

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1059285

Court : Kolkata

Decided On : Aug-16-2012

Judge : Sengupta

Appellant : Appellant

Respondent : Respondent

Judgement :

IN THE HIGH COURT AT CALCUTTA Special Jurisdiction (Contempt) Original Side Present : The Honble Justice Sengupta And The Honble Justice Asim Kumar Mondal 16.08.2012 T No.29 of 2012 In the matter of : Publication made in The Times of India.

and The Hindu.

both Calcutta publications dated 15th August, 2012 And In the matter of : News Telecast made by ABP Anand.

and

2. Ghanta.

on 14th August, 2012 Mr.Bikas Bhattacharya, Sr.Advocate appears The Court :- In the morning Mr.Bikash Bhattacharya, a Member of the Bar has drawn attention of this Court to the news item published in two English daily viz., THE TIMES OF

INDIA.

and THE HINDU.

on 15th August, 2012. Both are having circulation in the city and in this State.

The Times of India at the front page of the paper has printed as follows with the heading COURT

JUDGMENT

S CAN BE BOUGHT, SAYS MAMATA.

It has been mentioned specifically by the person in the manner as follows :Speaking at a seminar organized to celebrate the 75th anniversary of the Bengal legislative assembly, Mamata said, keno aajke takar binimoye court e bichar hobe?.

(why should judgment be delivered in exchange for money ?.) Corruption has made inroads into the judiciary and democracy as a whole.

This is unfortunate.

We may have won freedom but not economic freedom.

While THE HINDU.

has printed at the front page with the heading as follows : not MAMATA TURNS HER IRE ON JUDICIARY. The news item in detail is as follows :- Why will judgments be given only in favour of those who offer money ?.

I am sorry to say this ; people can condemn me for this.

I can be arrested and put in jail for this, but some where I will have to express my opinion,.

said Ms. Banerjee speaking at a seminar on Executive Accountability to the Parliament/Legislature on the occasion of the State Assemblys platinum jubilee celebrations.

Mr. Bhattacharya has also produced two CDs and on viewing and listening recorded utterances the Court perceives that it is not a full speech of the speaker in the programme where it has been said, and in what context is not clear.

Mr. Bhattacharya urges that with these materials this Court in exercise of power under Section 15 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India should draw up a criminal contempt proceeding against speaker as mentioned in the news item and the person whose image projected in the CDs.

We are of the view that those materials at present are not at all adequate to initiate a criminal contempt proceeding.

However, when we notice that two daily news papers had printed the aforesaid remarks, we feel it expedient that it has to be examined first. Before we take further steps, whether it is reported and printed in usual courses of business by the media people or it has been done by way of commercial publication.

In that view of the matter, we direct the Editors of both the above newspapers to swear respective affidavits as to whether any reporter of their paper house was deputed at the place where the alleged statement was made.

If so, disclose the name of such reporter(s). Such reporter(s) concerned shall swear affidavit whether they have reported as mentioned in the newspapers shown before us in discharge of their usual duties as such reporters and remaining present at the spot.

If they have done so, then shall state on oath whether they have taken note of such speech while remaining present and listening the same.

We also direct the Printer/s concerned to state on oath whether printing has been done on the basis of the report made by the reporters concerned.

Copies of the draft and proof copy of such news shall be annexed with the affidavit by the printer/s.

Such affidavit shall be filed within three weeks from the date of communication of this order.

As far as CDs are concerned, it is not clear to us who are responsible for preparation of these CDs.

Mr.Bhattacharya submits that his junior Mr.Ravi Sankar Chatterjee has downloaded the relevant portion of the speech.

Mr.Chatterjee who is present in Court, has submitted that he has viewed the programme in the TV Channel aired by ABP Anand.

and

2. Ghanta.

and while viewing the same he has been able to download the relevant portion of the offending speech.

In view of his statement before this Court, we think it fit that news editors of two concerned TV channels shall state on oath whether such telecasting of this programme was made in their TV channels or not, and if so they shall state on oath whether it was live telecasting or recorded airing; whether their staff or cameraman or any other staff attended such function personally or not.

They shall produce the original CDs recording entire speech if done before this Court.

After examining all these the Court will decide whether any action would be taken or not.

Mr.Bhattacharya submits that the offending speech is such that action should be taken immediately.

We are at present not willing to do so for the reasons as we have indicated above.

All these affidavits shall be filed by the aforesaid persons with the Registrar, Original Side of this Court within three weeks from the date of communication of

this order and on receipt of the same, the Registrar, Original Side shall produce the same before this Court.

In the event no affidavit is filed by any of the aforesaid persons, it shall be presumed that the news items carried by the respective newspapers or for that matter in the CDs are absolutely incorrect and in that case law will take its own course.

The Registrar, Original Side shall register this matter as a suo motu action.

Let copies of the said two news papers and the CDs be kept in a sealed cover in the safe custody of the Registrar, Original Side.

The Registrar, Original Side shall communicate this order through Execution Department to those persons.

Matter to appear four weeks hence.

Registrar, Original Side and all persons above shall act on a xerox signed copy of this order on usual undertakings.

(Sengupta, J.) (Asim Kumar Mondal, J.) ANC.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com