

Madras High Court

M/S.Akshaya Creations vs V.Muthulakshmi on 1 February, 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2013

CORAM

The Hon'ble Mr.Justice R.S.Ramanathan

C.R.P.(PD)Nos.3943 and 3944 of 2012

and

M.P.Nos.1 & 1 of 2012

1.M/s.Akshaya Creations,

rep., by its Producer,

A.M.R.Ramesh.

2.A.M.R.Ramesh,

Director.

..Revision Petitioners 1 and 2 in both C.R.Ps

Vs.

1.V.Muthulakshmi, w/o Late M.Veerappan.

2. Gemini Industries & Imaging Pvt. Ltd.,

rep., by its Managing Director.

... Respondents 1 and 2 in both C.R.Ps

C.R.P.(PD)No.3943 of 2012:-

Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment, dated 26.09.2012, passed in C.M.A.No.61 of 2012, on the file of the IV Additional Judge, City Civil Court, Chennai, in reversing the order and decree, dated 21.07.2012, passed in I.A.No.21050 of 2011, in O.S.No.9415 of 2011, on the file of the VII Assistant Judge, City Civil Court, Chennai.

C.R.P.(PD)No.3944 of 2012:-

Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment, dated 26.09.2012, passed in C.M.A.No.62 of 2012, on the file of the IV Additional Judge, City Civil Court, Chennai, in reversing the order and decree, dated 21.07.2012, passed in I.A.No.5110 of 2012, in O.S.No.9415 of 2011, on the file of the VII Assistant Judge, City Civil Court, Chennai.

For Revision Petitioners : Mr.A.Natarajan, Senior Counsel for Mr.M.Vivekanandan For Respondent-1 : Mr.N.Manokaran COMMON O R D E R The defendants 1 and 2 in O.S.No.9415 of 2011, on the file of the VII Assistant Judge, City Civil Court, Chennai, are the revision petitioners herein.

2. The first respondent/plaintiff filed the abovesaid suit for the relief of injunction, restraining the defendants from in any manner, exhibiting, releasing or exploiting the film named "Vana Udham" in Tamil and "Attakasa" in Kannada or in any other name, in any other language, portraying the life of the plaintiff, viz., the first respondent herein and her husband, late Veerappan, in any form, whatsoever.

3. In the said suit, the first respondent/plaintiff filed an Interlocutory Application, viz., I.A.No.21050 of 2011, seeking for the relief of ad interim injunction to the effect, as sought for in the Suit. She also filed I.A.No.5110 of 2012, seeking for an ad interim injunction, restraining the defendants, viz., the revision petitioners and second respondent herein, from in any manner, publishing any advertisement or giving interviews in Daily Newspapers, weekly/monthly Magazines, T.V.Channels or in any other Media, in respect of the film "Vana Udham" in Tamil and "Attakasa" in Kannada.

4. The learned VII Assistant Judge, City Civil Court, Chennai, by a common order, dated 21.07.2012, allowed both the applications filed by the first respondent/plaintiff and directed the screening of the Film before the first respondent/plaintiff and bring to the notice of the Court about any objectionable portion in the Film within a period of seven days of preview, for passing further orders and till such time, granted injunction, restraining the defendants, viz., the revision petitioners and the second respondent, from exhibiting, releasing or exploiting the abovesaid two Films and also restrained the defendants from publishing any advertisement or giving interviews in Daily Newspapers, T.V.Channels or in any other media, in respect of the said films.

5. Challenging the said order, dated 21.07.2012, passed in I.A.No.21050 of 2011, and I.A.No.5110 of 2012, the first respondent/plaintiff filed Civil Miscellaneous Appeals, viz., C.M.A.Nos.61 & 62 of 2012.

6. The learned IV Additional Judge, City Civil Court, Chennai, by a judgment, dated 26.09.2012, set aside the order, dated 21.07.2012, passed by the VII Assistant Judge, and allowed both the Appeals and granted ad interim injunction, restraining the defendants from releasing or exploiting the abovesaid two films and also from publishing any advertisement or giving interviews in Daily Newspapers, T.V.Channels or in any other Media, in respect of the said films.

7. Challenging the said judgment, dated 26.09.2012, passed in C.M.A.Nos.61 & 62 of 2012, by the learned IV Additional Judge, the present Civil Revision Petitions are filed by the revision petitioners/ defendants 1 and 2.

