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SATIRE AND REPUTATION: A CRITICAL ANALYSIS OF FREEDOM OF CREATIVITY AND DEFAMATION IN V.T. THOMAS VS. MALAYALA MANORAMA

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ABSTRACT

This case note examines critically the landmark judgment of V.T. Thomas vs. Malayala Manorama (AIR 1989 Ker 49), a judgment of the Kerala High Court, which mapped the struggle between artistic freedom and organisational image. The case involved publication by V.T. Thomas (Toms) of satirical cartoons which were claimed to have offended Malayala Manorama, a prominent Kerala newspaper. The decision put more weight on reputation protection over the restriction of satirical expression. The discussion includes the court's approach, application of fair comment defense, and implications of the decision for freedom of expression, and particularly satire and creative criticism. Recouring to the theory of Smarthavicharam (Sreekumar and Priya Jose) and cultural and historical theory, including Kerala's press history in ancient India, the current study analyzes broader implications of the case on India's defamation law and freedom of the press.

INTRODUCTION

The case of V.T. Thomas vs. Malayala Manorama (AIR 1989 Ker 49)² is a milestone case of the Indian jurisprudence on freedom of speech and expression, particularly about the right of reputation and criticism through journalism. The case pitted the illustrious cartoonist V.T. Thomas, also referred to by the popular moniker "Toms," against the popular reading journal Malayala Manorama. The core of the dispute was a series of satirical cartoons created by Toms which were claimed to be aimed against the Malayala Manorama group and its editorial stand. The case put into spotlight fundamental issues of the scope of artistic freedom, boundaries of satire, and boundaries of immunity granted by free speech to the press (Senan, 2023).

The Kerala High Court, in resolving this conflict, had to balance two competing rights – the right to freedom of speech and expression under Article 19(1)(a)³ of the Indian Constitution, and the

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² V.T. Thomas vs. Malayala Manorama (1989) AIR 1989 Ker 49, Kerala High Court.

³ Constitution of India, Article 19(1)(a)

right to reputation, a derivative component of the right to life under Article 21⁴. The judicial pronouncement not only resolved the conflict between the two sides but also added considerable value to the emerging law on defamation, freedom of the press, and the limits of criticism in a democratic regime.

The case significance extends beyond the legal sphere. It is also a major socio-cultural analysis of the Kerala late 20th-century context in which the press had been a powerful force for the building of public opinion and satire had been a potent tool to criticize power structures (Joseph, 2008). The case commentary on V.T. Thomas vs. Malayala Manorama is not just a debate of the court's reasoning but also a debate of the clash between freedom of imagination and institutional prestige and the impact of the ruling on the press and public debate.

FACTS OF THE CASE

This case grew out of a dispute between famed cartoonist V.T. Thomas, better known as "Toms," and Kerala's largest circulating newspaper Malayala Manorama. Toms was a veteran icon of Kerala's media space, whose humorous and irreverent satirical cartoons carried withering social critique. His most well-known work, cartoon series "Boban and Molly," was by now enjoyed by everyone globally for its satirical portrayal of political and social issues.

The controversy began with Toms having printed a collection of cartoons in the Malayala Manorama that were taken as critical of the editorial policy as well as management strategies of the newspaper (Joseph, 2008). These cartoons, in their satirical content, supposedly challenged issues concerning editorial autonomy and the management's control over news material. The Malayala Manorama management considered these cartoons defamatory since they purported to have caused harm to the newspaper's reputation and undermined its credibility among its readership.

Malayala Manorama had filed suit against Toms citing that the cartoons were insulting and the publication an abuse of his right to creativity. They explained that whereas freedom of speech and expression was a constitutional right, it was not absolute and did not involve giving false or insulting proposals regarding an institution. The newspaper went further to declare that the cartoons aimed to tarnish its reputation and caused loss to its business.

Toms legitimized himself by asserting that his cartoons were a reasonable exercise of legal satire under the right of freedom of speech and expression enshrined in the Indian Constitution under Article 19(1)(a). According to him, his cartoons were an imaginative work to raise questions and

⁴ Constitution of India, Article 21

provoke thinking and question established practice, including that of influential bodies like Malayala Manorama. He insisted that satire, being a valid art, has always contributed to criticizing authority and challenging social realities.

The battle finally landed in the premises of the Kerala High Court, the main question before the court being whether the cartoons uploaded by Toms were libelous in nature and whether restriction on freedom of expression is called for in order to protect the reputation of an institution. The case, thus, resulted in a conflict between two fundamental rights – right to freedom of speech and expression, and the right of reputation.

ISSUES RAISED

There were essential issues of balance between freedom of art and image safeguarding in this case. Among them was whether Toms' uploaded cartoons amount to libel. Malayala Manorama had contended that the cartoons libeled the reputation of the newspaper by depicting it in a negative light, while Toms had contended that they were satirical, an art form which society tolerated.

