[NL] Judgment on allegedly unlawful comments made by well-known crime reporter on television

IRIS 2017-10:1/28

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On 26 September 2017, the District Court of Amsterdam dismissed a complaint against a well-known Dutch crime reporter for allegedly unlawful statements made on the television programme RTL Boulevard. The lawsuit was also directed at the producer of the programme, Fremantlemedia Netherlands BV.

The claimant in the case writes and publishes information about crimes in several media outlets. One of the crimes he commented on was the rape and murder of a 16-year-old girl in 1999. The claimant had an alternative reading of the case, and amongst other things, argued that the person convicted of these crimes in 2013 is innocent and was tricked into confessing. Notably, the conviction was based on DNA evidence and a confession, and there had been no appeal. On 7 August 2017, in summary proceedings initiated by family members of the victim, the claimant was ordered to refrain from contacting the victim's mother and to delete and rectify statements on his website and Facebook account.

In a broadcast of the programme RTL Boulevard, the defendant, a well-known crime reporter in the Netherlands, commented on the summary proceedings against the claimant. He named the claimant and said he was crazy ("kierewiet") and that he should be "taken away in a straitjacket." According to the claimant, these comments are factually incorrect, because there is no proof that he has mental health problems, and were therefore unlawful. He also argues that he should have been given the opportunity to reply to the statements in the same television programme, and claimed rectification and damages.

According to the Court, the statements are not unlawful. By commenting in a controversial manner on a high-profile criminal case, the claimant made himself a public figure. As a public figure, he must tolerate criticism more than others. The defendant's unvarnished opinion was a value judgment, which, in the given circumstances, had enough factual basis in order not to be excessive, and also because freedom of expression leaves room for provocation and exaggeration. This was the case here. It is clear that the defendant does not have the power to actually take the claimant away in a strait jacket. A right to reply was not necessary according to the court. This would be about the claimant's view of the murder case, which was not the topic of the television segment. A reply to the defendant's value judgment would not be meaningful.

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In sum, the court found a restriction on the defendant's right to freedom of expression not permissible (Article 10 of the European Convention on Human Rights). Based on the circumstances of the case, the defendant's interest in being able to make critical, informative, opinionated and warning comments on matters of public interest defeated the claimant's interest not to be lightly exposed to harmful publicity.

Rechtbank Amsterdam 26 september 2017, ECLI:NL:RBAMS:2017:6955

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2017:6955

District court of Amsterdam 26 September, ECLI:NL:RBAMS:2017:6955

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