Bonnard standard

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Why in news?

The Supreme Court of India's prescription for granting pre-trial interim injunctions in defamation cases against journalists is the Bonnard standard, in Adani Enterprises Limited (AEL) case.

- The Bonnard standard is a legal principle.
- **Origin -** Originating from the ***1891 UK case Bonnard v. Perryman.***
- **Bonnard standard –** In defamation cases, the courts should only issue an ***order to stop something***, when they are ***absolutely certain*** the statement is ***false and cannot be justified***.
- **Purpose in India -** The application of the principle in India is critical for ***protecting journalistic freedom*** and preventing powerful individuals and corporations ***from misusing defamation law*** as a ***Strategic Lawsuit Against Public Participation (SLAPP).***

  SLAPP is a ***civil or criminal legal action intended to censor, intimidate, or silence*** *individuals or organizations who speak out on matters of public interest.*

- **Supreme Court Affirmation -**
  - **Bloomberg Case (2024) -** The Indian Supreme Court ***upheld the Bonnard standard*** by striking down an ex parte injunction against a Bloomberg report, emphasizing the need to avoid stifling public discourse.
  - **Adani Case -** A Delhi court's order to journalists to take down allegedly defamatory content was seen as a violation of the Bonnard standard for issuing an ex parte injunction without hearing the journalists' defenses.
- **Protection of Free Speech (relation to article 19) -**

    - The Bonnard Standard influences the application of ***Article 19(1)(a)*** of the Indian Constitution by requiring courts to ***exercise extreme caution*** when granting ***pre-trial injunctions in defamation cases*** to prevent unwarranted prior restraint on free speech.
    - To ensure that restrictions on free speech in defamation cases ***do not go beyond what is permissible under Article 19(2)***.
- **Balancing Act –** The principle aims to ***balance the right to reputation with the fundamental right to freedom of speech and expression***.
- **Exceptional Circumstances -** In 2024, the ***Bloomberg v. Zee Entertainment case***, the Supreme Court clarified what constitutes an "***exceptional situation***" that could warrant overriding the standard.
- Such circumstances are limited to cases where the defamatory content is ***malicious and really false***.
- **Three-Fold Test –** It is a ***general legal standard*** for granting any interim injunction, including in defamation cases.
    - **A prima facie case** - The plaintiff must present sufficient evidence to convince the court that there is a genuine and serious issue to be tried
    - **Balance of convenience** - The court must compares the trouble the plaintiff will face if the injunction is denied to the trouble the defendant will face if the injunction is granted.
    - **Irreparable harm/loss** - The plaintiff must demonstrate that they would suffer irreparable injury that cannot be adequately compensated with money.

Plaintiff - A person who starts a legal action against somebody in a court of law.

Quick Facts

Defamation
• It is defined as making or publishing a false statement about a person, intending to harm their reputation, under ***Section 499 of the Indian Penal Code (IPC***). • This act can be done through ***spoken words, signs, or visible representations,*** and it constitutes defamation if it causes harm to their good name or makes people shun them. • Defamation is ***both a civil and a criminal wrong*** in India.

References

1. Indian Express | Bonnard standard
2. Nath Solicitors | Bonnard v Perryman

