

S.F. CHRONICLE - 11/3/98

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Tabloid's Setback in 'Reprint' Libel Suit

State justices uphold \$1.17 million verdict

By Harriet Chiang
Chronicle Legal Affairs Writer

Setting limits on the coverage of private individuals, the California Supreme Court ruled yesterday that the media are not protected from libel suits if they reprint defamatory statements about a private figure.

In a unanimous decision, the high court upheld a \$1.17 million verdict awarded to Khalid Khawar, a Bakersfield farmer who was falsely identified as the assassin of Senator Robert Kennedy in an article by the Globe, a tabloid newspaper.

In 1989, the Globe ran an article summing up a book by conspiracy theorist Robert Morrow that contained the false allegations about the 1968 assassination. The Globe ran an enlarged photo of Khawar that appeared in Morrow's book. Next to the article, it had an arrow pointing to Khawar and identifying him as the assassin.

The Globe argued that it could not be found liable because it was accurately reporting on a matter of public controversy.

The tabloid's legal defense was supported by several major news organizations, which were concerned about the standards the court would set for reporting secondhand news.

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But the state Supreme Court said most courts have recognized this privilege only when it involves a public figure.

"Republication of accusations made against private figures are never protected by the neutral reportage privilege," wrote Justice Joyce Kennard in the court's opinion.

Reporting false accusations involving private individuals can have a "devastating effect" on their reputation because they do not have the same access to the media as a public figure to defend themselves, Kennard said.

The high court declined to say whether the media would be protected if they were reporting on a public figure.

James Brelsford, a San Francisco attorney who filed a friend-of-the-court brief on behalf of the American Broadcasting Co., Hearst Corp. and several other news organizations, said it is disappointing that the court refused to recognize this privilege.

"It rejected some of the realities of what it means to be in the news reporting business," he said.

"The court is issuing a warning that when it comes to media reports on non-public figures, the press is going to be held to a tight standard," he said.

Khawar's attorney, Francis Pizzulli of Santa Monica, said the decision draws a line between mainstream journalism and tabloid newspapers. "Most people don't

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look to the media for retelling lies," he said.

When private people are involved, he said, "the decision clarifies that their reputations are not at risk for the mill for journalists who have no good faith in spreading the truth."

Los Angeles attorney Kelli Sager, who filed a brief in support of the Globe on behalf of NBC, CBS, the Los Angeles Times and several other news groups, said she was relieved that the court did not use this decision to infringe on the media's right to run book reviews and wire service stories that

report on defamatory statements.

"This is another example of the court drawing a line between reporting on private figures and public figures, telling newspapers that you need to take special care when reporting on private figures," she said.

The controversy arose after the Globe ran an article in its April 1989 issue on Morrow's book, "The Senator Must Die." Morrow alleged that Kennedy's assassination in 1968 was the work of the Iranian shah's secret police and the Mafia. He included in the book a photo taken of Khawar at the Ambassador Hotel where he was covering Kennedy as a photojournalist for a

Pakistani magazine.

Khawar was at the hotel and had his picture taken with Kennedy but he was in another room when the senator was shot, according to the FBI.

After the story was published, Khawar and his family received numerous threats.

Khawar sued the Globe in August 1989 and won. The state Court of Appeal upheld the verdict. He also sued Morrow, but lost.

In upholding Khawar's verdict, the court said Khawar was not an "involuntary public figure" because he had no way of knowing that Kennedy would be assassinated moments after he had his photo

taken with him.

Nor did he have sufficient access to the media "to effectively counter the defamatory falsehoods in the Globe article," Kennard said.

The court also found that there was ample evidence that the Globe acted with malice when it published the report. The FBI and local prosecutors had conducted an extensive investigation on the assassination. Sirhan Sirhan was found guilty by a jury and sentenced to life in prison.

"There were obvious reasons to doubt the accuracy of the Morrow book's central claim," Kennard said.