

IN THE SUPREME COURT OF INDIA

Writ Petition (Civil) No. 422 of 1994.

Decided On: 07.10.1994

Appellants: R. Rajagopal and Ors. **Vs.** Respondent: State of Tamil Nadu and Ors.

Hon'ble Judges/Coram:

B.P. Jeevan Reddy and S.C. Sen

ORDER

B.P. Jeevan Reddy, J.

1. This petition raises a question concerning the freedom of press vis-a-vis the right to privacy of the citizens of this country. It also raises the question as to the parameters of the right of the press to criticize and comment on the acts and conduct of public officials.

2. The first petitioner is the editor, printer and publisher of a Tamil weekly magazine 'Nakkheeran', published from Madras. The second petitioner is the associate editor of the magazine. They are seeking issuance of an appropriate, writ, order or direction under Article 32 of the Constitution, restraining the respondents, viz., (1) State of Tamil Nadu represented by the Secretary, Home Department, (2) Inspector General of Prisons, Madras and (3) Superintendent of Prisons (Central Prison), Salem, Tamil Nadu from taking any action as contemplated in the second respondent's communication dated June 15, 1994 and further restraining them from interfering with the publication of the autobiography of the condemned prisoner, Auto Shankar, in their magazine. Certain other reliefs are prayed for in the writ petition but they are not pressed before us.

3. Shankar @ Gauri Shankar @ Auto Shankar was charged and tried for as many as six murders. He was convicted and sentenced to death by the learned Sessions Judge, Chenglepat on May 31, 1991 which was confirmed by the Madras High Court on July 17, 1992. His appeal to this Court was dismissed on April 5, 1994. It is stated that his mercy petition to the President of India is pending consideration.

4. The petitioners have come forward with the following case : Auto Shankar wrote his autobiography running into 300 pages while confined in Chenglepat sub-jail during the year, 1991. The autobiography was handed over by him to his wife, Smt. Jagdishwari, with the knowledge and approval of the jail authorities, for being delivered to his advocate, Sri Chandrasekharan. The prisoner requested his advocate to ensure that his autobiography is published in the petitioners' magazine, 'Nakkheeran'. The petitioners agreed to the same. Auto Shankar affirmed this desire in several letters written to his advocate and the first petitioner. The autobiography sets out the close nexus between the prisoner and several LAS, and other officers, some of whom where indeed his partners in several crimes. The presence of several such officers at the house warming ceremony of Auto Shankar's house is proved by the video cassette and several photographs taken on the occasion. Before commencing the serial publication of the autobiography in their magazine, the petitioner announced in the Issue dated May 21, 1994 that very soon the magazine would be coming out with the sensational life history of Auto Shankar. This announcement sent shock waves among several police and prison officials who were afraid that their links with the condemned prisoner would be exposed. They forced the said prisoner, by applying third degree methods, to write letters addressed to the second respondent (Inspector General of Prisons) and the first petitioner requesting that his life-story should not be published in the magazine. Certain correspondence ensued between the petitioners and the prison authorities in this connection. Ultimately, the Inspector General of Prisons (R-2) wrote the impugned letter dated June 15, 1994 to the first petitioner. The letter states that the petitioner's assertion that Auto Shankar had written his autobiography while confined in jail in the year 1991 is false. It is equally false that the said autobiography was handed over by the said prisoner to his wife with the knowledge and approval of the prison authorities. The prisoner has himself denied.....