by Mr. T.V. Ramanujam, on the judgment of this Court in the case of The Central Board of Film Certification Vs.

Yadavalaya Films and The Film Certification Appellate Tribunal, makes it very clear that the play writers and film writers are entitled to allude to

incidents which have taken place and to present aversion of those incidents which according to them represents a balanced portrayal of social

reality while dealing with the film Kutra Pathirikai. The relevant portion of the Judgment of the First Bench consisting of A.P. Shah, C.J., and K.

Chandru, J. is as follows:

The film ""Kutra Pathirikai"" is an intermingling of fact and fiction. The former being the events leading to the assassination of the late Prime Minister

Rajiv Gandhi, the assassination itself and its aftermath. The producer has attempted to place before the public the true account of what has passed

into history. He has done no more and no less than what has already been done by different organs of the media, national and international. The

producer tells his audience without embellishment what in a democracy is the right of the audience and the general public viz., the right to be informed and the right to know, which are vital in a democratic set up. Each and every piece of evidence depicted in this film is a matter of public record and public knowledge. The overall impression that this film would create in a normal and average mind would be a revulsion and abhorrence of the assassination coupled with the resolve that history such as this shall not repeat itself. The fact that film depicts the assassination of former Prime Minister by itself cannot and should not be a ground for rejection, more so, when the entire investigation and the trial of the case is over. The protection of the Constitution does not extend only to fictional depictions of artistic themes. Artists, film makers and play writers are affirmatively entitled to allude to incidents which have taken place and to present a version of those incidents which according to them represents a balanced portrayal of social reality. The choice is entirely of the film maker. Critical appraisal is the corner-stone of democracy and the power of the film as a medium of expression lies in its ability to contribute to the appraisal.

30. The Judgment relied on by Mr. V. Manoharan in the case of People's Union of Civil Liberties (PUCL) Vs. Union of India (UOI) and Another, has no application on the facts of this case. That was a case relating to the tapping of telephone which was held to be an infraction of fundamental right under Article 21 of the Constitution of India.

31. Further, reference to the Judgment of the First Bench of this Court in the case of R. Rajagopal @ R.R. Gopal @ Nakkheeran Gopal and Anr.

v. J. Jayalalitha and Anr. reported in 2006 2 LW 377 to contend the right to privacy is relevant to be considered. The Division Bench of this Court

in the above referred case has held that a citizen has a right to safe guard the privacy of his own, his family, marriage, procreation, motherhood,

child bearing and education, among other matters, and none can publish anything in reference to the above matters without his/her consent whether

laudatory or critical. The Division Bench has further held as follows:

Though the Indian Constitution does not use the expression ""freedom of press"" in Article 19, but it is included as one of the guarantees in Article

19. Our Constitution is not absolute with respect to the freedom of speech and expression as enshrined by the First Amendment to the American

Constitution. But this right is subject to reasonable restrictions on grounds set out in Article 19(2) of the Constitution. Reasonable limitation can be

put in the interest of sovereignty and integrity of India, the secrecy of the State, friendly relationship with foreign state, public order, decency or

morality or in relation to contempt of court, defamation or incitement of an offence.

32. Further while concluding, the Division Bench following the Judgment of the Supreme Court in the case of R. Rajagopal, held that right to

privacy has two aspects, namely, one the general law of privacy which results in an action for damages in tort and another the constitutional

recognition which has given right against the Government in respect of matters of unlawful Government invasion. The Division Bench has

elaborately discussed this aspect which is certainly a guideline, which reads as follows:

30. As observed in R. Rajagopal's case (Supra) the right to privacy has two aspects which are but two faces of the same coin. First the general

law of privacy which offers a tort action for damages resulting from an unlawful invasion of privacy and secondly, the constitutional recognition

given to the right to privacy which protects personal privacy against unlawful government invasion. Though the right to privacy can be characterized

as a fundamental right as held in R. Rajagopal's case it is not an absolute right. In Time Inc. v. Hill 385 U.S. 374 it was pointed out that in the case

of public officials, insofar as their official function is involved, they are substantially without a right to privacy and factual error and content

defamatory of official reputation or both, are insufficient for the award of damages for false statements unless actual malice knowledge that the

statements are false or reckless disregard of the truth is alleged and proved. In a democratic set up a close and microscopic examination of private

lives of public men is the natural consequence of holding of public offices. What is good for a private citizen who does not come within the public

gaze may not be true of a person holding public office. What a person holding public office does within the four walls of his house does not totally

remain a private matter. We agree with Mr. Jothi that the scrutiny of public figures by media should not also reach a stage where it amounts to

harassment to the public figures and their family members and they must be permitted to live and lead their life in peace. But the public gaze cannot

be avoided which is necessary corollary of their holding public offices.

