

RAJYA SABHA

(1980)

Point of privilege

Alleged misleading of the House by Ministers regarding reported arrest of a police officer

Facts of the case and ruling by the Chairman

On 29th January, 1980, during Special Mentions, Sarvashri Rabi Ray, Lal K. Advani and some other members stated I that Shri N. K. Singh, D.I.G., C.B.I., who had been incharge of the 'Kissa Kursi Ka' case, had been apprehended from his house for being taken to Gurgaon. Denying the arrest, the Minister of State in the Ministry of Home Affairs (Shri Yogendra Makwana) stated, inter alia, as follows: --

"...What has been stated by Mr. Rabi Ray, Mr. Advani and others, is far from the facts. Mr. N. K. Singh is not arrested as they have stated in this House.....This concerns the State of Haryana. Nowhere are we involved. But when we came to know that Mr. N. K. Singh has been arrested, we immediately contacted the Chief Minister of Haryana and ascertained that he is not arrested. So, whatever is stated by Mr. Rabi Ray and Mr. Advani is not correct....."

2. The Minister of Home Affairs (Giani Zail Singh) stated² inter alia, as follows:

"...This matter does not concern the Central Government. Even then, when we came to know that some police officer is being arrested, we contacted the State Government and were told that they have not arrested him. He has been called for getting some information. This is absolutely wrong that he has been arrested. He has not been arrested....."

3. On 30th January, 1980, Shri Lal K. Adani sought³ to raise a question of privilege against the Minister of Home Affairs (Giani Zail Singh) and Minister of State in the Ministry of Home Affairs (Shri Yogendra Makwana) for deliberately misleading the House in respect of the reported arrest of Shri N. K. Singh.

Shri Rabi Ray and some other members also sought to raise the matter in the House. The Deputy Chairman then observed, inter alia, as follows: --

".... all the Motions are under the consideration of the Chairman and due action will be taken' on them....."

4. On 2nd February, 1980, the Chairman, while disallowing the question of privilege, ruled⁴, inter alia, as follows:-

"I am concerned only with the question whether the Home Minister and/or the Minister of State in the Home Ministry can be said to be guilty of a breach of privilege and to see whether a prima facie case exists to grant leave under Rule 190 to refer the matter to the Committee of Privileges on the notion of the members.

The law appears to be well-settled that the making of a deliberately misleading statement may be treated as a contempt of the House The question arises before me if I can say that there was a deliberate misleading of this august House by the two Ministers when they made their statements...

'Mislead' in this connection must mean only that the Ministers drew the House into error by falsely stating that Shri N. K. Singh was not arrested and this was contrary to fact. The test to apply is not a general one but in relation to the conduct of the maker of the statement. A person may know, believe or suspect that what he is saying is false. The responsibility increases in proportion to the increase of knowledge and belief. The test to apply is: Does

the maker of the statement know that the statement he is making is false or again that the maker is making the statement which he does not believe to be true. In either case, there would be deliberate misleading. A third or borderline case also exists when the maker is utterly indifferent whether what he is saying is true or false. Here any person, without ascertaining, for himself the truth of the matter asserts something as true and he must take the consequences if it turns out that it was false. No person is expected to make a statement about a fact as to which he made no inquiry to ascertain its truth or falsehood. If he is so foolhardy as to maintain that what he is saying is true without any evidence in his possession, he must pay the price for his negligence and indiscretion, should it later turn out that what he asserted was false and thus misled others. This last proposition does not apply if the person after making due inquiry in proper quarters where he must make inquiries and approaching those who are likely to know the facts makes a statement believing it to be true, he is then saved even if he was himself misled by others from whom he inquired. The gravamen of the charge is a deliberate misrepresentation of a fact knowing it to be false or not believing it to be true or being so indifferent to truth as not to care what is said is false or true.

Judged from this standard it is clear that the Ministers cannot be said to have acted without due care and attention. They had the statement repeated twice in their hands and even con-firmed after the event in radio version. They had no reason to think that what they were being told was perhaps not true.

Coming as it did from the highest authority the State-on a matter which is essentially a State subject they did not go beyond the bounds of truth or propriety when they relayed the information to this august House. As situated on the morning of the 29th of this month the Ministers were assured of the truth of what they relayed to the House. In these circumstances no question of privilege arises and I refuse my consent to raise it."

5. The matter was, thereafter, closed.

1 R.S. Deb., dt. 29-1-1980.

2 Original in Hindi.

3 R.S. Deb., dt. 30-1-1980. cc 121-34.

4 Ibid. dt. 2-2-1980, cc. 53-55.