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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(CIVIL) NO.9967 OF 2013

Vidya Dhar & Ors. Petitioners

Versus

Multi Screen Media Pvt. Ltd. Respondent

J U D G M E N T

ALTAMAS KABIR, C.J.I.

1. The three petitioners before us are now detained in judicial custody in the Tihar Jail on being convicted under Section 120B of Indian Penal Code read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. The petitioner no. 3 was the Chief Minister of the State of Haryana from 1999 to 2005 and during his tenure 3206 Junior Basic Trained Teachers were recruited in the year 2000. During that time, one Shri Sanjiv Kumar, IAS, was the Director, Primary Education, Government of Haryana.

3. From 2000 onwards, upon certain facts being brought to the knowledge of the Government of Haryana, several disciplinary and vigilance inquiries were initiated against the said Shri Sanjiv Kumar. An FIR was registered against him under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

4. While the said inquiries were pending, Shri Sanjiv Kumar filed Writ Petition (Criminal) No. 93/2003 before this Court, holding himself out to be a whistle blower and claiming that while he was functioning as Director, Primary Education, Haryana, he was pressurized into altering the lists for appointment of Junior Basic Trained Teachers. Since, he had resisted and did not succumb to such pressure, he was being unfairly targetted by the administration.

5. On the basis of the said Writ Petition, this Court on 25.11.2003, directed the Central Bureau of Investigation, hereinafter referred to as "CBI", to inquire into the allegations made therein. Pursuant to such direction, the CBI registered a Preliminary Enquiry bearing No.PE 1(A)/2003/ACU-IX dated 12.12.2003. Subsequently, the said Preliminary Enquiry was converted into RC 3(A)/2004/ACU-IX on 24.5.2004, under Section 120B read with Section 420/467/468/471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

6. On completion of investigation, the CBI filed a charge-sheet on 16.1.2013, against various persons including Shri Sanjiv Kumar, IAS. The CBI also named the Petitioners herein as accused in the said case. The trial of the case was conducted by the learned Special Judge, Rohini, Delhi, who by his judgment and order dated 16.1.2013, convicted the Petitioners and the said Shri Sanjiv Kumar, IAS, amongst others and on 22.1.2013, sentenced the Petitioners to 10 years of rigorous imprisonment in respect of conviction under Section 120B of Indian Penal Code and for

the period of 7 years of rigorous imprisonment in respect of Section 13(2) of Prevention of Corruption Act, 1988.

7. Aggrieved by the said judgment and order of sentence dated 16.1.2013 and 22.1.2013 respectively, the Petitioners preferred an appeal before the Delhi High Court on 15.2.2013. Along with the appeal, the Petitioners had also filed applications under Section 389 of the Code of Criminal Procedure, 1973, hereinafter referred to as "Cr.P.C.", seeking suspension of conviction, sentence as well as for grant of interim bail. The matter appears to be pending before the learned Single Judge of the Delhi High Court which issued notice to the CBI on the appeal and the matter has been posted for further hearing.

8. During the pendency of the appeal before the Delhi High Court, the Petitioners and their family members came to learn that the Respondent was proposing to broadcast Episode Nos. 214-215 of "CRIME PATROL DASTAK" on 23-24.2.2013, in which a dramatized version of "JBT Teachers Scam" was to be presented. The Petitioners thereupon filed CS(OS) No.335/2013 before the Delhi High Court on 20.2.2013 for permanent injunction to restrain the Respondent from broadcasting/telecasting the above-mentioned television program on any media channel, including the Internet. The learned Single Judge issued notice on the matter on 21.2.2013. On 22.2.2013, the Respondent published an advertisement in the Times of India regarding broadcasting of the show wherein a summary of the episodes to be shown, was published. According to the Petitioners, the said summary is a clear misrepresentation of the facts. The learned Single Judge vide order dated 22.2.2013, restrained the Respondent from broadcasting/telecasting the said program till the application for suspension of sentence under Section 389 of Cr.P.C. was decided.

9. On 23.2.2013, the Respondent filed FAO(OS) No. 119/2013 before the Division Bench of the Delhi High Court and after hearing the parties, the Division Bench by its judgment and order dated 28.2.2013, allowed the first appeal and set aside the order of injunction passed by the learned Single Judge.

10. Thus, against the said judgment and order of the Division Bench of the Delhi High Court, the present Special Leave Petition has been filed.

11. The main ground of challenge to the impugned order passed by the Division Bench of the Delhi High Court on 28.2.2013, is that the proposed telecast of the Episode Nos.214-215 of "CRIME PATROL DASTAK", in which the dramatised version of "JBT TEACHERS RECRUITMENT SCAM" is to be broadcast, will have a prejudicial impact on the rights of the Petitioners who were entitled to a fair trial. It was submitted by Mr. Mukul Rohatgi, learned Senior Advocate, appearing for the Petitioners, that the picturisation of the said Episode was meant to project the Petitioners in a negative light on the basis of allegations made against them by the CBI. Mr. Rohatgi submitted that the entire projection, which apparently was intended to be a picturisation of the events which led to the conviction of the Petitioners, creates a detailed similarity between the actors and the situation in which they performed, with the actual events, which had the potential of destroying the Petitioners' political career.