8. Mr.A.Natarajan, the learned Senior Counsel for the revision petitioners submitted that the Appeals filed by the first respondent against the order, dated 21.07.2012, passed in I.A.No.21050 of 2011, and I.A.No.5110 of 2012, by the learned VII Assistant Judge, are not maintainable. As per the order passed in I.A.No.21050 of 2011 and I.A.No.5110 of 2012, the Trial Court has reserved right to pass final orders and also provided an opportunity to the first respondent to submit her objection, after watching the Film and also restrained the revision petitioners and second respondent herein by an order of injunction and without raising any objection about the contents of the Film, the first

respondent filed Appeals and the Lower Appellate Court, without appreciating the same, allowed the Appeals.

9. The learned Senior Counsel for the revision petitioners further submitted that the Lower Appellate Court also committed serious error in appointing an Advocate Commissioner to watch the Film and submit a report, having regard to the allegations made in the plaint and by appointing Advocate Commissioner to see the Film, the Lower Appellate Court has delegated its power to the Advocate Commissioner. As a matter of fact, the Lower Appellate Court relied upon the report of the Commissioner to arrive at the conclusion and allowed the Appeals. Therefore, the judgment passed by the Lower Appellate Court in relying upon the Commissioner's report is also erroneous.

10. The learned Senior Counsel for the revision petitioners further submitted that the Film was taken on the basis of the public records, viz., various FIRs filed against the late Veerappan, the late husband of the first respondent and no scene in the picture was without any basis and every scene is based on the FIR and other public records. Therefore, when the Film is based on the public records and the person, whose life has been depicted in the Film based on the public records, has not objected those incidents or denied those incidents during his life time, it is not open to the first respondent to raise any objection, regarding those scenes and the first respondent can claim privacy for her and her daughter and she cannot claim privacy to the life of her husband, who is no more. Hence, the Lower Appellate Court, without properly appreciating the judgment of the Hon'ble Supreme Court reported in (1994) 6 SCC 632 (R.Rajagopal @ R.R.Gopal and another Vs. State of T.N. And others) erred in allowing the Appeals. Hence of judgment of the Lower Appellate Court is liable to be set aside and the Civil Revision Petitions are to be allowed.

11. The learned Senior Counsel for the revision petitioner also submitted that the two Films contain 32 scenes and provided brief descriptions of 32 scenes, the basis of those scenes and the relevant crime numbers registered against the late Veerappan with brief contents of the criminal case mentioned in those crime numbers and also furnished entire screen play of the Film for perusal of the Court and submitted that having regard to the number of scenes, taken in the Film and the contents of those scenes, it cannot be stated that the privacy of the first respondent was affected or infringed. The learned Senior Counsel submitted that, if the first first respondent has any objection with regard to her portrayal or with regard to her private life, the revision petitioners are prepared to delete those scenes from the Film and therefore, submitted that the Civil Revision Petitions may be allowed.

12. Mr.N.Manokaran, the learned counsel for the first respondent vehemently opposed the Revision Petitions, stating that there is no need to pass any order in the Revision Petitions and the parties may be directed to workout their remedy before the Trial Court by fixing a time frame and any order, that may be passed in these Revision Petitions, would affect the trial of the case. The learned counsel further submitted that entire Film was taken in such a manner, that the husband of the first respondent late Veerappan was depicted in bad taste and there was no basis for depicting late Veerappan in such a manner and the various criminal cases filed against the late Veerappan were, either ended in acquittal, or dropped later and therefore, merely on the basis of the allegations made in the FIRs, a person cannot be depicted in a bad shape, without verifying the truth and absolutely,

there is no truth in the characterization of late Veerappan in the Film and if the Film is allowed to be released, that would create a wrong impression about the late Veerappan, the husband of the first respondent amongst the public and that would also affect the life and reputation of the first respondent. Hence, the Lower Appellate Court has rightly granted an order of injunction.

13. The learned counsel for the first respondent further submitted that the Film was not based on the life of late Veerappan and as a matter of fact, it is made clear that the Film exhibits the life of late Veerappan, as admitted by the revision petitioners and the characters are also given real names viz., Veerappan, Muthulakshmi, etc., and therefore, when the revision petitioners are taking film on the real life of a person, without getting the consent of those persons, or their family members, the revision petitioners should not be allowed to screen the Film of such persons and therefore, the judgment passed by the Lower Appellate Court is perfectly valid in the eye of law and calls for no interference.

