

ARNAB RANJAN GOSWAMI V. UNION OF INDIA

Facts-

Arnab Goswami, the Editor-in Chief of Republic TV, an English TV news channel and also the Managing Director of ARG Outlier Media Asia Media Asianet News Private Limited which owns and operates a Hindi television news channel by the name of R Bharat, who also presides over as an anchor on both the channels, filed a writ petition (Crl) NO. 130 of 2020. The petition was filed with regard to two broadcasts that took place, one on the 16th of April 2020, which was aired on Republic TV and the second broadcast which took place on 21st April 2020, which subsequently led to the lodging of multiple FIRs and criminal complaints against Mr. Goswami in the states of Maharashtra, Chhattisgarh, Rajasthan, Madhya Pradesh, Telangana and Jharkhand as well as in the Union Territories of Jammu and Kashmir.

Both the broadcasts concerned an incident that took place on the 18th of April, 2020 in the Gadchinchle village of Palghar district in Maharashtra wherein three persons, including two sadhus were brutally killed by a mob, in the presence of an alleged officer and a forest guard personnel. The incident was highly reported both in the print form as well as in the electronic media. The petitioner that is Mr. Goswami raised the issue in his show “Poochta hai Bharat” on the 21st of April, 2020 on R Bharat. There, he questioned the tardy investigation of the incident, inconsistent versions of the authorities and the administration and the State Government’s silence on the Palghar incident. He furthermore, went into claim that Sonia Gandhi, the president of the Indian National Congress had orchestrated the Palghar lynching in Maharashtra. The three men who were on their way to Silvassa, were lynched by the residents on the suspicion that they were thieves. Mr. Goswami then went on to questioning the silence of Sonia Gandhi and asked if the same would have been done if the matter related to Muslim or Christian religious leaders instead of Hindu leaders.

Following the broadcast, the petitioner claimed that “a well-coordinated, widespread, vindictive and malicious campaign” against him was launched by the Indian National Congress and its respective activists. This campaign, according to him, was carried out online through social media, which also included certain news reports and tweets indicating the filing of numerous complaints simultaneously against the petitioner before various police stations. The complaints and offences that were alleged to have been committed were under section 153, 153A, 153B 295A, 298, 500, 504, 506 and 120B of the Indian Penal Code, 1860. This was followed by a series of campaigns using the hashtag #ArrestAntiIndiaArnab.

The petitioner pleaded that all such complaints and FIRs have been lodged in States where the governments are in allegiance to the INC and that the law machinery of those States had certain other ulterior motives which he substantiated by citing the incident that allegedly took place on the 23rd of April, 2020, while he was returning from his studio at Worli, Mumbai, at around 12:30 and 1:00 am, he and his wife were confronted by two individuals in a motor-cycle, who had allegedly disclosed their identities as members of the INC. Subsequent to the above mentioned incident, an FIR was registered at the behest of the petitioner at NM Joshi Marg Police Station in Mumbai. The petitioner therefore denied the propagation of any views of a

communal nature and asserted his fundamental right to freedom of speech and expression under Article 19(1)(a) of the Indian Constitution thereby moving the court under Article 32 for the protection of the rights.

Issues

- Whether the views of the petitioner fall within the protective ambit of Article 19(1)(a)?
- Whether the accused have the right to get the case transferred to an authority of his choice
- Whether the court can quash multiple FIRs regarding the same issue?

Rules

Article 19(1)(a) of the Constitution of India states that “*All citizens shall have the right to freedom of speech and expression*”; however, as according to Article 19(2) of the Constitution, “*Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence*”

Article 32 states “Remedies for enforcement of rights conferred by this Part

1. The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed
2. The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part
3. Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)
4. The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

Article 226 states

Power of High Courts to issue certain writs

1. Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus,

prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

2. The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories
3. Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without
 - furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and
 - giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated
 - The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme court by clause (2) of Article 32

Application:

