Bar & Bench (www.barandbench.com)

DR SUBRAMANIAM SWAMY Vs. SONIA GANDHI AND ORS **Ct Cases 25835/2016**

04.02.2019

CW-1 Dr. Subramaniam Swamy recalled for cross-examination after his examination in chief dated 17.09.2018.

On S.A.

XXX by Sh. R.S. Cheema learned Counsel for accused No. 1 Sonia Gandhi and accused No. 2 Rahul Gandhi

Q1. I put it to you that it is one of the basic postulate of your case that the closure of the publication of newspapers done on 01.04.2008, was permanent in nature and the accused had conspired to shut down the publication of newspapers for all times to come?

A. It is incorrect.

Q2. I draw your attention to the statement made by you on 17.09.2018 "In continuation of my previous statement, I further state that the first stage of the Commission of the crime begins in 2008 when it is announced that Associated Journal Limited (AJL) is discontinuing and stopping publication and printing of the National Herald Newspaper and two regional language newspapers", do you want to make any comment on that?

A. First of all, it is incorrect that the publication of newspapers I had alleged was stopped for all time to come. What I said was in my statement of 17.09.2018 and reproduced in the question, what I said that the Associated Journals Ltd (AJL) was discontinuing and stopping publication and printing of National Herald Newspaper and two regional newspapers. I never said that it was for all times to come but I relied on Mr. J.Gopikrishan a witness who relied on a

Bar & Bench (www.barandbench.com)

email sent by the office of accused No. 2 that they have no intention of resuming the publications.

Q3. Please specify your definite stand as to whether the discontinuing of publication of newspapers on 01.04.2008 was a temporary suspension or a clear decision for cessation of publications?

A. In my evidence, I said neither. The closure was to set the stage for the appropriation of the Associated Journals Ltd (AJL) by Young Indian(YI).

It is correct that my complaint is **Ex.CW1/A** which bears my signatures at point A. I also filed a supporting affidavit **Ex.CW1/B** alongwith the complaint, which bears my signatures at point A and A1. I appeared at the stage of pre-summoning evidence and my statements are exhibited as **Ex.CW1/C** and **Ex.CW1/D** which bears my signatures at point A.

Q4. I put it to you that your case in the complaint was that the funding of Associated Journals Ltd (AJL) by the Congress Party was for the purpose of closing National Herald Newspaper and not revive it.

A. It is incorrect.

Q5. I draw your attention to para 27 of your complaint Ex.CW1/A which reads as under : - "In the context of the allegation by the complainant, after the exposure of the fraudulent dealing by A1 to A4, the spokesperson Congress Party told the nation on November 2, 2012 (see Annexure C-14) that the congress Party had lent Rs.90

Bar & Bench (www.barandbench.com)

crores to National Herald (AJL) and the revival of National Herald, a symbol of Gandhi-Nehru ideals, was an "emotional issue" for the party. This gave the impression that the Congress had paid more than Rs.90 croes now for Herald revival. But the Party had actually paid the amount in 2008 to help close, not revive, the Herald.".

It is apparent that you have definitely suggested that from the very inception when the funding of the newspaper was initiated by the congress Party, the clear objective was to shut down the newspaper publication. What you have to say?

A. It is incorrect.

(Confronted with the portion quoted above wherein it is so recorded)

Q6. I draw your kind attention to following part of para 7 of the complaint Ex.CW1/A, "Step1: the AJL was formally closed and printing the National Herald, Navjivan and Qaumi Awaz was terminated and thus ceased in 2008, saddled with a huge unpaic debt of Rs.90 crores approximately".

Bar & Bench (www.barandbench.com)

It is very clear that you have referred to a formal closure which clearly denotes a considered decision for cessation of publication. What do you have to say?

A. It is the formal closure followed the statement made by the Chairman Sh. Moti Lal Vora that they are unable to pay Rs.90 crores debt hence they are closing the publication. Vol. To substantiate this now I have confirmation from Income Tax Assessment order against Young Indian made by Income Tax Department.

Q7. Can you show in your complaint Ex.CW1/A or your pre summoning statements that you have anywhere stated "It is the formal closure followed the statement made by the Chairman that they are unable to pay Rs.90 crores debt hence they are closing the publication"?

A. I cannot tell about it without seeing the complaint and the evidence referred above.

After going through the complaint and pre summoning evidence, the witness states that there is no reference to the above said fact that "It is the formal closure followed the statement made by the Chairman Sh. Moti Lal Vora that they are unable to pay Rs.90 crores debt hence they are closing the publication"

Q8. Do you want tender any explanation for the above said improvement?

