

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 37427 of 2015

Petitioner :- Anil Pradhan

Respondent :- The Union Of India Thru. Sec., And 4 Ors.

Counsel for Petitioner :- M.A. Mishra,J.S. Bundela

Counsel for Respondent :- A.S.G.I.

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud,Chief Justice

Hon'ble Yashwant Varma,J.

By these proceedings which have been initiated invoking the PIL jurisdiction of the Court, the petitioner seeks a ban on the display of the motion picture 'Bajrangi Bhai Jaan' which is slated for release on 17 July 2015. The petitioner does not dispute the factual position that the motion picture has been certified by the Central Board of Film Certification. The petitioner addressed an Advocate's notice on 24 June 2015 after which the petition has been filed.

The parts of the film which are claimed to be objectionable have been set out in paragraphs 11 and 16 of the writ petition on which reliance has been placed during the course of the hearing. For convenience of reference, we extract the averments from paragraphs 11 and 16 hereinbelow:

"11. That, in the aforesaid film Bajrangi Bhai Jaan, Hanuman Ji has been exhibited as Cartoon and the co-artist have been exhibited dancing with coloured mouth of Bajrangbali with the actor (Salman Khan) of the aforesaid film. The co-artist have also

been exhibited with Bhagwa Dhwaj/Bajran Bali Ka Pataka in their hand, who have also exhibited with the main actor Salman Khan in dancing mood. A photostat copy of the part of the exhibition of the picture of Bajrangi Bhai Jaan is being annexed herewith and is being marked as Annexure No.3 to this writ petition.

16. That, the title of the aforesaid film is also objectionable as the word Bhai Jaan is used for elder brother in Northern India whereas the word Bhai Jaan is used for notorious persons in the State of Maharashtra basically in Mumbai and as Bajrangi has been prefixed with Bhai Jaan therefore, such title of the film is objectionable on behalf of the people having faith in Hindu Religion."

The petitioner has lifted those portions of the motion picture which he considers to be objectionable. There is no reference in the writ petition to the theme of the film, the story on which it is based and the relevance of the context to the portrayal of the underlying message. We emphasise this aspect because the Court has to be conscious of the fact that the grant of any relief of the nature sought would impinge upon the fundamental right to the freedom of speech and expression that is conferred upon every citizen under Article 19(1)(a) of the Constitution. Artistic freedom cannot be curbed by allowing an over sensitive individual to lift a passage, dialogue or clip out of context. Every part of an artistic portrayal must be read in the context of the whole. Otherwise

freedom to speak & express will be reduced to husk. That freedom comprehends not merely the freedom of the director, producer, artist and script writer but equally the freedom of the audience to see, watch, observe and assess.

A statutory authority in the form of the Central Board of Film Certification has been constituted for the certification of films under the Cinematograph Act, 1952. No valid basis has been indicated in these proceedings for impugning the legality of the certification which has been granted by the Board. Lifting of an isolated extract from a motion picture would not do justice either to the fundamental right of the producer, director, script writer and artist or, for that matter, to the right of the community at large to view what is offered in pursuance of a certification granted in accordance with law.

The petition has been filed barely a week before the release of the film. We are of the view that the grant of any such relief would be a matter of serious prejudice. Such belated attempts to stall the release of a motion picture must be firmly discouraged.

No valid basis has been indicated for the invocation of the jurisdiction of this Court to sit in judgment over the decision of the certifying authority. The perceived injury to the sensitivities of an individual cannot be determinative of the ambit of the freedom of

speech and expression which is a valuable constitutional right.

We, therefore, see no reason to entertain the petition which is accordingly dismissed.

Order Date :- 10.7.2015

VMA

(Dr. D.Y. Chandrachud, C.J.)

(Yashwant Varma, J.)