[FR] Docu-fiction on a Criminal Case and the Privacy of the People Involved

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As the public service channel France 3 is preparing to broadcast a docu-fiction on the murder of “Little Grégory”, a legal case in the 1980s that attracted much attention from the media and which was never elucidated, court action to preserve the privacy of the people involved in the case continues. A judge in Paris sitting in urgent matters has already dismissed an application from one of the witnesses in the case (see IRIS 2006-3: 13), and now the regional court in Nancy has received applications from other parties in the case.

The wife and children of Bernard Laroche, Grégory’s uncle, who was suspected at one point of having been the murderer and was subsequently killed by the child’s father, and one of the child’s uncles felt that the docu-fiction constituted an invasion of their privacy and infringed the presumption of innocence. Because of the urgency of the matter, they applied to the courts for an order to have the screenplay handed over to them and the broadcast banned.

In its judgment on 3 October, the court in Nancy began by recalling that the entitlement to privacy lapsed with the death of the person concerned, but found that the applicants were justified in taking action out of concern for the way in which their lives with their father and husband would be presented. Infringement of the presumption of innocence, however, constituted moral prejudice in respect of the victim alone; heirs could not take action in the place of that person unless the action had already been commenced before the person’s death. The court therefore considered the application only in respect of the entitlement to privacy, and recalled established precedent at the Court of Cassation according to which the relation of facts that were publicly known and had already been divulged could not on its own constitute an invasion of privacy.

Such a revelation made to the public may not prevent the production of a fiction document which it is not certain, as it is based on the progression of established events, will bring to light any elements not already revealed previously. Thus the court in Nancy found that, since the facts of the case had been widely reported in the media, there was nothing to prevent them being used as the basis of a work of fiction. In the present case, matters involving people’s private lives had been brought to the public’s attention lawfully by means of reports of court proceedings printed in the local press. The applicants could not therefore claim the discomfort of going over the facts of the case yet again as grounds for preventing such a

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broadcast. Thus, however painful it might be to be reminded of difficult events, the applicants were not in the present case justified in claiming that broadcasting the film infringed their right to privacy; prior control could only be considered in extreme cases, and was not appropriate here. The applications were therefore dismissed.

TGI de Nancy (9e c.), ordonnance du 3 octobre 2006, M.-A. Bolle, veuve Laroche et autres c/ France 3 et autres

Regional Court of Nancy (9th chamber), decision made on 3 October 2006, M.-A. Bolle, Laroche's widow, et al. v. France 3 et al

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