
(2012) 02 JH CK 0161

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 4382 of 2001

Basudeo Tiwary and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 23-02-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 153, 34, 469, 499, 501

Citation : (2012) 2 JLJR 350

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad

1. Heard Learned Counsel appearing for the State. Having heard and on perusal of the record, it does appear that the complainant, Girja Prasad Singh, a member of the District Bar Association, Daltonganj wrote a letter to the Commissioner, Palamau for settlement of Balughat to him in the capacity of the Secretary of the Adhibakta Sahkari Upbhokta Bhandar Samiti on the plea that as per the policy of the Government, preference is being given in the matter of settlement to the Cooperative Society. That was settled and thereby Girja Prasad Singh was asked to deposit 50% of the settlement amount but instead of depositing 50% of the settlement amount, he deposited Rs. 45,000/- and secured transit permit. When this fact came to the knowledge of the President, District Advocates' Association, he informed to the authority that the complainant, Girja Prasad Singh never happens to be the Secretary of the Cooperative Society and thereby he by applying fraud has secured settlement of Balughat.

2. On such allegation, Assistant Mining Officer, Palamau lodged a complaint case bearing C.G. case no. 107 of 2000, upon which cognizance of the offences has been taken. When such complaint was lodged, the matter was published in the Hindi Daily Newspaper "Hindustan". Upon publication of the news item,

complainant Girja Prasad Singh lodged a complaint, bearing Complaint Case No. 706 of 2000 alleging therein that whatever news item has been published in the newspaper, that is baseless and has been published with a view to defame him and that news item has never been published correctly, rather it has been published by distorting the fact. On such complaint, cognizance of the offences was taken under Sections 153, 501(B), 502(B), 504, 505, 469/34 of the Indian Penal Code. That order is under challenge.

3. From the facts noted above, it would appear that whatever publication has been made, that has been made on the basis of the complaint lodged against the petitioner. Under this situation, the offences alleged never get attracted on which cognizance has been taken. As I have stated above that the cognizance has been taken under Sections 153, 501(B), 502(B), 504, 505, 469/34 of the Indian Penal Code, it is to be considered as to whether any of the offences is made out from the allegations given in the complaint.

4. Section 153 of the Indian Penal Code speaks about wantonly giving provocation with intent to cause riot, if one maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it, such provocation shall cause rioting, one can be said to have committed offence u/s 153.

5. Here, in the instant case, whatever news has been published that has been published on the basis of a complaint lodged against the petitioner. Therefore, it can never be said that news was published maliciously or wantonly. Moreover, it does not stand to reason as to how by putting the news item, one has been provoked to cause the offence of rioting. Thus, offence u/s 153 of the Indian Penal Code never gets attracted. As I have stated earlier that whatever allegation has been levelled in the complaint filed against the petitioner that has been reported and in that situation, it cannot be said that defamatory words have been published, in view of the provision as enshrined in Fourth Exception of Section 499 of the Indian Penal Code which does stipulates that true report of the proceedings of the Court of Justice or of the result of any such proceeding would not amount to defamation. Under this situation, the offence of Sections 501 and 502 of the Indian Penal Code is never made out.

6. Simultaneously, I do not find anything in the news item so as to come to conclusion that news item had been published to provoke breach of peace when the fact which was there in the complaint had been published.

7. The allegations made in the complaint do not constitute any of the offences under which cognizance of the offences has been taken. Accordingly, the order taking cognizance is hereby quashed. In the result, this application is allowed.