14. The learned counsel for the first respondent relied upon the following reported judgments, in support of his contentions :-

i)(1994) 6 SCC 632 in the case of (R.Rajagopal @ R.R.Gopal and another Vs. State of T.N. And others),

ii)(2012) 3 MWN 171 in the case of(Selvi J.Jayalalithaa Vs. Penguins Books India)

iii) (2008) 5 CTC 228 in the case of(R.Sukanya Vs. R.Sridhar and others) and

v)57 (1995) DLT 154 in the case of (Phoolan Devi Vs.Shekhar Kapoor and others)

15. Before going into the merits of the case, during the pendency of the Revision Petitions, I directed the screening of the Film to enable the first respondent and her counsel to see the Film and submit their objections. Accordingly, the Film was screened and the first respondent filed her objections. The learned counsel for the first respondent objected to the entire 32 scenes in the Film and also objected to the Tabular Column given by the revision petitioners giving the details of the descriptions of the scenes, brief contents and particulars of the crime numbers.

16. Therefore, we will have to decide whether the Revision Petitions have to be allowed, having regard to the submissions made by the counsel appearing for the parties and also on the basis of the objections filed in the form of typed set of papers before this Court.

17. It is not in dispute that the said Films, viz., "Vana Udham" in Tamil and "Atakkasa" in Kannada were taken on the real life of late Veerappan and the late Veerappan is the main character in those two Films and the characters in that Films are also real characters. Therefore, we will have to see whether the taking of the Film on the life of a person, who is no more, is permissible in law on the ground that it offends the rights of privacy of his wife and the late Veerappan, as the characters were badly exhibited in the Film and there is no authenticity in picturising those characters. The law on this aspect has been succinctly laid down by the Hon'ble Supreme Court in the judgment reported in

(1994) 6 SCC 632 (supra) and it would be quite apposite to quote the the broad principles, which reads as hereunder:-

" (1) the right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

(2) The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an exception must be carved out to this rule, viz., a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false and actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule."

18. Therefore, as per the law laid down by the Hon'ble Supreme Court a citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing, and education among other other matters, and none can publish anything concerning the above matter without his/her consent, whether truthful or otherwise and whether laudatory of critical. The Hon'ble Supreme Court also held that the aforesaid rule is subject to the exception, viz., any publication concerning the aforesaid aspects becomes unobjectionable, if such publication is based upon public records, including the court records and also makes it clear that right to privacy no longer subsists, once a matter becomes a matter of public record and it becomes legitimate subject

for comment by press and media, among others.

19. As stated supra, it is submitted by the learned Senior Counsel for the revision petitioners that the Film contains 32 scenes and also gave a list of scenes and the basis for those scenes and the contents of the scenes and there is no dispute or denial from the first respondent that the Film contains more than 32 scenes, as per the particulars given by the revision petitioners. Therefore, the parties admitted that the Film contains 32 scenes and we will have to see whether those 32 scenes offends the right of privacy of the first respondent/plaintiff or her husband in the light of the principles laid down by the Hon'ble Supreme Court, as quoted supra.

20. A reading of 32 scenes make it clear that scene Nos.2 to 6, 9 to 14, 18 and 30 are based on FIRs registered in various crime numbers against later Veerappan and the other scenes, viz., scene No.1 and the other scenes are not portraying late Veerappan in bad shape. For example, Scene No.1, deals with introduction of late Veerappan with his father and growing up as a hunter under the guidance of his Guru Sevi Gounder. Scene No.7, deals with the introduction of DFO Srinivas. Scene No.8 deals with marriage of Muthulakshmi with Veerappan. Scene No.15 deals with the scene relating to kidnap of Kannada Veteran Actor Rajkumar by Veerappan and his gang. Scene No.16. depicts the scene, in which, Nakeeran Gopal was sent as an Emissary by the Government. Scene No.17 shows the release of Actor Rajkumar by Veerappan and Scene Nos.19 to 29, deals with the Police Conference, Meeting and the intrigue of the Police to nab Veerappan. Scene No.31, shows the dead body of Veerappan in the Ambulance and Scene No.32 shows the Congratulations of the Police Officials, after fulfilling their mission.

