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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 121/2019 & CM APPLs. 651-52/2019**

POOJA MAHAJAN

..... Petitioner

Through: Mr. A. Maitri with Ms. Radhika Chandrashekhar & Ms. Ananya Roy, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Jasmeet Singh, CGSC & Mr. Srivats Kaushal, Adv. for UOI/ R-1 & 2.
Mr. Sangram Patnaik with Ms. Tania Sharma, Advs. for Bohra Brothers Production House.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **09.01.2019**

CM APPL. 652/2019 (*exemption*)

Allowed, subject to just exceptions.

W.P.(C) 121/2019 & CM APPL. 651/2019

1. This petition in public interest has been filed by the petitioner herein with the following prayers:

“(i) To quash/set aside/revoke the certificate given by Respondent No. 2 / CBFC to Film namely “The Accidental Prime Minister” U/s 5A read with Section 5B of Cinematograph Act, 1952.

(ii) To direct Respondent No. 1 and 2 to suspend / revoke the certificate of Film “The Accidental Prime Minister” under Section 5-E of Cinematograph Act.

(iii) To direct the Respondent 3 & 4 (YouTube) to stop,

withdraw the Trailer of film “The Accidental Prime Minister” from its YouTube channel.

(iv) To pass any other order which this Hon’ble Court may deem fit and proper in the interest of justice.”

2. Petitioner claims to be a public spirited person having no personal interest in the matter and it is her contention that in the film in question titled, “The Accidental Prime Minister” certain public figures including an ex-Prime Minister is being depicted in a manner which would be detrimental to the interest of the country. However, primarily challenge is that the trailer of the film is being exhibited in violation to the requirement of Rule 38 of the Cinematograph (Certification) Rules, 1983 (hereafter referred to as “the Rules”). The trailer is being widely shown in YouTube and certain other electronic media without taking approval of the Central Board of Film Certification (CBFC). It is stated that even for exhibiting an advertisement in the form of a trailer of a movie approval under Rule 38 of the Rules is required which is not obtained in the present case. That apart, it is stated that the manner in which certain public figures are depicted in the movie, it amounts to offence punishable under Section 416 IPC (impersonation). Contending that as the trailer of the movie is being exhibited in YouTube and other social media contrary to the provisions of law and it maligns the reputation of certain public figures, this petition with the prayers as indicated hereinabove.

3. It is primarily the case of the petitioner that the trailer released in YouTube is in violation of Rule 38 of the Rules. Respondents No.1 and 2 represented by counsels on advance notice point out that the petitioner has no *locus standi* in the matter. They further state that both the movie and the

trailer have been certified by the Central Board of Film Certification. It is also indicated that a disclaimer has been published in the trailer and the movie is said to be based on a book published in the year 2014 named “The Accidental Prime Minister” authored by one Shri Sanjaya Baru. Respondents vehemently oppose the petition primarily on the ground of locus standi of the petitioner. It is stated that the persons who are said to have been depicted in the movie in a manner not permissible under law can always challenge the action and a Public Interest Litigation at the instance of the petitioner is not maintainable. Reference in this regard is made to judgments of the Supreme Court in the case of *Bandhua Mukti Morcha v. Union of India & Ors.*, (1984) 3 SCC 161 Para 11, another judgment of this Court delivered on 22.08.2012 in W.P.(C) 3165/2012 titled *J. Sai Deepak v. Central Board of Excise and Customs and Anr.* to say that if the petitioner in a Public Interest Litigation is trying to advance the cause of other persons who are neither negligent nor illiterate nor a vulnerable group and they are persons who can very well approach the Court, a Public Interest Litigation at the instance of a third person cannot be entertained. That apart, learned counsel submits that if the statutory rules under the Cinematograph (Certification) Rules, 1983 is breached or the alleged action amounts to a offence under Section 419 IPC, the petitioner should take recourse to statutory remedy available under the Cinematograph Act, 1952 (hereafter referred to as “the Act”) or under the Code of Criminal Procedure. Even though learned counsel appearing for the petitioner vehemently opposed these prayers, we are of the considered view that the film has been granted certification by the Central Board of Film Certification as is pointed out to us and the trailer is being displayed as a matter of advertisement for the film.

4. The grievance of the petitioner primarily is two-fold. Firstly, that Rule 38 of the Rules has been violated and the act of certain persons depicting certain roles in the film amounts to offence punishable under Section 416 of the Indian Penal Code. Apart from the fact that the petitioner has no *locus standi* in the matter in view of the judgments referred to hereinabove, in case the statutory provisions have been violated, the petitioner should take recourse to the remedy available under the statute, namely, representation or complaint to the statutory authority under the Cinematograph Act and the rules framed thereunder itself or launch prosecution by way of a criminal complaint under Cr.P.C. Learned counsel for the respondents also point out that the book has been in circulation since 2014. About 5 years are going to be completed and till date no complaint or action has been taken in the matter of circulation of the book. Taking into consideration all the relevant aspects of the matter, at the instance of the petitioner, in the facts and circumstances of the case, we are not inclined to interfere into the matter exercising our extraordinary jurisdiction under Article 226 of the Constitution of India, that also when the persons like the producers, directors and artists against whom the allegations have been made have not been impleaded as party and the petitioner has no *locus standi* to raise the issue.

5. Accordingly, the writ petition stands dismissed. The pending application also stands disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

JANUARY 09, 2019/kks