

A YUSUF KHAN @ DILIP KUMAR AND ORS.

v.

MANOHAR JOSHI AND ORS.

FEBRUARY 25, 2000

B [K.T. THOMAS AND M.B. SHAH, JJ.]

C *Constitution of India—Article 32—State Government alleged to be responsible for violent protests against the screening of a controversial film—Writ Petition filed to ensure adequate security arrangements and for directions to appoint an independent agency for investigation—New Government formed after fresh Assembly elections in the State—Petitioners agreed that some action had been taken by the new Government—Held, it is not necessary to continue with the petition on account of the changed political situation in the State and as the new Government is taking desired action against the alleged offenders—Cinematograph Act, 1962.*

D The film "Fire" was screened in cinema houses after the Censor Board of India granted certificate under the Cinematograph Act, 1962. Strong protest arose against the script and screenplay of the film. The cinema houses, where the film was screened, were extensively damaged due to violence during these protests. The petitioners along with the producer of the film filed a writ petition in this Court for directions to the State Government to ensure adequate security arrangements for the screening of the film and for appointing a suitable agency to investigate into the matter.

E The petitioners contended that the first respondent, the then Chief Minister of the State, and his political party were responsible for the acts of violence. However, they agreed that after change in the political situation following Assembly elections in the State, some action had been taken by the new Government.

G Disposing of the writ petition, this Court

H **HELD :** It is not necessary to continue with the writ petition and consider the allegations, mainly on account of the changed political situation in the State. The stand adopted by the State has changed in the new political situation after the last Assembly election, which has been

admitted by the petitioners. The respondents are no longer in power and the Government is now run by the political alignment opposed to them. There is no allegation against the new Government that they are lethargic in taking action against the protestors resorting to vandalism during screening of the film. [1219-A-C] A

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 673 of 1998. B

(Under Article 32 of the Constitution of India.)

Soli J, Sorabjee, Attorney General, R.N. Trivedi, Altaf Ahmad, Additional Solicitor Generals, Harish N. Salve, Ms. Indira Jaising, V.A. Mohta, Krishan Kr. Mahajan, Ms. Musharraf Chaudhry, P.H. Parekh, Mrs. V.D. Khanna, Gopal Balwant Sathe, Kailash Vasdev, Ashok Bhan, Arvind Kumar Sharma, Rajiv Nanda, Sushma Suri, A.M. Khanwilkar, Sameer Parekh, Kuldeep Singh, Rahul Ray, D.M. Nargolkar and Ms. Vijay Laxmi Menon for the appearing parties. C D

The Judgment of the Court was delivered by

THOMAS, J. A film "Fire" appears to have ignited fire in and out of cinema houses wherein the film was screened for the viewers. The film produced by one Ms. Deepa Mehta was permitted to be screened in cinema houses after the Censor Board of India granted certificate under the Cinematograph Act, 1962. Thereafter it was released for exhibition in theatres by the middle of November 1998. But hardly two weeks passed there arose protests from some quarters against the screening of the film as the protestors took strong exception to the script and screenplay thereof. The protests suddenly swelled up and the theatres wherein the film was screened became the focal points of vandalism launched by the protestors. They caused extensive damage to such cinema houses. Most of the cinema houses so attacked were located in the State of Maharashtra, and more particularly in the city of Mumbai. E F G

It was in the aforesaid background that 8 persons, including the producer of the film, have filed this writ petition under Article 32 of the Constitution, for appropriate and suitable directions to the authorities concerned for ensuring adequate security arrangements for exhibiting the film, and also for appointing a suitable agency to conduct investigation into H

A the acts of violence which amounted to offence committed by several persons in the theatres of Mumbai wherein the film "Fire" was exhibited.

B Petitioners contended that first respondent (who was then the Chief Minister of Maharashtra) and his political party (Shiv Sena - 6th respondent) as well as its chief leader (4th respondent) were instrumental in instigating the protests and they had also encouraged the protestors to resort to violence and to indulge in vandalism under the pretext of expressing their opposition to the exhibition of the film. Petitioners also pointed out that the film "Fire" had secured many laurels from different quarters who are competent to adjudge the quality of the film.

C The counter affidavit filed on behalf of the State of Maharashtra was sworn to by a Deputy Secretary, attached to the Home Department of the State Government. The allegations that the State had condoned the acts of violence etc. have been denied in the said counter affidavit. According to the deponent of the counter affidavit, the police had taken necessary steps  
D in respect of the incidents, particularly those which took place at New Empire Theatre. FIR had been registered under various sections of the Indian Penal Code as well as under the Bombay Police Act, 1951, at the Azad Maidan Police Station on 2.12.1998 itself, and on conclusion of the investigation charge-sheets have been laid against 21 persons in the court  
E of Metropolitan Magistrate, Mumbai. According to him, the said case is pending trial in the said court. Similarly, cases have been registered in respect of the incidents which happened at Cinemax theatre, Bombay. That also was finally charge-sheeted against 25 persons. Adequate police bandobast was ordered in front of the residence of the first petitioner Dilip Kumar, the cine actor, besides registering criminal case against 22 persons  
F including a member of the Legislative Assembly belonging to Shiv Sena.

The deponent referred to the above cases as instances of the strong actions taken by the State machinery for dealing with the situation.

G In the rejoinder affidavit filed by the 4th petitioner the stand taken by the State of Maharashtra through the affidavit sworn to by the Deputy Secretary, has not been seriously repudiated. In fact, it was admitted that some actions have been taken by the State. Therefore, petitioners put forward certain altered prayers through Interlocutory Application No.10 of 1999. The main among those prayers was to hand over investigation of the  
H cases to the Central Bureau of Investigation.

We don't think it necessary to continue with the writ petition, mainly on account of the changed political situation in the State of Maharashtra. Apart from the stand adopted by the State of Maharashtra through the Deputy Secretary of the Home Department in the affidavit referred to above, it is now admitted by the learned counsel for the petitioners that the political situation changed after the last Assembly election when Shiv Sena failed to secure sufficient support in the Legislative Assembly. Hence, they are no longer in power and the Government of Maharashtra is now run by the political alignment which was opposed to Shiv Sena.

In the changed circumstances we don't think it necessary to consider the allegations. That apart, since there is no allegation against the new Government that they are lethargic in taking actions against the protestors resorting to vandalism during screening of the film "Fire", there is no need now to consider issuing any other directions.

We therefore, close this writ petition, without prejudice to any motion which may have to be made in future in respect of the cause of action now shown.

A.Q.

Petition disposed of.