Press Freedom Vs Disinformation - US Lawsuit

Why in news?

A voting software company, Smartmatic, filed a $2.7 billion defamation lawsuit against Fox News and pro-Donald Trump attorneys Rudy Giuliani and Sidney Powell for false election claims they had made.

What is the case about?

- Smartmatic, which makes voting machines, filed a defamation suit in the Manhattan Supreme Court.
- It has sought damages of $2.7 billion against Fox News, its hosts Lou Dobbs, Maria Bartiromo and Jeanine Pirro, and attorneys Giuliani and Powell.
    - Notably, the American media powerhouse Fox News is known to be right-wing.
- The case is for what the company termed “knowingly false claims” about former President Trump’s election loss.
- The company claimed that the defendants invented a story that the election was stolen from Trump.
- They made disparaging statements against Smartmatic, alleging that its machines and software platforms were hacked to allow Democrats to seize the election.
- In one show, Smartmatic was represented by Fox News as a “Venezuela company under the control of corrupt dictators from socialist countries.”
- These claims did not change the result of the election.
- However, Smartmatic claimed that Fox News and its hosts profited in ratings and advertisements from spreading this narrative.
- On the other hand, Smartmatic suffered a loss of reputation.
- It also faced a host of cyber attacks, and received hate mails and death threats from those who believed in these claims.

How has Fox News responded?

- Fox News Media said that it was committed to providing the full context of every story with in-depth reporting and clear opinion.
- However, after the lawsuit, Fox Business cancelled Lou Dobbs Tonight, its highest rated show.
- Reportedly, Fox News also ran fact-checks against claims made by its own

anchors on electoral fraud.
- It has also moved the court seeking to dismiss the lawsuit claiming it as an attempt to dilute First Amendment Rights under the Constitution.

Why is this case significant?

- The clear recognition of freedom of press in the First Amendment to the US Constitution places the American media in a unique position.
- Nevertheless, the case is expected to have seminal consequence for balancing press freedoms and penalising disinformation across the globe.
- The lawsuit claiming such huge damages is being seen as a test case for fighting disinformation.
- Even before the lawsuit has had a hearing, Fox News' cancellation of the show is seen as a course-correction measure.
- Advertising boycotts, and mass campaigns against fake news have had little impact over the years.
- It is also significant that the lawsuit has been brought about by a private party.
    - Private parties relatively have a higher degree of protection than public figures to protect their rights.

How does American law look at lawsuits against the press?

- The First Amendment to the US Constitution recognises the freedom of the press in a bundle of rights and broad protections.
- Among various provisions, it guarantees protection -
    - against imposition of criminal penalties or civil damages on the publication of truthful information about a matter of public concern
    - even against the dissemination of false and damaging information about a public person, with rare exceptions
- With the First Amendment protections, defamation law is rather unsympathetic to the plaintiff, especially public figures and those holding public offices.
- While there are no federal laws against civil defamation, different states have varying definitions of what constitutes defamation.
- The English Common Law jurisprudence moulded defamation law in the US.
- But the landmark 1964 case New York Times Co. v. Sullivan redefined libel law in favour of media.
- Accordingly,
    i. to win a libel suit in matters involving public concerns, it is not enough to simply prove that a false statement of fact was made against the plaintiff that damaged his reputation

ii. the plaintiff would be required to prove either malice i.e. a deliberate attempt to harm the plaintiff or a “reckless disregard” for facts

How is this different from Indian law?

- India’s Constitution, unlike in the US, does not distinguish the press in guaranteeing free speech.
  - Article 19(1)(a), which recognises freedom of speech and expression, is for every citizen.
  - The press does not qualify as a separate category for rights but the collective right to free speech includes every individual journalist.
- Compared to the US law, India’s civil defamation law is less stringent to the plaintiff.
- The plaintiff would just need to prove that the statement made against him/her results in lowering his or her reputation or moral character in the eyes of the society or any other person.
- The law in India does not require proof of intent to defame.

Source: The Indian Express

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