31. We are also unable to accept the submission advanced by Mr. Jothi that the appellants should be asked to seek prior verification from the

respondents before publishing any articles and publish the denial, if any, of the respondents. According to Mr. Jothi rule of prior verification is laid

down in R. Rajagopal's Case (supra). We are afraid that the submission of the learned Counsel is based on total mis-interpretation of the

observations of the Supreme Court. The Supreme Court has not laid down that the prior verification of the facts is must in all such cases. All that

the Supreme Court indicated is that the proof that the member of the press or media acted after a reasonable verification of the facts would be

sufficient. However, at the same time, it must be noted that the Supreme Court in R. Rajagopal's Case has clearly held that a citizen has a right to

safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education, among other matters and none can

publish anything in reference to the above matters without his/her consent whether laudatory or critical. Therefore, if an article is purely relating to

the personal life of a public official, it would be necessary for the member of the press or media to publish such article only after a reasonable

verification of the facts. The position may, however, be different if a person voluntarily thrust himself or herself into a controversy or voluntarily

invites or raises a controversy. In the circumstances, we direct the appellants that whenever they propose to publish any article purely concerning

personal life of the first respondent or the second respondent or both, the appellants shall forward their queries and/or the gist of the proposed

article, as the case may be, to the fax number furnished by the learned Counsel appearing for the respondents. The first respondent or the second

respondent or both, as the case may be, shall respond to the queries of the appellants in relation to their proposed article to the fax number of the

appellants. However, if there is no response to the queries either from the first respondent or the second respondent within 36 hours from receiving

such queries, the appellants will be entitled to proceed to publish the proposed article in their bi-weekly. It is true that the press cannot be

compelled to also publish the version of the official, about whom the article is written, with reference to the article published against him/her. We,

however, feel that it is expected of any responsible member of the press to also indicate the version of the official concerned in their proposed article.

33. In view of the above said legal position and on referring to the impugned order passed by the First Appellate Judge, I have no hesitation to

come to the conclusion that the order is liable to be set aside. The learned Judge, having heard the interlocutory application, especially in the

circumstances when the Trial Court has a detailed discussion elaborately and dismissed the interlocutory application, the learned First Appellate

Judge has chosen to pass a cryptic order in one line stating that there should be injunction on the basis that there is apprehension. However, the

learned appellate Judge has posted the case for further arguments on 26.10.2007 and it is in these circumstances, this Court, while admitting the

revision petition has safeguarded the interest of the plaintiff and her daughters as it was laid down by the Trial Court while disposing of the

interlocutory application. Mr. T.V. Ramanujam, learned senior Counsel has categorically given an undertaking before this Court which reads as

follows:

The Revision petitioner submits that they will not telecast about the personal life of the plaintiff and her daughters while telecasting the said

Santhana Kadu"". The serial will depict about Veerappan based on public records and field information.

34. In view of the above said facts, I am of the considered view that the First Appellate Court must be directed to dispose of the appeal

expeditiously by giving an opportunity to both the parties. However, in the meantime, the undertaking given by the learned Senior Counsel shall

form part of this order.

35. In view of the same, the impugned order of the learned First Appellate Judge is set aside and that is substituted by the following order by

recording the undertaking given on behalf of the revision petitioner, which reads as follows:

The Revision petitioner submits that they will not telecast about the personal life of the plaintiff and her daughters while telecasting the said

Santhana Kadu"". The serial will depict about Veerappan based on public records and field information.

36. In view of the undertaking, the revision petitioner shall not telecast about the personal life of the plaintiff and her daughters while telecasting the said ""Santhana Kadu"" and the serial shall only be based on public records and field information. The first appellate Court is directed to take up the appeal in C.M.A. No. 104 of 2007 after hearing both the parties and such order shall be passed on or before 02.11.2007. The revision petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.