

RAJYA SABHA

(1980)

Point of privilege

Alleged misleading statement made by a Minister in the House

Facts of the case and ruling by the Chairman

On 8th July, 1980, the Minister of Home Affairs (Giani Zail Singh), while making a statement in the House regarding the alleged rape of a woman at Baghpat, referred to the report of medical examination of the woman and stated,¹ inter alia, as follows:-

"Unless it is proved that the lady has been raped or not how can we punish anybody? This is the medical report. In this report the doctor has not held that any rape was committed on her."

2. On 6th August, 1980, the Chairman (Shri M. Hidayatullah), while disallowing a notice of question of privilege by Shri Satya Pal Malik, a member, against the Minister of Home Affairs for allegedly making a misleading statement in the House, observed ², inter alia, as follows: --

"The notice of a privilege motion given by hon. Shri Satya Pal Malik on 23-7-1980 refers to a statement made by the hon. Home Minister in the House on the 8th July, 1980...The privilege motion avers that the statement made by the hon. Minister was false and deliberately misleading.

As the motion relates to the statement of the 8th July, 1980..., it is sustainable only on one of the three grounds, namely:

- (1) That the Minister made a statement which he knew was false; or
- (2) That he made a statement which he did not himself believe to be true; or
- (3) That he made the statement without due care and attention and negligently asserting something as true which turned out to be false.

The matter has been judged in this light as on 8th July, 1980. Mr. Malik's later inquiries and researches and their results do not enter into this question. As the hon. Minister was not an eyewitness to the alleged rape or to the examination by the doctor, he could have only spoken, on the statement of facts in his possession as on the 8th July, 1980 or before.

We must judge the bona fides of his conducts only on this footing and the privilege motion itself is based on his conduct and bona fides as on a particular date.

In accordance with the established practice, the motion was drawn to the attention of the hon. Minister for his comments before I took any decision. In reply to my

query, the Home Minister only gave the contents of the report as he had with him and volunteered, perfectly bona fide, that he would 'make further inquiry'.

The matter thus boils down to this: what were the contents of that medical report on which the statement was based? And in reply to my query, the Hon'ble the Home Minister said:

'The medical report dated 18th June, 1980 referred to by Shri Satya Pal Malik is not with us. We have another medical report of 18th June, 1980, a copy of which is enclosed. We have asked Government of Uttar Pradesh to verify the authenticity of the report sent by Shri Malik.....'

Therefore, as late as 26th July, 1980 'there was but one report before the Hon'ble the Home Minister and that did not make a reference to rape or even a probable rape This report was furnished by Dr. N. Pant, Medical Officer, Women's Hospital, Meerut; on examination at 7-15 p.m. on 18th June, 1980.

On 26th July, 1980 Dr. N. Pant, in reply to a query by the District Magistrate through the Senior Medical Superintendent, Women's Hospital, stated: 'I have to say that I conducted'--which is a mistake; it should be 'I gave'--'no other report dated 18.6.1980 on Shrimati Sudesh, other than the report, a copy of which has already been submitted by me today at 11 a.m.....'

These facts were communicated to me on 28th July, 1980 by the Hon'ble the Home Minister. He again asked me 'to request the Hon. member about the source and authenticity of the report produced by him.'

It appears that the lady was later sent to P. L. Sharma Hospital and from there to the Dufferin Hospital and the Dufferin Hospital referred her again to Dr. N. Pant. She examined her again on 19-6-1980, that is, the next day, at 9 a.m. The second report thus came into existence on 19-6-1980 at 9 a.m. In this second report Dr. N. Pant said:

'Vaginal injury noted by me yesterday, in my opinion, is probably a rape injury.'

Therefore, there were two reports, one dated 18-6-1980 and the second dated the next day, that is, 19-6-80.

Leaving out of account the word 'probably' which makes the subject of rape an open issue still, the second report was not brought to the notice of the Hon'ble the Minister on or before 8th July, 1980.

We are not concerned with the knowledge acquired by the Hon'ble Malik, on his private inquiries. In fact, I was first shown a copy of the report in which the word 'probably, figured and about which I made a comment that this is not a definite opinion.....However, the next day I was given a copy of the report in which the opinion of the doctor was made to read: 'In my opinion it is a case of rape'.

I do not agree with Mr. Malik that these changes were not of any consequence....When on the 23rd it was already said that the opinion was that 'This

is probably a case of rape' written in the notice itself. on the 24th the word I probably' could only have been dropped to make rape more of a certainty.

The statement of the Hon'ble the Minister as of 8th July 1980 was, therefore. made bona fide based on the information then in his possession."

"I am not deciding whether there was rape or not. I have only to decide whether the hon. the Home Minister's statement was false and misleading in all the circumstances of this case.

Whatever may be the later developments after 8th July, 1980, the question for me to consider is whether the Home Minister wilfully misled

the House on that date. It is clear from the records that what the Minister stated in the House was based on the information in his possession which had been supplied to him by the Government of U.P. and which did not mention about rape and he had no reason to doubt it. Thus he has not misled the House wilfully or otherwise. I have fully explained the reasons for the decision because of the tension this unfortunate incident has evoked in the House and outside. I am not concerned with the facts as they later emerged or may further emerge. I am only concerned with the statement of the Home Minister on 8th July, 1980.

Basing myself on this fact I withhold consent to Shri Malik to raise the matter as a matter of privilege or contempt of the House as in my opinion not even a Prima facie case has been established."

The matter was, thereafter closed

1 R.S. Deb., dt. 8-7-1980.

2 Ibid, dt. 6-8-1980