21. In the objections filed by the first respondent, the first respondent objected to the showing of dead body, in scene Nos.2 and 3, which was torn into pieces and disposed off into the river. The first respondent also objected to the scene relating to the marriage of Muthulakshmi, viz., first respondent herein with Veerappan, as shown in Scene No.8 and the escape of first respondent from the Task Force and her arrest by the Police, as depicted in Scene No.14.

22. The learned Senior Counsel for the revision petitioners submitted that those offending scenes, in Scene Nos.2 and 3, as stated supra, and scene Nos.8, 14 will be deleted from the Film. Except, those scenes, as stated above, other scenes are, either based on the FIR or public records or reports and are based on real facts, which were not denied.

23. The objections of the learned counsel for the first respondent are that those scenes were based on the FIRs, and no conviction resulted, on the basis of the FIRs and the some of the cases were closed later and some cases ended in acquittal and therefore, the scenes based on the FIR cannot reflect correct facts and hence, those cannot be allowed to be screened in the Film.

24. As stated supra, as per the law laid down the Hon'ble Supreme Court in the judgment reported in (1994) 6 SCC 632, referred supra, when scenes are based on public records, including the Court records, right to privacy no longer subsists and it becomes legitimate subject for comment by press and media, among others. Therefore, in my opinion, it is not open to the first respondent to object to those scenes, which are based on FIR.

25. Further, in the judgment reported in (2007) 5 CTC 694 in the case of (The Managing Director, M/s.Makkal Tholai Thodapu Kuzhuman Ltd., Vs. V.Muthulakshmi) this Court had an occasion to deal with a similar situation in respect of the same person, viz., late Veerappan. A telecast serial under the name "Maveeran Veerappan" or "Santhanakadu" were taken and objections were raised by the first respondent herein for telecasting that serial without her consent, raising very same pleas, as raised herein and the learned Judge relied upon the judgment reported in (2006) 2 CTC 353: (2006) 2 LW 37 in the case of (R.Rajagopal @ R.R.Gopal @ Nakkheerangopal and another Vs. Selvi J.Jayalalitha and another) wherein the Hon'ble Division Bench held as follows:-

"30. As observed in R.Rajagopal's case, the right to privacy has two aspects which are but two faces of the same coin. First the general law of privacy which offers a tort action for damages resulting from an unlawful invasion of privacy and secondly, the constitutional recognition given to the right to privacy which protects personal privacy against unlawful government invasion. Though the right to privacy can be characterized as a fundamental right as held in R.Rajagopal's case, it is not an absolute right. In Time Inc Vs. Hill 385 U.S.374, it was pointed out that in the case of public officials, insofar as their official function is involved, they are substantially without a right to privacy and factual error and content defamatory of official reputation or both, are insufficient for the award of damages for false statements unless actual malice knowledge that the statements are false reckless disregard of the truth is alleged and proved. In a democratic set up a close and microscopic examination of private lives of public men is the natural consequence of holding of public offices. What is good for a private citizen, who does not come within the public gaze may not be true of a person holding public office. What a person holding public office does within the four walls of his house does not totally remain a private matter. We agree with Mr.Jothi that the scrutiny of public figures by media should not also reach a stage where it amounts to harassment to the public figures and their family members and they must be permitted to live and lead their life in peace. But, the public gaze cannot be avoided which is necessary corollary of their holding public offices.

31. We are also unable to accept the submission advanced by Mr.Jothi that the appellants should be asked to seek prior verification from the respondents before publishing any articles and publish the denial, if any, of the respondents. According to Mr.Jothi, rule of prior verification is laid down in R.Rajagopal's case. We are afraid that the submission of the learned counsel is based on total misinterpretation of the observations of the Supreme Court. The Supreme Court has not laid down that the prior verification of the fact is must in all such cases. All that the Supreme Court indicated is that the proof that the member of the press or media acted after a reasonable verification of the facts would be sufficient. However, at the same time, it must be noted that the Supreme Court in R.Rajagopal's case has clearly held that a citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters and none can publish anything in reference to the above matters without his/her consent -whether laudatory or critical. Therefore, if an article is purely relating to the personal life of a public official, it would be necessary for the member of the press or media to publish such article only after a reasonable verification of the facts. Position may, however, be different, if a person voluntarily thrusts himself or herself into controversy or voluntarily invites or raises a controversy. In the circumstances, we direct the appellants that whenever they propose to publish any article purely concerning personal life of the first respondent or the second respondent or both, the appellants

