

WWW.LIVELAW.IN (47) WP 1119-21
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 1119 OF 2021

Lahu Chandu Chavan	.. Petitioner
Vs.	
The State of Maharashtra & Ors.	.. Respondents

Mr. Shirish Gupte, Senior Advocate i/b Mr. Sameer P. Nangre for the Petitioner.

Mr. Bharat K. Manghnani for Respondent No.5.

Mr. Harsh B. Buch i/b MZM Legal for Respondent No.6.

Ms. Priya Vaity for Respondent No.7.

Mrs. S. D. Shinde, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 4th MARCH, 2021.

P. C. :

1. Mr. Gupte, learned Senior Counsel seeks leave to amend serial numbers of Respondents.
2. Leave granted. Amendment to be carried out within 10 days from today.
3. Heard Mr. Gupte, learned Senior Counsel appearing for the Petitioner. He submits that the Petitioner's daughter X in order to learn English language joined one English Speaking Class at Pune and she started residing at Heaven Park CHS, 1st Floor, Mohammed Wadi, Pune. On 08.02.2021 Petitioner learnt that his daughter fell from the balcony of 1st floor as she lost her balance. She was taken to the hospital wherein she was declared dead. Soon after the death of the Petitioner's daughter, various news in print and electronic media emerged and started circulating alleging that his daughter was having illicit relations with one Y, which is

defamatory and derogatory to the name of the Petitioner and his family, including his daughter X. Mr. Gupte, learned Senior Counsel submits that around 12 audio clips of alleged conversations of daughter X with some unknown person were circulated by political parties and media. Contents of the conversations were to defame the name and image of the Petitioner and his family and his daughter. Learned Senior Counsel invites our attention to the pleadings in the Petition and grounds taken therein and submits that the print and electronic media be restrained from further publishing the news and maligning the image of the Petitioner by publishing such news. Learned Senior Counsel invites our attention to the annexures annexed to the Petition and also the Judgment of the Supreme Court and recent Judgment of this Court (Coram : Dipankar Datta C.J. and G. S. Kulkarni, J) in the case of ***Nilesh Navlakha v. Union of India reported in Aironline 2021 Bom 14.***

4. Learned Counsel appearing for Respondent Nos.5, 6 and 7, on instructions, submit that their clients will exercise restraint and will not publish any objectionable contents and they will scrupulously follow the guidelines in the case of ***Nilesh Navlakha*** (supra).

5. Upon hearing the learned Senior Counsel appearing for the Petitioner and perusal of the grounds taken in the Petition, prima facie, we find substance in the argument of the learned Senior Counsel. This Court in the case of ***Nilesh Navlakha*** (supra) in paragraphs 348 and 349 held thus:

“348. As it is, dignity of an individual, even after he is dead, cannot be left to the mercy of the journalists/reporters. The same, being part of Article 21, has to be protected. Besides, the other rights

that various individuals have under Article 21 also call for protection. The measures we would thus propose to remedy the ills that have so long remained unchecked for the lack of strict enforcement of the regulatory control mechanism, in whatever manner it is available on paper, as well as lack of proper understanding of the law of contempt of court and the procedures governing the criminal justice system, are intended to safeguard the dignity of an individual and his liberty ~ the basic philosophy of our Constitution. We would do so, conscious of our own limitations of not crossing the boundaries, while urging the media houses not to step out of their boundaries too and thereby enter the grey area beyond the proverbial 'Lakshman Rekha'.

349. *Having given our anxious consideration to all aspects of the matter, we are inclined to the opinion that the press/media ought to avoid/regulate certain reports/discussions/debates/interviews in respect of and/or touching upon any on-going inquiry/investigation into a criminal offence and that only those items are presented for reading/viewing and otherwise perceiving through the senses which are merely informative but in public interest instead of what, according to the media, the public is interested in. No report/discussion/debate/interview should be presented by the press/media which could harm the interests of the accused being investigated or a witness in the case or any such person who may be relevant for any investigation, with a view to satiate the thirst of stealing a march over competitors in the field of reporting. Accordingly, we direct the press/media to exercise restraint and refrain from printing/displaying any news item and/or initiating any discussion/debate/interview of the nature, as indicated hereunder:*

- a. *In relation to death by suicide, depicting the deceased as one having a weak character or intruding in any manner on the privacy of the deceased;*

- b. *That causes prejudice to an ongoing inquiry/investigation by:*
- (i) *Referring to the character of the accused/victim and creating an atmosphere of prejudice for both;*
 - (ii) *Holding interviews with the victim, the witnesses and/or any of their family members and displaying it on screen;*
 - (iii) *Analyzing versions of witnesses, whose evidence could be vital at the stage of trial;*
 - (iv) *Publishing a confession allegedly made to a police officer by an accused and trying to make the public believe that the same is a piece of evidence which is admissible before a Court and there is no reason for the Court not to act upon it, without letting the public know the nitty-gritty of the Evidence Act, 1872;*
 - (v) *Printing photographs of an accused and thereby facilitating his identification;*
 - (vi) *Criticizing the investigative agency based on half-baked information without proper research;*
 - (vii) *Pronouncing on the merits of the case, including pre-judging the guilt or innocence qua an accused or an individual not yet wanted in a case, as the case may be;*
 - (viii) *Recreating/reconstructing a crime scene and depicting how the accused committed the crime;*
 - (ix) *Predicting the proposed/future course of action including steps that ought to be taken in a particular direction to complete the investigation; and*
 - (x) *Leaking sensitive and confidential information from materials collected by the investigating agency;*
- c. *Acting in any manner so as to violate the provisions of the Programme Code as prescribed under section 5 of the CTVN Act read with rule 6 of the CTVN Rules and thereby inviting contempt of court; and*
- d. *Indulging in character assassination of any individual and thereby mar his reputation.”*

6. Issue notice to the Respondents returnable on 31.03.2021.
7. By way of ad-interim relief, in the interregnum, we direct the Respondents to scrupulously follow the guidelines issued by this Court in paragraphs 348 and 349 of the Judgment in the case of *Nilesh Navlakha* (supra) and not to publish or give any unnecessary publicity to the incident of death of the daughter X of the Petitioner and further alleged illicit relationship of the daughter X with Y.
8. In addition to regular mode of service, the Petitioner to serve the Respondents by alternate mode of service such as Fax/E-mail/Courier and shall file affidavit of service with tangible proof before the returnable date.
9. Learned APP waives service for Respondent-State. Learned Counsel waive service for Respondent Nos.5, 6 and 7.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
M.
Kadam

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signed by
Arjun M.
Kadam
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