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Baldev Vs. State and Others

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Court : Delhi

Decided On : Oct-31-1991

Reported in : 1992CriLJ1604

Judge : R.L. Gupta, J.

Appeal No. : Crl.M(M) No. 2084 of 1991 and Crl.M(M) 2106 of 1991

Appellant : Baldev

Respondent : State and Others

Advocate for Def. : B.D. Batra, Adv.

Advocate for Pet/Ap. : R.K. Anand and; Ashok Bhasin, Advs

Judgement :
ORDER

1. S/Shri Baldev and Dieter Ludwig have applied for grant of anticipatory bail in these two separate petitions. This order will dispose of both these petitions.

2. In brief the case of the petitioner Baldev is that he is representative of French News Photo Agency, SYGMA with Head-quarters at Paris. He had accompanied various Prime Ministers of India as a part of their official entourage. The Headquarters of SYGMA instructed him on telephone in May, 1991 to visit International Sahaja School, Dharamsala, H.P. for having the photographs of the

school as well as the students studying there and showing their general lifestyle, including that of Master Yoann, a male child of French nationality. He, accordingly, visited that school and met its Principal Mr. Banerjee and introduced himself as news photographer, representative of SYGMA and sought his co-operation to photograph the School complex and students studying there. The Principal introduced him to various children including Master Yoann. The petitioner took his photographs besides those of other students. He has now learnt that a case has been registered against him at PS Dharamsala, H.P. for criminal tres-pass, at the instance of School Authorities and, thereforee, the Himachal Pradesh Police had come to arrest him. thereforee, apprehending his arrest he seeks anticipatory bail.

3. The other petitioner claims himself to be a representative photographer of SIPA Press Agency based in Paris. He claims to have visited the school in April May, 1991 to write an article for 'Paris Match' regarding Sahaja Yoga. He also similarly claims to have visited the school, met the Principal and according to him his article published regarding the activities of the school has resulted into the filing of false case against him.

4. Notice of both these applications was issued to the respondent including the State of Himachal Pradesh. The brief history filed on behalf of Himachal Pradesh Police shows that FIR No. 214/91 dated 20-6-91 under Ss. 290/419/420/451/500/363 read with S. 34, I.P.C. stands registered against five persons including these two petitioners. Learned counsel for the State also produced before me photo copies of some letters written by the parents of Master Yoann to Mr. Yogeshwar Mahajan, Management-in-Charge of the School as also to Mr. Banerjee, the Principal. He also produced before me photo copies of the Magazine 'Paris Match' dated 30th May, 1991 published by Journalist Colette Porlier who is also one of the co-accused in this case. The report shows that on 16-5-91 accused No. 3 Philippe Gelie visited the school at Dharamsala and told its Principal that he was related to Master Yoann, a French student and that his parents had sent him to the school to meet him. Thereafter he talked to Master Yoann for about four and a half hours in French on account of which Mater Yoann remained quite disturbed and did not even take his meal that day. On the very next day i.e. 17-5-91 the petitioner Baldev also went to that School, took various

photographs of the children in the school and specially those of Master Yoann and also harassed him. The petitioner Baldev had told the Principal that he had come to the School with the permission of Mr. Yogeshwar Mahajan, Management-in-charge of the School. Similarly on 18-5-91 the co-accused Pavlov introduced himself as companion of Baldev and similarly took photographs and also harassed Master Yoann. Km. Colette Porlier, co-accused visited the school on 19-5-91 and made a false representation that she wanted to admit both of her children in the school. On this pretext she also talked to Master Yoann in French language.

5. The result of taking of the photographs and writing of article by some of the accused seems prima facie apparent in the letters written by the mother of Master Yoann. In the letter dated 30-5-1991 addressed to Mr. Mahajan, she states, 'I am sorry to say that the Principal of the school has been very irresponsible. He should have protected my child instead of leaving him on the mercy of these journalists and these photographs. Yoann phoned me and he was very upset that the Principal did not object to the bombardment of questioning in this way for days together. They just left him there, the Principal did not interfere. On the contrary he entertained people who made my son's life miserable .....'

6. Josette Durand addressed another letter on the same day to the Principal Mr. Banerjee. Mr. Mahajan then had to write a letter of regret to Mrs. Josette Durand wherein he informed, 'I have talked to the principal and he admits, it was his mistake that he believed these journalists and did not demand written permission.'

7. The photocopy of the magazine 'Paris Match' indicates that the grandparents of Master Yoann filed some criminal action for seeking the custody of their grandson Master Yoann making serious allegations against his parents.

8. From the narration of above facts, it is prima facie clear that the visit of the petitioners along with other co-accused persons within a period of 4 days only i.e. from 16-5-91 to 19-5-91 resulted in a serious damage to the reputation of the school and its working. On the basis of their acts Master Yoann was prima facie withdrawn from the school and it actually brought a very bad name to the Institution. False reporting were made in 'Paris Match'. For instance, it was published, 'Out of the eye of the Headmaster, Yoann whispers to me in French I

would like to see Daddy and Mummy'. This one sentence alone shows under what tremendous mental pressure the child would have been by the constant questionings of all the accused including the petitioners. The writing of obnoxious letters by the mother of Master Yoann to the Principal of the School and Mr. Mahajan, publication of undesirable material in 'Paris Match' and filing of a criminal action by the grand parents of Master Yoann against his own parents seeking his custody simply because they sent him to this school are prima facie matters which will definitely require to be dug out. Prima facie these acts attributed to the petitioners and other co-accused have brought down the reputation of the school resulting in international ramifications. It will have to be found out at whose instance actually and for what consideration these people acted. Some of the photographs shown to me by one of the petitioners and allegedly taken in the school are sort of harmless. But if this was all, there was no reason for the happening for the above referred facts. I am, thereforee, of the view that it is a case which requires that the prosecution should be allowed a free hand to go into all the aspects deeply to find out as to why the petitioners along with co-accused persons made false representations to the Principal that they had sought permission from Mr. Yogeshwar Mahajan for interviewing the boys, specially Master Yoann. If this course is not adopted, the deeper reasons in bringing a very bad name to the Institution in the whole world are likely to go undetected.

9. thereforee, at this stage without going into the aspect whether this Court should have entertained these petitions or not, I am of the view that even otherwise, it is not a fit case for grant of anticipatory bail. The petitions are, thereforee, dismissed.

10. Petitions dismissed.

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