The second was whether freedom of speech and expression, as granted under Article 19(1)(a) of the Indian Constitution, could be restricted in the case before us. It was contended by the newspaper that freedom of expression is not absolute but needs to be exercised responsibly without amounting to a violation of the rights of others. Toms contended that satire is a powerful tool of expression which might be full of social comment but hurts some individuals.

The other pivotal issue was whether publication of the in question cartoons amounted to fair comment. Fair comment is a good defense against defamation and allows people to comment on matters of public concern without endangering themselves of being prosecuted, if done in good faith and the comments are fair and not in malice (Bavanaa, 2022). The court had to decide whether Toms' cartoons constituted honest and fair criticism of the policy of the newspaper or a malevolent attack on its reputation.

CONTENTIONS BY V.T. THOMAS (PETITIONER)

V.T. Thomas, who went by the name of Toms, argued that his cartoons were satirical in nature with the aim of making social comment and not defaming Malayala Manorama. Thomas argued that his cartoons, which were long-standing and well-known for their satire and humor, were an exercise of his constitutional right to freedom of speech and expression pursuant to Article 19(1)(a) of the Indian Constitution. Toms had argued that satire as a form of artistic expression is by

definition hyperbolic and must not be read as fact or as a charge against some particular person or institution (Bavanaa, 2022).

Toms also argued that the power of his cartoons was that they served to satirize societal and institutional behavior, and Malayala Manorama as a leading newspaper was a public institution that could be criticized. He insisted that his intention was not to cause any damage to the reputation of the newspaper but to employ humor as a weapon for pointing out some aspects of media practices. He argued that any negative inference made by Malayala Manorama was a subjective interpretation of the cartoons by them, and not the objective message he had intended to send.

Toms claimed that his writings were privileged by the defence of fair comment, an established defamation law doctrine. He claimed that his cartoons were founded on facts, or at least reasonable beliefs of fact, and published without malice. He pointed out that fair comment permits criticism of issues of public concern and publication of satirical works is a traditional way of participating in public debate (Senan, 2023). Toms argued that as Malayala Manorama is a major media player, it should be receptive to such criticism and should not abuse legal provisions to stifle creative work.

CONTENTIONS BY MALAYALA MANORAMA (RESPONDENT)

Malayala Manorama, which was the prominent state-level newspaper in Kerala, averred that V.T. Thomas (Toms') cartoons were neither satirical writing per se nor were they of a defamatory nature addressed to the paper's reputation but were defamation attempts. According to the respondent, the cartoons unfavorably described Malayala Manorama, engendered erroneous perceptions, and harmfully hurt its reputation at popular levels. As Malayala Manorama reports, the cartoons overstepped the bounds of reasonable criticism or fair comment and constituted a malicious attack designed to ridicule the publication and editorial line.

The newspaper claimed that while freedom of speech and expression is a fundamental right under Article 19(1)(a) of the Constitution of India, the right is never absolute. It has to be exercised wisely so that it does not encroach upon the rights and reputation of others. Malayala Manorama contended that Toms, by pretending to write in satire, had misused his freedom of expression to raise insinuations that were not factual or fair. The paper highlighted the fact that criticism, to be considered fair comment, has to be fact-based, and the cartoons targeted were not fact-based.

Malayala Manorama argued that the cartoons produced a false belief about the newspaper in the public's mind and that it resulted in loss of reputation to the newspaper. As a reputable media

organization with a long history, Malayala Manorama argued that it was right to preserve its goodwill and to stop publication of defamatory content (Ismael, 2009). The respondent also argued that 'Toms' cartoons were published with the purpose of causing harm, emphasizing the concept that they were aimed at the newspaper as opposed to assuming mass-scale social problems. This, Malayala Manorama reported, clearly suggested malice on 'Toms' part, destroying his defense of fair comment.

The newspaper argued that freedom of the press and freedom of expression cannot be employed as a cover for irresponsible or libelous material. It held that if 'Toms' cartoons could be permitted without any inhibition, it would give a wrong message and the people would defame others' reputation in the guise of satire. Malayala Manorama vehemently contended that the court must uphold responsible expression principles in such a manner that no human being or institution should be given freedom of speech so that the image of another could be tarnished.

JUDGMENT OF THE COURT

The Kerala High Court, in delivering the judgment of Justice K. Sukumaran, elaborated at length on the subtle balance between freedom of speech and the right to reputation. The court started by giving the fact that Toms was a renowned cartoonist whose cartoons were popular for being humorous and satirical. It held that satire, being a work of art, is entitled to exist in public debate and is guaranteed by Article 19(1)(a) of the Constitution of India. And yet, simultaneously, the court also clarified that this freedom can't be absolute and has to be weighed against the right of persons and institutions to defend their reputation.

The court noted that the crux of the controversy was whether the cartoons published by Toms were fair and honest criticism of Malayala Manorama or malicious and defamatory (Bavanaa, 2022). It noted that in defamation actions, a critical test is whether the imputed expression is fair comment, which has to be on facts, without malice, and in the public interest. The court pointed out that 'Toms' cartoons, as certainly satirical, targeted a specific institution—Malayala Manorama—and not so general social ills. To be so focused was a skepticism over the cartoons' intent.

