[IT] Supreme Court issues decision concerning website where defamatory comments posted by users

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On 27 December 2016, the Italian Supreme Court published a decision through which it confirmed the conviction of the owner of the website www.agenziacalcio.it for defamation. The defamatory comment had first been posted by a user of the same website.

The latter, in fact, posted a defamatory comment concerning “C.T.”, the person targeted by the statement, below an article on the website. At the time, C.T. was President of the National Youth League of the Italian Football Association (“FIGC”) and he is currently serving as President of the FIGC.

In order to corroborate his statement, the user sent the alleged criminal record of C.T. to the website owner via e-mail. The website owner posted an autonomous article on the website a few days later, recalling the same facts as mentioned in the user comment and citing links to C.T.’s alleged criminal records. Furthermore, in this article the website owner replied to a press release issued by the FIGC asking if the act of questioning whether C.T had been elected legally constitutes defamation.

However, despite the offensive nature of the comment, which in the Court’s opinion was known to the website owner, the latter voluntarily kept the comment online, contributing to the defamation of C.T.; an indication of his knowledge of this lay in the fact that the defamatory nature of the comment was at no time challenged by the website owner during the judicial proceedings.

Based on what had emerged from the Supreme Court’s ruling, C.T. then filed a criminal report for the crime of defamation, and the public prosecutor issued a preventive seizure order against the website.

Before the first instance Court of Bergamo, the website owner was acquitted, but the acquittal was later reversed by the Court of Appeals of Brescia.

The last instance appeal, before the Supreme Court of Cassation, was rejected and the conviction is now final.

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Corte Suprema di Cassazione, V sez. penale, 27 dicembre 2016 (data ud. 14 luglio 2016), n. 54946

http://juriswiki-prod.s3.amazonaws.com/attachments/documents/553818/original/sentenza-corte-di-cassazione-penale-v-54946-2016.pdf?1483455838

Supreme Court of Cassation, 5th criminal division, 27 December 2016 (date of hearing 14 July 2016), n. 54946

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