

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:084399

CRM-M-35547-2019

Date of Decision: July 05, 2023

Rahul Kumar Tewary and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Abhinav Sood and Mr. Anmol Gupta, Advocates
for the petitioners.

Mr. R.S. Khaira, DAG, Punjab.

Mr. Rahul Kumar, Advocate for respondent No.2.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition is to quash FIR No.92 dated 23.08.2019, registered at Police Station Commissionerate, Jalandhar, District Jalandhar, under Section 295-A and 34 of IPC (Annexure P-1) and all the consequent proceedings arising therefrom.

2. Reply by way of affidavit of Shri Nirmal Singh, Assistant Commissioner of Police, Central Jalandhar on behalf of respondent-State has been filed by learned State counsel.

3. Same subject matter was considered by a co-ordinate Bench of this Court in CWP-25291-2019 (O&M), wherein following order was passed on 17.10.2019:-

“Challenge in the instant writ petition was to the orders dated 06.09.2019 at Annexure P-1 and P-2 (colly) issued by the District Magistrates, Kapurthala, SBS Nagar and Amritsar suspending the exhibition of T.V. serial 'Ram Siya Ke Luv Kush' which was directed, conceptualized, produced and was being telecast by the petitioners herein.

The writ petition came up for preliminary hearing before this Court on 09.09.2019 and while issuing notice of motion, a detailed order in the following terms was passed:

This is a fixed today matter. Hearing has been afforded at 4.50 P.M.

The instant writ petition is directed against the orders dated 6.09.2019 placed on record at Annexure P-1 and Annexure P-2 (colly) issued by the District Magistrates Kapurthala, SBS Nagar and Amritsar suspending the exhibition 1 of the TV serial 'Ram Siya Ke Luv Kush' which has been directed, conceptualized, produced and being telecast by the petitioners herein.

Perusal of the impugned orders would reveal that the directions to suspend the exhibition of the TV serial aforeoticed is in purported exercise of the powers conferred by Section 19 of the Cable Television Network (Regulations) Act 1995 (hereinafter to be referred to 1995 Act).

Learned Senior counsel would submit that the impugned directive has been issued purportedly on the basis that there is a large population of SC/Valmiki community in the Districts and resentment is prevalent amongst them over the screening of the serial as leaders of the community are alleging that the serial is portraying wrong facts about Bhagwan Valmiki Ji and is hurting their religious sentiments. In the impugned order it has also been recorded that a memorandum has been submitted by the members of the SC/Valmiki community demanding action against the persons responsible for distorting the history of Valmiki Ramayana.

While assailing the impugned orders the following contentions inter alia have been raised:-

i. It is vehemently contended that prior to issuance of the impugned orders no opportunity of hearing had been granted to the petitioners. It is urged that if an opportunity of hearing had been granted, the petitioners would have satisfied the District Magistrate concerned that every care had been taken as regards not distorting the image of any of the characters portrayed in the serial and rather same is

based on the actual text of the original version of the epic i.e. Sri Madavalmikiya Ramayana. Non-adherence to the principles of natural justice as such has been asserted.

ii. It has been argued that for exercise of powers under Section 9 of the 1995 Act it was imperative for the competent authority to have considered the entire issue and after independent application of mind and only upon having gone into the veracity of the allegations raised by the members of the SC/Valmiki community that any view could have been formulated that it was necessary and expedient to ban the telecast of the serial in public interest. It is argued that from a plain reading of the impugned orders it is clear that only the memorandum and complaints filed by the SC/Valmiki community has weighed with the authority and there has been a mere reproduction of the language of Section 19 of the 1995 Act to the detriment of the petitioners.

iii. Learned Senior counsel has further brought to the notice of this Court that based upon the allegations made by certain members of the SC/Valmiki community as regards the role of Bhagwan Valmiki Ji being incorrectly depicted and telecast in the serial, FIR No.092 dated 23.08.2019 under Section 295-A IPC was registered at Police Station Division No.4, Jalandhar City. It is submitted that three of the petitioners herein preferred a quashing petition under Section 482 Cr.P.C. i.e. CRM-M-35547 of 2019 which came up for preliminary hearing before this Court on 29.08.2019 and while issuing notice of motion returnable for 28.01.2020 and staying further proceedings against the petitioner therein the following order was passed:- “

Rahul Kumar Tewary and others versus State of Punjab and anr.

Present: Mr. R.S.Rai, Sr. Advocate with

Mr. Abhinav Sood, Advocate,

Mr. Jay K. Bhardwaj, Advocate,

*Ms. Priya D.Arora, Advocate and
Ms. Swati Singh, Advocate
for the petitioner(s).*

It is contended by learned counsel for the petitioners that even though there is disclaimer at the start of the every episode of serial being produced by the petitioners, however, the petitioners are taking every care that any fact depicted in the serial does not distort the image of anyone of the characters mentioned in the original epic. The alleged offending portion does find mention in Sri Madavalmikiya Ramayana. Therefore, the alleged offending portion is based upon actual text of the original version of the epic, without any addition or subtraction on the part of the producer of the serial. Therefore, there is no scope for there being any intention on the part of the petitioners; to deliberately offend any sentiments of any segment of the society. Rather the petitioners are making an effort to propagate the epic as is mentioned in the scripture itself. Hence, the FIR has been concocted on non-existent facts.