Justice Sukumaran went on to analyze the defence of fair comment, a longstanding doctrine under law of defamation, under which individuals are free to offer adverse criticism of affairs of public importance. The court ruled that in order for a comment to be fair, it has to be a genuine expression of opinion founded on actual facts. It ruled that the said cartoons, although satirical, were not founded on facts as far as the criticism they seemed to pass against Malayala Manorama

was concerned. The court further added that while satire is generally hyperbolic, it must nevertheless contain some element of truth if it is to be considered fair comment (Senan, 2023).

Weighing the two rights of the parties, the court held that 'Toms' freedom of expression could not be utilized such that it caused unjustifiable damage to Malayala Manorama's reputation. The court ruled that the newspaper being a well-established media organization was free to utilize its freedom of defense against falsehood and malicious criticism. It ruled that the cartoons crossed the line of reasonable criticism and were an assault on the reputation of the newspaper, without any factual substance to support the allegations that were alluded to by the cartoons.

The final word in the case was with Malayala Manorama, and the court indicated that the cartoons posted by Toms were defamatory and did not fall under the jurisdiction of fair comment. The court also indicated that although freedom of expression is critical to a democratic society, it must be practiced responsibly so that it never transcended the rights of others. A restraining order against not regularly publishing the same cartoons repeatedly by Toms was given by the court, thus preventing the newspaper's reputation from being sullied.

CRITICAL ANALYSIS

The Kerala High Court judgment is an extremely conservative one in balancing two constitutional rights—the right under Article 19(1)(a) of the Indian Constitution to freedom of speech and expression and the right to reputation, which has been interpreted as a part of the right to life under Article 21. Though the court was justified in giving place to the role of satire as an art, it tilted tip-toppishly on the side of safeguarding the reputation of the media giant Malayala Manorama rather than that of a solo artist. This response, though rightly framed in terms of law, is imprecise as to how much freedom of expression can be restricted in the public interest of safeguarding institutional reputations.

One of the merits of the judgment is its thoughtful exposition of the principle of fair comment. The court was right in defining that for a comment to be fair, it should be rooted in actual facts, free from malice, and aimed in terms of public interest. But the factual basis requirement of the court on the part of satire is questionable (Sreekumar and Priya Jose). Satire by definition is hyperbole and irony and is generally meant to stir thoughts and not so the fact. By insisting on a factual basis even in satirical cartoons, the ruling presumably puts in jeopardy the essence of satire as an artistic critic's weapon.

The emphasis of the court on the non-factual basis of 'Toms' cartoons as the starting point for holding them to be defamatory also seems to turn a blind eye to the symbolic and interpretative

role of cartoons. Cartoons do not deliver facts in as literal a fashion as reporting in the news but use visual metaphor and creative freedom of expression to communicate messages (Bavanaa, 2022). Here, however, the method of the court has diminished the difference between expressions of fact and fictional representation to the extent that a higher degree of scrutiny than would typically be reserved for artwork has been applied to the cartoons.

The ruling is a tilt in favor of maintaining the integrity of a powerful media conglomerate's reputation over one artist's free speech. This is also problematic on the chilling effect side for artistic creation, especially for artists, cartoonists, and satirists whose work has a tendency to lower social norms and challenge powerful institutions. Legal sanction can scare off such writing, and this could lead to gagging of and self-censorship among the voices of critique in the public sphere. The ruling by the court seems to prioritize the institutional reputation at the expense of the public good of critical discourse.

It is also to be noted that the court's concern to protect the reputation of Malayala Manorama is not misplaced. During periods when media outlets are opinion-makers, unjustified or motivated reference against such an institution can have the capacity to cause irreparable harm to their reputations. The court's ruling can thus be viewed as a step towards restraining the misuse of creative freedom as a tool for personal or institutional attacks.

The effect of the ruling on freedom of satire is still in doubt. Although the court reasserted the significance of free speech, its narrow interpretation of fair comment in satire can be read as a blow to creative artists who use humor, exaggeration, and metaphor to express messages of criticism (Senan, 2023). By almost missing out on the experience of seeing the unique character of satire, the judgment may have unintentionally circumscribed room for creative expression in Indian public life.

CONCLUSION

The decision is one of judicial restraint in balancing freedom of expression right and reputation right. In granting Malayala Manorama relief, the Kerala High Court placed premium on maintaining the institutional reputation over the artistic freedom of the artist. Judgments of the court making factual correctness a requirement for honest comment, even satire, were a strict approach that could delimit the horizon of artistic criticism.

While the judgment upheld the virtue of responsible speech, it simultaneously caused fear of a chilling effect on satire and creative writing. Cartoonists, satirists, and social commentators would themselves have to practice self-censorship to avoid legal retaliation, removing satire as a tool of

social critique. All these aside, the judgment is a milestone precedent in Indian law of defamation defining the limits of free speech and responsible criticism in the public sphere.

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