



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

IRST SECTION

Application no. 24014/07
Anna Aleksandrovna SKUDAYEVA
against Russia
lodged on 14 April 2007

STATEMENT OF FACTS

The applicant, Ms Anna Aleksandrovna Skudayeva, is a Russian national, who was born in 1975 and lives in Kostroma.

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant, a journalist, at the material time worked at a daily Kostroma newspaper ‘Chronometer-Kostroma’ (*Хронометр-Кострома*).

A. The impugned newspaper article

On 18 July 2006 in no. 29 of the ‘Chronometer-Kostroma’ newspaper the applicant published an article ‘Unfunny movie’ (*Несмешное кино*) the text of which included the following:

“In the midst of the anticorruption scandals staggering the region ‘The Red House’ is trying to save the face at all costs

For the sake of *esprit de corps*

For several years residents of the Kostroma Region have been made to watch the endless ‘series’ concerning great corruption scandals involving the region’s authorities.

The first episode of the series ‘There is no corruption in the regional administration’ was released in 2002 when a criminal investigation had been initiated against Mr D.S., the deputy Governor of the Region. The investigation was opened on the suspicion of causing moderate injuries and on the crime of ‘corruption’ under Article 201 of the Criminal Code that is the conversion and abuse of office.

In spite of the serious nature of the criminal charges brought against his deputy, the Governor tried to shield his subordinate at all costs, attempting to save *esprit de corps*. While the scandalous deputy was detained on remand and undergoing the trial, the comfortable post in the ‘red house’ was waiting for its owner.



In February 2003 the Governor sent a letter to judge M.; this petition was sent on the administration's letterhead, with the emblem of the region. Being very simple in nature, the petition no. 134/ГП demanded that "if the court finds that the deeds with which Mr D.S. has been charged are of penal nature, I ask you to examine the possibility of dropping the criminal charges against Mr D.S." It is curious that even after the delivery of the sentence, the Governor persisted for a long time and refused to remove the official who had tainted the reputation. He was able to part with such a 'capable' employee only after the prosecutor of the region has made the official request to this end."

The applicant furnished the Court with the following documents which served as the basis for the publication: the letter of the Governor of the Kostroma Region to the federal judge M. dated 9 February 2003 and the request of the prosecutor's office of the Kostroma Region to eliminate the breaches of the law dated 22 May 2003.

B. The defamation proceedings against the applicant

On 28 July 2006 Mr V.S., the Governor of the Kostroma Region, lodge a defamation claim with the Leninskiy District Court of Kostroma (the District Court). He alleged that the applicant's article of 18 July 2006 was defamatory and requested, amongst other things, that the information contained in the sentence "in spite of the serious nature of the criminal charges brought against his deputy, the Governor tried to shield his subordinate at all costs, attempting to save *esprit de corps*" be declared untruthful, that the applicant paid damages of 10,000 Russian rubbles (RUB) (about 3,300 euros) and that a retraction be published.

On 5 October 2006 the District Court partially allowed the claim ruling that the impugned phrase was untruthful, that the retraction be published and ordered that the applicant paid 500 RUB (about EUR 17) in damages. The decision included the following:

"...analysing the article's contents as a whole and the information therein disputed by the claimant, the court concludes that the expression concerning the corruption scandals in the region and the strive of the administration of the Kostroma region 'to save the face' is not defamatory as the fact of the criminal prosecutions of the officials of the regional authorities ... did take place. All these events attracted attention of the region's population and drew wide public response irrespective of publications in the press...

...the Governor's petition does not contain any indications that the Governor tried to prove to the court that [his deputy] Mr S. had not been involved in the crimes he had been accused of and that he tried to help him avoid the prosecution at all costs. The Governor's request meant that the court... examined the possibility of the termination of the prosecution in connection with the expiration of the statute of limitations... taking into account information concerning the latter's personal character.

Consequently, this part of the article... does not reflect the truth.

In the court's opinion, this information about the Governor is defamatory...

The defendant failed to prove that when sending the petition concerning the termination of the prosecution in respect of [the deputy] Mr S. the Governor pursued his private interests or those of the administration of the Kostroma region ..."

The applicant appealed against the judgment to the Kostroma Regional Court referring, inter alia, to the fact that the impugned extracts represented

value judgments and asking the second instance court to re-examine the matter.

On 11 December 2006 the Regional Court rejected the applicant's appeal and upheld the judgment of 5 October 2006. The court's reasoning included the following:

“... the applicant's assertion that she, as ... a journalist has the right to express value judgments which are not subject to proof as they represent her personal opinion as the article's author, should not serve as the basis for the overruling [of the judgment of 5 October 2006]. It is true that the applicant, as a citizen and a journalist has the right to express her opinion, judgment or assessment. However, if a personal opinion, judgment or assessment contains information damaging to the honour, dignity and reputation of a citizen, they must be truthful ...”

COMPLAINT

The applicant complains under Article 10 of the Convention that the judgement of the Leninskiy District Court of Kostroma 5 October 2006, which was upheld on appeal by the Kostroma Regional Court, violated her freedom of expression.

QUESTION

Was there a violation of the applicant's right to freedom of expression guaranteed under Article 10 of the Convention?