Notice of motion for 28.01.2020.

It is further ordered that till next date of hearing only, further proceedings against the petitioners shall remain stayed.

29th August, 2019

[RAJBIR SEHRAWAT]

JUDGE

iv. yet another argument pressed by Senior counsel against the impugned orders is that the directive to ban the telecast has been extended even to the DTH Operators (Direct to Home) and the same cannot sustain by virtue of exercise of powers under Section 19 of the 1995 Act.

Notice of motion returnable for 12.09.2019.

Ms. Rameeza Hakeem, Addl. AG, Punjab, accepts notice on behalf of respondent No.1 and 3 to 24 and waives service. Five complete sets of writ paper-book be furnished

to learned State counsel today itself.

While pressing for interim directions learned Senior counsel submits that the petitioners would be open to enter into a dialogue with respondent No.1 so as to examine the issue threadbare and if need be to omit certain scenes which portray the role of Bhagwan Valmiki Ji.

Learned State counsel is requested to complete instructions in the matter and particularly with regard to the offer that has been recorded on behalf of the petitioners.

Process dasti for effecting service upon respondent no.2.

Prayer made by Senior counsel to stay operation of the impugned orders is declined at this stage. To be taken up immediately in the post lunch session at 2.00 P.M.”

During the course of subsequent hearings that took place, this Court was apprised that the State Government had taken a conscious decision to set up a Committee to examine the entire issue and which was chaired by the Additional Chief Secretary, Department of Home and had other members including the Chairman, Punjab State Warehousing Corporation, DGP (Intelligence), Secretary (Public Relations), Representatives of Advocate General, Punjab and the Chairman (Safai Karmchhari Commission, Punjab).

Apparently, deliberations were held by the Committee on different dates in which representatives of the petitioner party also participated.

On 25.09.2019, the following order was passed by this Court:

“During the course of hearing today, Court has been apprised that vide order dated 24.09.2019 issued from the office of the Additional Chief Secretary, Government of Punjab, Department of Home Affairs and Justice, a Committee stands constituted to frame a set of guidelines and reliable references to be provided to Colors T.V. Channel regarding T.V. Serial “Ram Siya Ke Luv Kush”. The constitution of the Committee is as follows:

- “1) Sh. Geja Ram, Chairman, Safai Karmchhari Commission, Ph. (9815620831)*
2) Sh. Karnail Sahota (9915478300)
3) Sh. Pawan Dravid (9872165665)
4) Sh. Mangal Nath Bali (9815083070)
5) Advocate Rahul (8437341643)”

Furthermore, counsel for the parties have stated in unison that a meeting of such Committee took place at 4 P.M. on 24.09.2019 itself to determine the broad frame work and guidelines for Colors T.V. regarding telecast of the T.V. Serial in question.

The minutes of the meeting duly signed by all the Committee members are reproduced hereunder:

“1. A meeting was held today in the conference room at the business center at Hotel Taj, Chandigarh regarding telecast of TV serial “Ram Siya Ke Luv Kush” on Colors TV Channel. The meeting was attended by the Committee formed by the representatives of Valmiki Samaj as communicated vide the office Order dated 24th September, 2019 from the Department of Home Affairs & Justice (Home-2 Branch), Government of Punjab (1) Geja Ram, Chairman, (2) Karnail Sahota (3) Pawan Dravid, (4) Mangal Nath Bali and (5) Advocate Rahul (“Committee”) and other representatives as per the attendance sheet from Colors TV Channel and production house.

2. It was decided by the Committee that the scenes in which Bhagwan Valmikiji is shown in earlier episodes are available on Voot and any other platform owned by the Colors TV Channel should be deleted. The representatives of Colors TV Channel have agreed that this will be deleted within 3 to 4 working days.

3. There would be a special episode on Bhagwan Valmikiji which shall be scripted as per the inputs provided by the Committee. This episode shall show the greatness of Bhagwan Valmikiji. The input points for this episode shall be given in 3-4 days to the Producer. The Producer will

inform the Committee of the date of broadcast of this Episode after considering the time taken for production on receipt of the inputs.

4. The portrayal of look of Bhagwan Valmikiji will be modelled as per guidance of the Committee who have provided 4 to 5 reference pictures to the Producer. The Producer will model multiple looks with the actor and submit it to the Committee for its approval within 4 days. The Committee will consider the same and give their inputs to enabling finalizing of the look within the next 3 to 4 days.

Signed and confirmed by:”

Perusal of the minutes of the meeting of the Committee held on 24.09.2019 would make it apparent that the stakeholders have broadly agreed to a particular course of action to be followed. Even a time frame has been defined therein and which would culminate in about 9-10 days from today.

Hearing in the instant petition is accordingly deferred to 04.10.2019.

To be shown in the urgent motion list.”

