
(2010) 11 SHI CK 0042
In the High Court Of Himachal Pradesh
Case No : Criminal Revision No. 35 of 2004

Anirudh

APPELLANT

Vs

B.R. Rahi and Others

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 204
Penal Code, 1860 (IPC) — Section 500

Citation : (2010) 11 SHI CK 0042

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—Heard and gone through the record.

2. A complaint was filed by the present Petitioner, u/s 500 of the Indian Penal Code, against the Respondents, alleging that in the Newspapers of Respondents No. 2, 3 and 4, a news was published on 25th October, 2003, per which Respondent No. 1 B.R. Rahi, at a press conference, stated that the educational institution set up by the Petitioner (complainant) had been cheating the students and playing with their career. Petitioner himself appeared and made statement. He also examined five witnesses. Newspapers, published by Respondents No. 2, 3 and 4, were also tendered in evidence.

3. Learned trial Court dismissed the complaint, holding that no evidence had been led with respect to the contents of the news items and unless the contents of Newspaper were proved, as per well known procedure, the same could not be used as evidence. In support of this view, learned trial Court has placed reliance upon a Supreme Court judgment in Laxmi Raj Shetty and Another Vs. State of Tamil Nadu,

4. View taken by the learned Judicial Magistrate is not correct. At the stage of summoning an accused, the documents are not required to be proved, the way they are required for seeking conviction of a person. Only preliminary evidence is required to be adduced to satisfy the Court that there are sufficient grounds to

proceed against the persons, named as accused in the complaint. It is thereafter that evidence, before charge, is adduced and then if on the basis of the evidence a prima facie case is there, charge is framed and thereafter another opportunity is afforded to the person(s), named as accused, to cross-examine the witnesses and complainant is also afforded opportunity to lead further evidence, in support of the charge. This is the procedure required to be followed in a warrant case.

5. In summons case, though the procedure is a little different, inasmuch as substance of accusation is put to the persons, named as accused, on their appearance, but the evidence in support of the case is led only after the accused puts in appearance, pursuant to order of summoning passed, u/s 204 of the Code of Criminal Procedure.

6. In view of the abovestated position, revision petition is allowed, impugned order of the Judicial Magistrate, i.e. order dated 9th December, 2003, dismissing the complaint is set aside, and the learned Judicial Magistrate is directed to issue process to the Respondents, u/s 204 of the Code of Criminal Procedure. Respondent No. 4 is stated to have died. So, the complaint as against him abates.

Petition stands disposed of.