The principle on which the jurisdiction has been invoked under Article 32 is because of the filing of multiple FIRs done by the complainants in the various States regarding the same issue. The court while analysing the law on multiple FIRs referred to the judgement that was given by the Supreme Court in *TT Antony v State of Kerala* (2001) 6 SCC 181, where the provision of Section 154 and the provision of 173 of CrPC was discussed. In the cited case the court held that t “there can be no second FIR” where the issue concerns a similar cognizable offence which previously had also been registered. This is because the investigation covers within its ambit any other related offences that may have been committed. So once an FIR, is recorded, and if after certain amount of time a similar information is received, then that would or cannot form the basis of forming a second FIR. The court was of the view that “*the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in*

the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution.” It further went onto saying that subjecting an individual for the same offence into various proceedings would amount as a violation on the part of the state to prosecute crime. Therefore, the Court held that when a counter case is filed on a matter which is connected to the same cognizable offence then it would constitute as an “abuse of the statutory power of investigation” and so a case for the exercise of power under section 482 of the CrPC or Articles 226/227 can be instituted.

Hence, in the instant case, keeping in view the various judgments on the above mentioned point the court quashed all the rest of the identical FIRs except for the one which was lodged in Nagpur which now has been transferred to Mumbai.

Secondly, the Court while expressing its opinion on the freedom of speech and expression stated that Article 32 entrusts a duty upon the Court to protect the fundamental rights of the citizens. This also includes journalistic opinions which lies at the heart of freedom of speech and expression. In the present case, the petitioner who is a journalist, has the right to express his opinion and so the airing of the views on such a platform lies within his fundamental right of freedom of speech and expression under Article 19(1)(a). The United Nations’ Universal Declaration of Human Rights, 1948 states *“Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without inference, and to seek, receive and impart information and ideas through any media regardless of frontiers.”* However such freedom is subjected to reasonable restrictions as has been provided under Article 19(2). For a democratic country to function at its fullest, the freedom of press is a fundamental feature and so the opinions, comments and ideas which are expressed by such journalists have far wider impact than from normal citizens.

So, if multiple FIRs are lodged, on an issue concerning the same matter, and the issuance of remedies from different jurisdictions would ultimately result in stifling effect on the exercise of that freedom, ultimately destroying the freedom of the citizen to know about the affairs. Therefore, in the view of the Court, the right of a journalist under Article 19(1)(a) is no higher than the right of the citizen to speak and express. As has been observed in the instant case, the petitioner was repeatedly subjected to numerous proceedings in different jurisdictions and this act was in no way a restrictive and an effective method of prosecuting a crime. Hence, in the light of such treatment, the Court found it imperative on its part to interfere and protect the rights of the petitioner as a citizen and as a journalist to the treatment. Thus the views of the petitioner fall within the protective ambit of Article 19(1)(a).

But the Court however did not quash the FIR registered against Arnab Goswami for allegedly hurting religious sentiments by making derogatory remarks against a religious community.

Thirdly, the court rejected the plea that was filed by the petitioner seeking the transfer of investigation to the Central Bureau of Investigation. According to the Court, the transfer of an investigation is not a matter of routine but rather a matter whose precedent rulings rightly point towards the use of this “extraordinary power” to be used “sparingly” and “in exceptional circumstances”.

The Court while providing its ruling relied on the case of *Romila Thapar v Union of India* ((2018) 10 SCC 753) case, wherein it was held that the “accused does not have a say in the matter of appointment of investigating agency”. It further went on to reiterate this principle by citing its earlier decision in the case of *Narmada Bai v State of Gujarat* (2011) 5 SCC 79 . In its ruling the court also provided that e. An accused person does not have a choice in regard to the mode or manner in which the investigation should be carried out or in regard to the investigating agency. The line of interrogation either of the petitioner or of the CFO cannot be controlled or dictated by the persons under investigation/interrogation.

Also the levelling of charges against the CP, Mumbai which were in the course of the television programme was untenable. This is based on the view where the Court in the case of *CPDR, West Bengal* held that no transfer of investigation can be ordered “merely because a party has levelled some allegations against the local police.

Conclusion

Therefore in light of the above issues discussed, the court held that:

- The prayer for transfer of the investigation to the CBI is rejected;
- FIRs/complaints are quashed, following the decision of this Court in TT Antony (explained subsequently) that successive FIRs/complaints founded on the same cause of action are not maintainable