12. Mr. Rohatgi submitted that, though the Petitioners may stand convicted in respect of the charges framed against them, an appeal from the judgment of conviction is a continuation of the trial and even at the appellate stage, there is every possibility of bias against the Petitioners, which would be against the concept of a free and fair trial.

13. Learned counsel submitted that the Division Bench failed to weigh the prejudice that would be caused to the Petitioners against the broadcast

of the aforesaid Episode for commercial gain. Mr. Rohatgi also urged that the object of the television program is to create a prejudiced public environment against the Petitioners and thereby obstructing the administration of justice in a free and fair manner. Mr. Rohatgi urged that the right to freedom of speech did not include within its scope, the right to create a hostile environment when the Petitioners' pending appeal comes up for final hearing. Mr. Rohatgi also urged that since the Petitioners' application under Section 389 Cr.P.C. was pending hearing, the outcome thereof would be highly prejudiced if the Serial in question is allowed to be broadcast prior to the disposal thereof.

14. Mr. K.V. Vishwanathan, learned Senior Advocate, who appeared for some of the other Petitioners, reiterated the submissions made by Mr. Rohatgi on behalf of the Petitioner No.3 and urged that it would be unfair to the Petitioner if the Episode in question was allowed to be screened before the Petitioners' Application under Section 389 Cr.P.C. was disposed of.

15. On the other hand, appearing for the Respondent, Mr. Harish N. Salve, learned Senior Advocate, contended that the trial of the Petitioners stood concluded on their conviction and sentence under the relevant provisions of the Indian Penal Code and the provisions of the Prevention of Corruption Act, 1988. Mr. Salve urged that the entire matter regarding the JBT Teachers Recruitment was in the public domain and the judgment of conviction continues to be operative unless set aside by the Supreme Court. It was urged that in the circumstances, the Division Bench of the Delhi High Court, did not commit any error in rejecting the Petitioners' prayer for withholding the screening of the Serial in question pending disposal of the Petitioners' prayer for stay of conviction and appeal. It was urged that there was no further possibility of the Petitioners being biased or prejudiced or even discredited, once the judgment had been delivered in the trial. Mr. Salve urged that no cause had been made out for stay of operation of the order of the Division Bench of the High Court, as impugned in the Special Leave Petition.

16. Having considered the submissions made on behalf of the respective parties, we are inclined to agree with Mr. Salve that once the trial has been completed and the Petitioners have been convicted and, thereafter, arrested, there is no further possibility of any bias against them at the time of hearing of the appeal. The contents of the trial and the ultimate judgment of conviction and sentence is now in the public domain and is available for anyone to see.

17. Without going into the question of the right of freedom of speech of the maker of the Television Episodes, we are convinced that no interference is called for with the order of the Division Bench of the High Court, setting aside the order of the learned Single Judge. However, in order to safeguard the interests of the Petitioners, we are also of the view that certain restrictions can be imposed at the time of the screening of the said Episodes. Accordingly, the Producers, Directors and Distributors and all those connected with the screening of the aforesaid Episodes on television, shall ensure that there is no direct similarity of the characters in the Serial with the Petitioners, who have been convicted in connection with the JBT Teachers Recruitment and had been sentenced to different periods of custody, and that steps are taken to protect their identity, as far as possible.

18. The Special Leave Petition is dismissed with the aforesaid observations.

.....CJI.

(ALTAMAS KABIR)

.....J.

(ANIL R. DAVE)

.....J.

(VIKRAMAJIT SEN)

New Delhi
Dated: 03.05.2013.

ITEM NO.IA COURT NO.1 SECTION XIV
[FOR JUDGMENT]

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9967/2013

(From the judgement and order dated 28/02/2013 in FAO No.119/2013 of The HIGH COURT OF DELHI AT N. DELHI)

VIDYA DHAR & ORS. Petitioner(s)

VERSUS

MULTI SCREEN MEDIA PVT. LTD. Respondent(s)

Date: 03/05/2013 This Petition was called on for JUDGMENT today.

For Petitioner(s) Mr. Giriraj Subramanium, Adv.
Mr. Salman Hashmi, Adv.
Ms. Liz Mathew, AOR

For Respondent(s)
Mr. Subramonium Prasad, AOR

Hon'ble the Chief Justice pronounced the judgment of the Bench comprising His Lordship, Hon'ble Mr. Justice Anil R. Dave and Hon'ble Mr. Justice Vikramajit Sen.

The Special Leave Petition is dismissed in terms of the signed judgment.

(Sheetal Dhingra) AR-cum-PS	(Juginder Kaur) Assistant Registrar

[Signed Reportable Judgment is placed on the file]