On the previous date of hearing i.e. on 15.10.2019, Court was informed that the issue primarily has been resolved. Certain corrective measures/steps and as suggested by the Committee have already been implemented by the petitioners in relation to the previous episodes. A stand was taken on behalf of the State that there would be a requirement for the petitioner to furnish an undertaking to adhere to such corrective measures/ steps even with regard to the future telecast.

The matter having been taken up today, Ms. Anu Chatrath, learned senior Additional Advocate General, Punjab informs the Court that the requisite undertaking has been furnished on behalf of the petitioners and the same has been accepted by the Committee which had been set up by the State Government to look into the matter.

At this stage, it would be apposite to even reproduce the

undertaking dated 16.10.2019/17.10.2019 that has been furnished by the authorized representative of Swastik Productions Private Limited/petitioner No.2 and addressed to the Secretary, Department of Home Affairs and Justice, Government of Punjab:

“17th October, 2019

To

*The Honorable Secretary,
Department of Home Affairs and Justice,
Government of Punjab.*

Sub: Undertaking given by Swastik Production Private Limited

Ref: Order of the Honourable High Court of Punjab dated 15th October 2019.

Dear Sir,

In compliance of the aforementioned order of the Honourable High Court and in liu of the Government of Punjab revoking the ban placed by the District Magistrate on broadcasting of the TV serial “Ram Siya Ke Luv Kush” (TV Serial) in the State of Punjab, we Swastik Production Private Limited, the Petitioner No.2 in the Writ Petition CWP-25291-2019 hereby undertake that for the future episodes of the TV serial, we will communicate with the representative of the Committee formed by your good self as per office order Endst No.7/11/2019-3 H2 3095, from time to time and follow the guidelines provided by the Committee.

Yours faithfully

For Swasitk Production Private Limited

Sd/-

Authorized Representative”

What clearly emerges is that the State Government having taken a conscious decision of setting up a Committee to look into the entire issue and the Committee, post deliberations having suggested certain corrective measures/steps, the same have not only been accepted by the petitioner party but have been implemented insofar as the previous episodes of the serial and now have furnished an undertaking to even adhere to such

corrective measures/steps for future telecast as well. Such undertaking having been accepted by the Committee, there would be no basis for the impugned orders suspending the exhibition of the T.V. Serial 'Ram Siya Ke Luv Kush' at Annexures P-1 and P-2 (colly) as also similar orders to sustain.

Writ petition accordingly is allowed. Orders at Annexures P-1 and P-2 (colly) and such other identical orders that may have been passed by other District Magistrates of different districts in the State of Punjab are set aside.

Suffice it to observe that it would be open for the State Government to proceed further in the matter and to pass orders in accordance with law in the eventuality of the petitioners violating the undertaking dated 16.10.2019/17.10.2019 that they have furnished.”

4. On 11.04.2023, following order was passed by this Court:-

“Learned counsel for the petitioners has placed on record copy of the order dated 17.10.2019 passed in CWP No.25291 of 2019 (O&M) to contend that matter has stood resolved between all the stake holders including the complainant. Even Mr. Rahul Kumar, learned counsel appearing for respondent No.2 was a party to the Committee which was formed by the representatives of Valmiki Samaj. However, respondent No.2 seeks time to file reply.

Adjourned to 05.07.2023 for filing reply by respondent No.2.

Interim order to continue till then.

State of Punjab is also to take necessary instructions in view of the order dated 17.10.2019 relied today by learned counsel for the petitioners.”

5. As per the reply filed on behalf of respondent-State, complainant respondent No.2 Rajeev Gora pleaded ignorance about the constitution of the Committee by this Court so as to redress the grievance of the complainant and that he was not aware about the same. The police report is also accompanied by statement of Shri Rajeev Gora-respondent

No.2, which is as under:-

“Stated that I am resident of above said address. I have got registered FIR No.92 Dated 23.08.2019 U/S 295-A/ 34 IPC at P.S. Division No.4 Jalandhar against accused i.e. makers and actors of Ram Siya Ke Luv Kush by portraying wrong image of Bhagwan Valmiki in the serial telecast by Color TV. Hon'ble High Court has constituted the Committee to negotiate on the matter. I have come to know about the same from my Advocate Rahul Arya. In the said Committee constituted by Hon'ble High Court settlement was arrived between Director, Producer and actors of serial Ram Siya Ke Luv Kush telecast on Color TV. However I do not know about the same. However after telecast of serial Ram Siya Ke Luv Kush was stopped nothing objectionable with respect to Bhagwan Valmiki or any objectionable thing against our religion was telecast by Color TV. I have given my statement as per my knowledge.”

6. However, statement is made by learned counsel for respondent No.2 before this Court that he has no objection to the quashing of the FIR in question, in view of the order dated 17.10.2019 passed in CWP-25291-2019 (O&M).

7. Keeping in view all the aforesaid circumstances, FIR No.92 dated 23.08.2019, registered at Police Station Commissionerate, Jalandhar, District Jalandhar, under Section 295-A and 34 of IPC (Annexure P-1) and all the consequent proceedings, are hereby quashed.

Allowed.

July 05, 2023
sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No