shall forward their queries and/or the gist of the propose article, as the case may be, to the fax number furnished by the learned counsel appearing for the respondents. The first respondent or the second respondent or both, as the case may be, shall respond to the queries of the appellants in relation to their proposed article to the fax number of the appellants. However, if there is no response to the queries either from the first respondent or the second respondent, within 36 hours from receiving such queries, the appellants will be entitled to proceed to publish the proposed article in their bi-weekly. It is true that the press cannot be compelled to also publish the version of the official, about whom the article is written, with reference to the article published against him/her. We, however, feel that it is expected of any responsible member of the press to also indicate the version of the official concerned in their proposed article"

26. Further, in the judgment reported in (2007) 5 CTC 694 (supra) , the arguments of the learned counsel for the first respondent was discussed and reflected as follows:-

" The contention of the learned counsel for the respondent Mr.Manoharan that right to privacy continues and takes the new turn after the death of Veerappan, who died on 19.10.2004 is also baseless because even during the life time of Veerappan himself, the publications have been made admittedly and he has not taken any steps for the purpose of opposing. The same question of continuation of privacy after his death is not at all an acceptable argument. In any event, it is true that the petitioner and the daughters have got right to privacy to be maintained but I do not understand as to how the right to privacy of the petitioner and her children are going to be affected especially in the circumstances when the Trial Court while deciding about the Interlocutory Application has infact safeguarded the interest of the plaintiff and her daughters and further this Court while admitting the revision has also recorded the undertaking given by the learned Senior Counsel for the revision petitioner categorically stating that right to privacy of the plaintiff and her daughters will not be affected and there will not be humiliation to the plaintiff and her daughters."

27. Further, in the very same judgment, the learned Judge, referred to the judgment reported in (2007) 1 CTC 1 (The Central Board of Film Certification, rep. By its Chairperson, Ministry of Information and Broadcasting Vs.Yadavalaya Films, rep., by its Proprietor and another), wherein, the Hon'ble Division Bench makes it clear that the play writers and film writers are entitled to allude to incidents, which have taken place and to present aversion of those incidents, which according to them represents a balanced portrayal of social reality and the choice is entirely of the film maker. Further, there is one another aspect, which has to be taken into consideration. Admittedly, the Central Board of Censor permitted the screening of the picture in Tamil and Kannada and when the Statutory body itself has given its approval for the screening of the Film, it is not open to the first respondent to raise the objection, for the screening of the Film or seek for an injunction.

28 Further, I have gone through the scenes, as given in the typed set of papers as well as the screen play and according to me, the Film is based on the criminal cases registered against late Veerappan and other scenes are based on the factual aspects and the revision petitioners have given an undertaking to delete the scene Nos.8 and 14, viz., the marriage of Muthulakshmi/first respondent with Veerappan and the escape of first respondent from the Task Force and arrest of the first respondent by the Police and the offending scenes, viz., the cutting of body into pieces and disposing

off the same into the river, as stated supra, in scene Nos.2 and 3.

29. Therefore, having regard to the law laid down by the Hon'ble Supreme Court in the aforesaid judgment, and having regard to the undertaking given by the learned Senior Counsel for the revision petitioners, that the revision petitioners would delete those scenes, as stated above, I am of the opinion that the right of privacy of the first respondent is in no way affected and there is no right of privacy available to the first respondent, as the Film is taken on the basis of the Police records and the first respondent has no cause of action, restraining the revision petitioners from exhibiting, exploiting the said Film.

30. I also agree with the submissions of the learned Senior Counsel for the revision petitioners that the Lower Appellate Court should not have allowed the Advocate Commissioner to see the Film and submit his report and as a matter of fact, as rightly submitted by the learned Senior Counsel for the revision petitioners, the Lower Appellate Court has also relied upon the report of the Advocate Commissioner for allowing the Appeals. Further, the Lower Appellate Court has not properly appreciated the judgment of the Hon'ble Supreme Court reported in (1994) 6 SCC 632 (supra). The other judgments, relied upon by the learned counsel for the first respondent viz., (2012) 3 MWN (CIVIL) 171 in (Selvi J.Jayalalithaa Vs. Penguins Books India) and (2008) 5 CTC 228 in (R.Sukanya Vs. R.Sridhar and others) are not relevant to the facts of the case on hand.

