

Legal poser as rape victim is named in radio promo

Motsweding FM has been fined R10,000 by the Broadcasting Complaints Commission for identifying a child rape victim.



The decision, handed down last week, has raised questions about revealing details of children and sexual offence victims, especially in cases where - as in this one - the parents consented to their child being identified. The girl died during the incident.

The commission accepted that the SABC, which runs Motsweding FM, had made a "bona fide mistake" in naming the child as part of an anti-rape campaign, but still found that it had breached the broadcasting code and the law.

"The disclosure of the identity of the victim amounted to a serious contravention of the broadcasting code," the commission held.

The ruling came after pensioner Theresa Mokgoro complained about the campaign's promo, aired several times a day by the station.

At first, the SABC denied "transgressing" the code.

But it cancelled the promo after being "made aware" of a clause in the code that prevents victims of sexual violence from being identified without their consent. It said the campaign was a response to a high rate of rape in North West and said the child's family had consented to using "her name, profile and pictures, and her family profile as the face of the campaign".

Positive aims, but still a breach of the code

The commission noted the positive aims of the campaign but said the radio station breached the broadcasting code all the same.

It added that the matter "became more problematic" in terms of the Criminal Procedure Act, which provides that only a judge or magistrate can allow a rape victim to be named in cases where it is presumed the prosecution of the alleged rapist took place in camera.

"The code indeed provides that a rape victim may give permission that his or her identity be disclosed. This may obviously only take place in cases where the matter had not been heard in camera," the commission held.

It added: "There is no provision in the code that a parent, or anyone else, may grant permission for the disclosure of the identity of a raped child."

This was so even when the child had died, the commission stated in its ruling.

However, experts believe this last aspect is questionable.

Professor Ann Skelton, director of the Centre for Child Law, said: "[Though] the Criminal Procedure Act aims to protect children, and parents cannot waiver that right, it would not apply if the person has died as they do not have any identity to protect any more."

Skelton added that she believed in such cases it might be permissible for parents to consent to publicising the child's details.

Source: The Times, via I-Net Bridge

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