

Item No.2
21.08.2024
Court. No. 9
GB

W.P.A. 21006 of 2024

Dr. Sandip Ghosh & Anr.
Vs.
Union of India & Ors.

Mr. Biswaroop Bhattacharya,
Mr. Md. Zohaib Rauf,
Mr. Sumitava Chakraborty

... for the Petitioners.

Mr. Rajdeep Mazumdar,
Mr. Moyukh Mukherjee

... for the Respondent Nos.1 & 2.

Mr. Amitesh Banerjee,
Mr. Anirban Ray,
Md. T.M. Siddiqui,
Mr. Debangshu Dinda

... for the State.

Mr. Varun Kothari,
Mr. Nikunj Belia,
Ms. Mosarat Reyaz

... for the Respondent No.9.

Mr. Ratnanko Banerji,
Mr. Arunabha Deb,
Mr. Soumabho Ghosh,
Ms. Ashika Daga

... for the Respondent No.10

1. Affidavit-of-service filed in Court today, is taken on record.
2. The writ petitioners have approached this Court under Article 226 of the Constitution of India, seeking a writ of mandamus restraining the intermediaries, media houses, i.e., the respondent herein, as also other media houses who are sought to be impleaded in representative capacity under Order 1 Rule 8 of the Code of Civil Procedure, from holding a

media trial. The petitioner no.1 is the erstwhile principal of the R.G. Kar Medical College. The petitioner no.2 is his wife.

3. The petitioners allege that the media houses have been publishing untrue, unreal and malicious stories with regard to the involvement of the petitioner no.1 in the unfortunate incident which took place on August 9, 2024 in the precincts of the R.G. Kar Hospital. According to the petitioners, the news publications and the social media posts have caused the following injury:-

- a) Public anger resulting in the 'gherao' of their premises by a mob.
- b) Prejudice to the ongoing investigation by the CBI.
- c) Negative impact on their reputation and social standing.
- d) Denial of the right to privacy.
- e) Mental agony, disturbance and distress caused to the family members.

4. The petitioners submit that the media has a responsibility to publish the truth and not venture into a fact finding enquiry. The character assassination of the petitioner No.1, affect their right to privacy. Media reports have been published without verifying the correctness

of the information and/or their authenticity. The extensive coverage of the incident and news involving the petitioner no.1, will prejudice the competent courts of law and also ignite the wrath of the common people. The right to protect one's reputation is an essential component of the fundamental right guaranteed under Article 21 of the Constitution of India and the International Convention on Civil and Political rights. Such right must be protected. Reliance has been placed on the decision of ***Rujira Banerjee versus Union of India & Ors.*** decided in ***W.P.A.22990 of 2023***, specially Paragraph 71 thereof.

5. Learned Deputy Solicitor General appears on behalf of the respondent nos. 1 and 2 and submits that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 provide adequate remedy. The petitioners can approach the concerned authority by praying for removal of any alleged offensive content on social media platforms and for further steps against such intermediaries. Reference is made to Rules 3 and 3A of the said code.
6. With regard to the allegations against the respondent nos.5 to 8 and 10, adequate remedy

has been provided under the Press Council Act, 1978. The petitioners are always at liberty to approach the Council with their grievance.

7. The writ petition should not be entertained in the absence of any specific pleading as to how any of the social media platforms or the print and electronic media had conducted a media trial.
8. Mr. Kothari, learned advocate appears for Twitter, which is renamed as 'X' corporation and submits that the said respondent is an intermediary and the Code referred to earlier, provides adequate remedy to the petitioners. The petitioners can proceed under the said Code of 2021 by praying for removal of any prejudicial content and the provisions may be applied by the authority on the basis of the facts and nature of the complaint. A writ petition for an outright restraint on all intermediaries cannot be entertained.
9. Mr. Ratnanko Banerji, learned senior advocate appearing on behalf of the respondent no.10 submits that the petitioners have adequate remedy under the Press Council Act, 1978. The petitioners are always at liberty to approach the Council with their grievances and the law pertaining to such issue shall be made

applicable on a case to case basis, upon appreciation of the allegations of the petitioners. A total gag either on the print or electronic media would be contrary to the Article 19(1)(a) of the Constitution of India. Moreover, the annexures to the writ petition do not indicate that the respondent No.10 had indulged in a media trial.

10. Mr. Amitesh Banerjee, learned senior Standing Counsel submits that police protection is being given to the petitioners.

11. Coming to the pleadings, this Court finds that none of the paragraphs have specified as to how any of the respondents or other media houses and intermediaries have proceeded with a media trial. A general allegation is made that the extensive news coverage has damaged the reputation of the petitioners. The petitioner no.1 used to hold an important position in the hospital. His status has been lowered in the estimation of the public. Other allegations are that a Court of law may be prejudiced if the media is allowed to publish extensive news on the petitioner no. 1 at the stage of the investigation by the CBI. Another aspect which has been put forward is the infringement of the right to privacy and dignity.

12. First and foremost, the petitioner is not an accused. The CBI has been calling the petitioner for interrogation. Thus, the allegation of trial by media and the courts being influenced by any such news coverage is premature. Secondly, specific instances have not been put forward in the pleadings which would indicate that the media houses and the intermediaries had broadcast any news item on the interrogation by the CBI, which would tantamount to a trial by media. The right of privacy of the petitioner and the right of the media under Article 19(1)(a) of the Constitution of India should be balanced. Had the respondent nos.5, 6, 7, 8 and 10 published any news by concocting and sensationalizing the process of interrogation, the petitioner would have a case.

13. The pleadings in this writ petition do not indicate that any such programme had been aired. Such omnibus allegations that the news coverage would harm the petitioner No.1 and cause irreparable injury to his reputation and prejudice future proceedings, will not justify curtailment of the right guaranteed under Article 19(1)(a) of the Constitution of India which guarantees freedom of speech and expression to all, including the right to broadcast. The media

is often termed as the fourth pillar of democracy. The media discharges an onerous duty by keeping the people knowledgeable and informed. The media ensures that the individuals (members of civil society) participate in a matter of national importance. In this case, the incident has attained a status of global importance. Thus, right to information would be fundamental in this case, as each and every member of civil society is severely affected by the incident either directly or indirectly.

14. At this stage, any restriction either on the media or the intermediaries, apart from an expectation and trust that they will discharge their function with responsibility, is not necessary. The news with regard to the interrogation process shall be broadcast without prejudging or commenting on the role of the petitioner no.1. The news should be objective and not the subjective opinion of the media. The media must not take up the role of the investigating agency. The media houses and intermediaries should refrain from publishing animated dramatization of the interrogation. In the course of debates and discussions, the opinions or interviews of panelists and guests shall be broadcast with a disclaimer that such

views, opinions and expressions are personal to them and not the opinion of the media.

15. With regard to the personal liberty of the petitioners, police authorities have already granted them protection. If the petitioners have any particular allegation against any of the media houses, the petitioners have their remedy under the Press Council Act, 1978. With regard to the allegations against the intermediaries, the petitioners are at liberty to approach the authority under the Ethics Code of 2021. If the petitioners are aggrieved by the opinion of any individual that is broadcast by any of the media houses, i.e., be it print or electronic, the petitioners have the remedy to file a defamation suit. Thus, an indiscriminate order of restraint on the media or the intermediaries at this stage, on the pleadings before this Court, is uncalled for.

16. Accordingly, the writ petition is disposed of.

17. However, there will be no order as to costs.

18. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)