31. In the judgment reported in (2012) 3 MWN (CIVIL) 171 (cited supra), the learned Judge dealt with the Freedom of Expression vis a vis Right to Privacy in respect of the biography of Selvi J.Jayalalitha, the present Chief Minister of Tamil Nadu and granted temporary injunction from publishing the book on the ground that no prior consent was obtained from the plaintiff, nor, any reasonable verification was done by the Author and without obtaining consent, the private life of the plaintiff cannot be invaded. But, in this case, the learned Senior Counsel for the revision petitioners had agreed to delete scenes related to the private life of the first respondent, as stated supra.

32. Therefore, the judgments relied upon by the learned counsel for the first respondent cannot be applied to the fact of the case on hand. Similarly, the judgment reported in (2008) 5 CTC 228, (supra) ,deals with the right of privacy of a person and in that case, the right of privacy of women with regard to her marriage was protected and it was held that the right of privacy in matrimonial matters between the parties in litigation under the Marriage Acts, is personal to the litigating parties and having regard to the provisions of Section 22 of the Hindu Marriage Act, which permits conducting of proceedings in camera, the right of privacy with regard to matrimonial matters was safeguarded in that judgment and therefore, that judgment cannot be applied to the case of the first respondent.

33. In the judgment reported in (2009) 11 SCC 229: (2009) 4 SCC (Civ) 506 in the matter of (Kishoresinh Ratansinh Jadeja Vs. Maruti Corpn.) it has been held by the Hon'ble Supreme Court that it is well established that while passing an interim order of injunction under Order 39 Rules 1 and 2 CPC, the Court is required to consider:-

(i)Whether there is a prima facie case in favour of the plaintiff;

(iii)Whether the balance of convenience is in favour of passing the order of injunction;

and

(vi)Whether the plaintiff will suffer irreparable injury, if an order of injunction would not be passed as prayed for.

Hence, we only have to consider whether these well settled principles relating to grant of temporary injunction have been kept in mind by the First Appellate Court.

34. In this case, as held in the judgment reported in (2007) 5 CTC 694 (supra) during the lifetime of Veerappan, he has not taken any steps to oppose various publications relating to his life and publications depicting life of Veerappan were based on the criminal cases filed against him and therefore, after his death, it is not open to his wife/first respondent and his children to claim privacy of late Veerappan. Further, the learned Senior Counsel for the revision petitioners undertook to delete scene Nos.8 and 14, relating to the first respondent and also undertook to delete certain scenes in Scene Nos.2 and 3, as discussed earlier in this order. Therefore, in my opinion, there is no prima facie case in favour of the first respondent and balance of convenience is only in favour of the revision petitioners, who have produced the Film and the first respondent will not suffer any irreparable injury by not granting injunction. Therefore, the judgment of the Lower Appellate Court granting injunction is set aside.

35. In the result, the Civil Revision Petitions are allowed, subject to the deletion of Scene Nos.8, 14, viz., the scene showing the marriage of Muthulakshmi with Veerappan and the escape of first respondent from the Task Force and arrest of the first respondent by the Police, and the undertaking of the learned Senior Counsel for the revision petitioners that the revision petitioners would delete all the scenes, wherein, the character of the first respondent is portrayed in the Film and would also delete the offending scenes, viz., scene Nos.2 and 3, as stated supra, is recorded. Though this Court, normally, may be reluctant to interfere with the order of the Lower Appellate Court in the matter of granting injunction or regarding the order of injunction, having regard to the fact that the entire case is based on records and the parties have elaborately argued their case with reference to the records, this Court is inclined to pass this detail order. Moreover, this Court is also not inclined to refer the matter for further adjudication by the Trial Court. No costs. Consequently, connected M.Ps are closed.

01.02.2013 sd Index : yes/no Internet : yes/no To

1.The IV Additional Judge, City The Civil Court, Chennai

2.The VII Assistant Judge, City Civil Court, Chennai.

sR.S.Ramanathan, J., sd Pre delivery orders passed in C.R.P(PD)Nos.3943 and 3944 of 2012 01 .02.2013