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From Tamil Film, a Landmark Case on Free Speech

By **Samanth Subramanian** February 14, 2012 6:48 am

On several occasions already, in what is still a very new year, various arms of the Indian state have recused themselves from their duty of protecting free speech, citing the threat of violence as fair justification. The Rajasthan police have been accused of inventing a plot to kill Salman Rushdie, in order to prevent the disruptions to public order that were promised by some Muslim organizations upon Mr. Rushdie's visit to the Jaipur Literature Festival.

THE LONG VIEW

Current events through the lens of history.

In Lucknow, a play satirizing the Uttar Pradesh chief minister Mayawati was banned. In Hyderabad and Pune, police "advised" the organizers of seminars – on Mr. Rushdie and on Kashmir, respectively – to cancel their events. On Twitter, Taslima Nasreen claimed that the "Kolkata police asked Kolkata Book Fair committee to cancel my book release program." In all these instances, the potential for actual violence was unclear; what was more apparent was the state's eagerness to choose the easiest way out by simply suspending the exercise of free speech.

Perhaps the most biting legal opinion of such spinelessness came in 1989, in a Supreme Court case called *S. Rangarajan vs. P. Jagjivan Ram*. Mr. Rangarajan, a film producer in Chennai (then Madras), was fighting for his right to release "Ore Oru Gramathile," a movie that criticized the caste-based reservation policy in Tamil Nadu's educational institutions. Members of the Dr. Ambedkar People's Movement and the Republican Party of India had already embarked upon protests, and the general secretary of the Republican Party had warned that demonstrators "would not hesitate to damage the cinema." In response, the Tamil Nadu government had stopped the film's release, fearing "very serious" law and order problems across the state. Professing himself by turns amused, troubled and anguished, Justice K. J.

Shetty wrote: “The State cannot plead its inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression.”

The plot of “Ore Oru Gramathile” (“In a Single Village”) runs as follows: Shankara Sastry, a Brahmin, procures a fake lower-caste certificate for his daughter Gayathri, worried that she will otherwise not be able to attend university. Gayathri turns out to be a good student and, later, an excellent civil servant, but when she is working on a flood-relief mission in a village named Annavayil, she is recognized and her true caste exposed. In rousing court scenes, Gayathri and her father argue that the reservation policy should be based on economic backwardness and not on caste. Improbably, the case against Gayathri is withdrawn when the people of Annavayil flood the government with petitions demanding that she be restored to her job. (“As usual,” Justice Shetty wrote in his judgment, the film “contains some songs, dance and side attractions to make the film more delectable.”)

S. Rangarajan, the film’s producer, passed away a few years ago. His son Ramesh, as well as Aryama Sundaram and S. Raghunathan, two senior lawyers who worked on the case, helped reconstruct the chain of events that led to Justice Shetty’s landmark judgment.

S. Raghunathan: The movie was based on a script by a poet named Vaali. That was called something else – I don’t quite remember that title now. By that time, S. Rangarajan had been producing films for a number of years. He made “Gauravam,” which was an excellent movie.

Ramesh Rangarajan: My father felt very strongly about [reservation policy]. He saw that some people who got the barest passing mark would get into college, and others who got 90 percent would not. It was a bold movie, and nobody was prepared to make it, so it came to him. He took it as a challenge. In a way, maybe he knew he was going to face this [legal challenge].

S. Raghunathan: At the time, Aryama and I were part of a firm called Natraj, Rao, Raghu & Sundaram. We were partners. S. Rangarajan being my brother-in-law, this case came to us, and Aryama got really deeply involved with it. It was immediately apparent that this could be a landmark case.

Aryama Sundaram: “Ore Oru Gramathile” was clearly a movie on reverse discrimination. It was very hard-hitting, because it criticized the Supreme Court’s upholding of reservation, and it criticized politicians who were using reservation as a method of stirring up passions. It had gone for censorship approval [in August 1987], and first the committee refused the certificate. Then an appellate committee granted it, and a second revising committee [in December 1987] also approved a certificate. At which point, a writ petition was filed in the Madras High Court.

S. Raghunathan: There had been a few demonstrations outside the offices of *The Hindu* [where S. Rangarajan was publisher] by the Dravidar Kazhagam and the Dr. Ambedkar People’s Movement. So this was what the government was pointing to, when it said that there might be law and order problems.

Ramesh Rangarajan: By this time, the distributors of the film had started to worry. A lot of money was stuck. Anybody else, I think, would have just shelved the whole bloody project.

The writ petition was dismissed by a single judge in the Madras High Court, but on appeal, a Division Bench allowed the petition and revoked the censor certificate that had been granted.

Aryama Sundaram: So it came up before the bench, and there were long arguments on it, and on a Thursday, judgment was reserved after hearing these arguments. But in the meantime, the government of India had given the film a national award, in the “Best Film on Social Issues” category. It hadn’t even been released, but we had sent it in.

Ramesh Rangarajan: It won an award! That was the beauty of this whole thing!

S. Raghunathan: I must have watched this film at least four times in that period, including once with the judges in the Division Bench. There was a brilliant performance by Lakshmi [Narayan, the starring actress], I remember.

Aryama Sundaram: The award was supposed to be presented by the president on Monday, in New Delhi. On Friday, at 3 p.m., the bench sent for us and

told us that the film was banned for opposing reservation policy and going against the judgments [on reservation] of the Supreme Court. They also said that they were restraining the government from giving this award. It was a very long judgment – a hundred-odd pages – which was in a way a blessing in disguise, because it gave the Supreme Court a chance to reiterate the Constitution’s values of free speech.

Ramesh Rangarajan: I was in my first or second year of college when this was all happening, and I remember my father coming home every day from his office to tell us what had happened in court.

S. Raghunathan: Rangarajan was initially not very worried about this process, but in its later stages, he started to become very tense. I don’t remember him personally appearing in the high court, or even in the Supreme Court. But he never really expected the decision to go against us, I think, because this was such flimsy ground.

Aryama Sundaram: After the Division Bench gave us its judgment, we prepared an overnight appeal to the Supreme Court and filed it on Saturday morning. We got special permission from the Chief Justice of India to have the case listed. It was the first case listed on Monday morning, and the Supreme Court immediately stayed the order as far as the award was concerned.

S. Raghunathan: Ramesh had to rush from the court to Siri Fort Auditorium to receive the award from the president that Monday.

Aryama Sundaram: Justice Shetty was an excellent judge, and I think the others on that bench were Justices K. N. Singh and Kuldip Singh. They heard really elaborate arguments and saw the film as well, with English subtitles. Then [on March 30, 1989] they upheld the right of the producer to release the film, and they held that freedom of speech could not be suppressed. And I had expected exactly this. I remember there were huge demonstrations outside the Supreme Court on the days of arguments, by people thinking they could influence the court. But fortunately they couldn’t.

S. Rangarajan: There’s no doubt about it: The spirit of that judgment is being violated today [with the Rushdie affair and others].

Aryama Sundaram: Look at this situation today. If people want to suppress somebody saying something, threatening some violence is the line of least resistance. This is exactly what Justice Shetty was talking about. Rangarajan believed in his film, and he felt it had a right to say what it did.

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