A. It may not have been material at that time at the time of filing of complaint and pre summoning evidence. I have not made any improvement today from my earlier complaint and statements.

Q9. In your complaint you have stated "Step 7: Having taken possession of this vast real estate and YI private limited company

Bar & Bench (www.barandbench.com)

declared that according to its objectives submitted for obtaining registration under section 25 of the Companies Act, 1956 it will not engage in publishing a newspaper including National Herald." and the following in your pre summoning evidence "Step 6: Thus, having possession of vast Real Estate, the Young Indian declared through accused No. 2 that Young India will not engage in publication a newspaper including National Herald as it was against the declared objectives submitted for obtaining the registration under Section 25 of the Companies Act."

I put it to you that the above statement is incorrect to your knowledge because Young Indian never made a declaration as mentioned by you nor had taken possession of any properties belonging to Associated Journals Ltd (AJL). What have to say?

A. it is completely incorrect.

Q10. Can you refer to any official communication of Young Indian company or resolution incorporating the statement as mentioned by you as above ?

A. Yes. I relied on the email sent by the office of Accused No. 2 Mr. Rahul Gandhi and verified as having received by Mr. J. Gopikrishan, who is a witness in this case.

It is incorrect to suggest that no resolution or declaration by the Young Indian with regard to non-publication of National Herald ever came into existence.

Q11. Can you refer to a document, date or other material to show that Young Indian A-7 had taken possession of vast Real Estate belonging to Associated Journals Ltd (AJL).

A. The question of physical possession of the properties is for this

Bar & Bench (www.barandbench.com)

case is irrelevant because this case is not for possession but for corruption. Vol The Young Indian company acquired 99.1% shares of Associated Journals Ltd (AJL) and thereby Associated Journals Ltd (AJL) became a subsidiary completely in the control of Young Indian A-7. A-2 Mr. Rahul Gandhi held around 35% of the shares at that point of time when the acquisition took place. The documents in this regard are available from the evidence given by representative of the Registrar of Companies Mr. Gulab Chand examined in pre summoning evidence and the documents filed in the Hon'ble Delhi High Court. Furthermore, the Ministry of Urban Development on the charge that Associated Journals Ltd (AJL) was no more publishing newspapers in the Herald House which was constructed on concessional terms for land and loans and hence as passed an order to recover the said property for failure to publish newspaper.

It is incorrect to suggest that I have maliciously levelled false allegations regarding taking up possession of properties of Associated Journals Ltd (AJL) by Young Indian (YI) and now I am trying to divert the issue.

Q12. It put to you that is it correct that you cannot give any date of taking over of alleged possession of the properties or refer to any documents in this regard?

A. I can give the aforesaid information but I do not want to give because it is not relevant to this case.

It is correct that I have not given this information in my complaint and evidence as I do not deemed relevant to this case.

Q.13 I draw your attention to your complaint Ex.CW1/A wherein in

Bar & Bench (www.barandbench.com)

para 11 you have mentioned that "The media reported that in its last editorial, the Editor of the National Herald wrote : "Hearld hopes for a better tomorrow", stated, "With its glorious tradition, will National Herald be made to remain only a part of history, or , will it continue to function to herald change and progress in time with the positive basic values for which India has always stood?" National Herald's then editor-in-chief T.V. Venkitachalam was keen that the newspaper does not become part of history as happened with Mahatama Gandh's Harijan (which closed down during Gandhi's lifetime). He further wrote : "The paper is part of Nehru's legacy and has continued to uphold the traditions of secularism and non-alignment and I hope the Congress party will not allow it to close down finally". [http://sify.com/news/national-herald-shuts-down-after-70-years-news—national-jegnDCjhdff.html]

I put it to you that you had downloaded the article of the website referred as above.

A. It is correct. I have a research team, which downloaded this news item and informed me about it.

Q.14 Did you personally see that you correctly quoted from the aforementioned news item?

A. I certainly seen this article and quoted the same in my complaint. However, I have not verified the article from the website.

Q.15 Did you reproduce in the complaint the entire story or a part thereof?

A.I do not remember.

Bar & Bench (www.barandbench.com)

Q.16 Have you filed a copy of this story on judicial records?

A. I don't think so.

Q.17 DO you have a copy of this article with you?

A. I have to check.

Q.18 Is it correct that this article can be downloaded from the website even today?

A. I have no idea. I will ask my research team to download this article for me and I will produce it on the next date.

Further cross examination deferred.

RO&AC

[Samar Vishal]
ACMM-II/PHC/ND
04.02.2019