

## TELEVISION AND THE LAW

IT IS not often that the television authorities come into conflict with the law. Television came to India on an experimental basis in 1959 and has, since then, been gradually expanding its range and coverage. Revolutionary progress in the use of this form of media is bound to create legal problems in the course of time. An example of such a legal controversy is now furnished by a recent Madras case.<sup>1</sup> This was a case under the Contempt of Courts Act 1971. The charge of contempt was based on the allegation that a discussion in a particular T.V. interview tended to prejudice the fair trial of pending High Court proceedings.

History of the pending proceedings is as follows. The owner of a video library (along with several others) had questioned the validity of the Tamil Nadu law relating to the exhibition of films on television screen through video cassette recorders. The writ petition filed by them for the purpose before the Madras High Court was admitted in January 1984 and interim orders staying the operation of the relevant provisions of the law were passed by the court. While these orders were still in force, a programme was broadcast from the television centre of Madras by way of a television interview. In the course of the interview on television, reference was made by the participants to the necessity of enacting the legislation in Tamil Nadu and also to the pendency of the writ proceedings before the High Court. The objection made was that the respondents (who participated in the T.V. interview) insofar as they made a direct reference to the pending writ proceedings and to the nature of orders passed by the High Court, giving their comments on the merits of the case before the High Court, were guilty of gross contempt of court. While the first respondent was Chairman of the All India Films Federation, the second was the minister in the state government in charge of cinematographs, the third, being the Director of the *Doordarshan Kendra*, Madras, who had arranged the programme.

Section 2(c) of the Contempt of Courts Act 1971 defines in three clauses, the acts constituting criminal contempt, namely, that which

- (i) Scandalises, or tends to scandalise, or lowers or tends to lower the authority of, any Court, or
- (ii) prejudices, or interferes with, the due course of any judicial proceeding; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

---

1. *Haji Rasheed Mohammed v. D. Ramanujam*, A.I.R. 1986 Mad. 119.

2. Tamil Nadu Ordinance No. 2 of 1984, later replaced by Tamil Nadu Exhibition of Films on Television Screen through Video Cassette Recorders (Regulation) Act 1984.

In the instant case, the High Court ruled out clause (i) of the definition, as not applicable to the facts. It then proceeded to discuss the question as to whether the speeches of the first two respondents had prejudiced, interfered, tended to interfere with, obstructed or tended to obstruct the administration of justice in any manner. The High Court was inclined to accept the plea that the respondents had no intention of prejudicing fair trial. Nevertheless, it pointed out that if there was a real risk of a speech or article tending to interfere with the fair hearing of a pending case, that may amount to contempt. Applying this test to the facts of the case, the High Court found that the first two respondents, who were quite aware of the pendency of the law had given expression to their opinion justifying the legislation, which (opinion) was likely to interfere with the course of justice, even though they had not intended the same to have that effect. Accordingly, the two respondents were held to be guilty of contempt of court.

As regards the third respondent, (Director of the *Doordarshan Kendra*, Madras), the High Court arrived at the conclusion that no case for contempt had been made out against him. To educate the viewers on matters of current and public interest, he had invited the first two respondents, and also one of the owners of a video parlour, for participating in the discussion on the current video legislation. However, the owners of the video parlour did not come. The discussion programme being *ad lib*, the Director of the *Doordarshan Kendra* could not have contemplated what the other respondents would speak. Therefore, initiating a discussion and permitting the other respondents to discuss about the video legislation, would not amount to interference with the course of justice. Admittedly, the Director of the *Kendra*, had not participated in any discussion on the pending litigation. Hence, he was not guilty of contempt.

As regards the first two respondents, the case was different. They had actually participated in the programme, and in their counter-affidavits, tendered an apology (though conditional). Section 12(1) explanation of the Contempt of Courts Act 1971, provides that an apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it *bona fide*. Relying on this provision, the High Court accepted their apology, which was made *bona fide*. The participants had made it clear that they never intended by their conduct to interfere with the course of justice, and that, if it was held to be objectionable, they were tendering their sincere apology. The High Court further observed, "We also feel that respondents 1 and 2 were not quite aware of the true legal position relating to contempt and the legal consequences flowing from their speech".<sup>3</sup>

An unhappy episode thus came to a peaceful end. The decision of the High Court, it is submitted, was a dignified one. But it was unfortunate

---

3. *Supra* note 1 at 126.

that remarks commenting on a pending case, came to be made on the television. The decision noted above brings to the forefront the need to impart some knowledge of basic legal principles to television officers and television producers. This will enable them to give guidance to participants in television programmes, as to the matters to be avoided on the screen. The task of a television producer is a difficult one. On the one hand, he or she has to be flexible, tactful and not very cold, lest the participants should be scared away or get annoyed by too much rigidity or constraint. On the other, as a responsible officer, he or she has to steer clear of legal and other complications. Bearing this in mind, the government may well think of holding a five-day course for television producers (and also radio producers) on media law. The legal restrictions that operate on the freedom of speech and expression in India are large in number, and complex in character. The law of contempt of court, which figured in the Madras case discussed above, is one example. The law of defamation is yet another example of an intricate legal topic, not to speak of obscenity and the doubtful topic of privacy. Legal literacy of officers in this sphere will be all for the good.

*P.M. Bakshi\**

---

\* Honorary Professor, Indian Law Institute; Former Member-Secretary, Law Commission of India, New Delhi.