

(1999) 01 OHC CK 0035
In the Orissa High Court
Case No : Criminal Revision No. 66 of 1995

Fr. E.A. Thomas

APPELLANT

Vs

Soumya Ranjan Pattanaik and Another

RESPONDENT

Date of Decision : 08-01-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202
Penal Code, 1860 (IPC) — Section 499

Citation : (1999) 16 OCR 130

Hon'ble Judges : P.K. Tripathy, J

Bench : Single Bench

Advocate : A.K. Sahoo, A.K. Das, A.K. Mishra and S. Mohanty, for the Appellant;
Bipin Behari Mohanty, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Tripathy, J.—Complainant in I.C.C. No. 56 of 1994 of the Court of S.D.J.M., Paralakhemundi has challenged the order dated 30.11.1994 of that Court refusing to take cognizance and to issue process against the opposite parties.

2. Petitioner filed the aforesaid complaint case alleging that a news item was published in an Oriya daily "The Sambad" dated 18.9.1994 wherein it had been published that a private school established with the help of Christian Society at Allada is under the management of the Father of the Church at Allada and the students while observing "Ganesh Puja", some people came and threw the idol of Lord Ganesh. It is further mentioned in that news item that because Father of that Church was in the helm of management of that school, therefore, such incident could happen.

3. Petitioner is the president of Vijayananda High.School situated at Allada. He filed the complaint petition alleging that the above news item has lowered down his prestige. In the inquiry u/s 202, Code of Criminal Procedure two witnesses were examined on behalf of the Petitioner and they stated that because of the aforesaid News item, the prestige of the Petitioner has been lowered down and

he has been harassed and humiliated.

4. Learned S.D.J.M., on perusal of the aforesaid statements, refused to take cognizance on the grounds that there is No. prima facie material available in the case record to show or suggest that Petitioner is the Father of the Church at Allada. On the other hand, he is practising advocate of Paralakhemundi Bar. There is nothing in the statements of the witnesses, examined, which can suggest that the aforesaid news item related to the Vijayananda High School, of which Petitioner is the president, and under such circumstances, the statement of the Petitioner that he has been defamed by that news item is not acceptable.

5. During the course of argument, learned Counsel for the Petitioner after placing the aforesaid materials argued that there being No. other private High School at Allada and Bijayananda High School being the sole private High School functioning at Allada, the approach of learned S.D.J.M. in rejecting the statement of the Petitioner is too technical a ground and legally not sustainable. On being asked by this Court to read a single line either from the complaint petition or from the statements of the Petitioner and his witnesses where it has been described that Vijayananda High School is the only Private High School at Allada, learned Counsel for the Petitioner failed to show any such statement either in the complaint petition or in the statements of the witnesses. Similarly, he could not satisfy this Court against the reasoning given by the learned S.D.J.M., that there is nothing in the record to show that Petitioner is the Father of the Church at Allada.

6. Section 499 of the Indian Penal Code defines the offence "Defamation" and Section 500 prescribes the punishment. On a plain reading of Section 499, I.P.C. it emerges that there are three essential requirements to constitute the offence of "Defamation" viz:

(i) making or publishing any imputation concerning any person; such imputations must have been made (a) by words either spoken or intended to be read; or (b) by signs; or (c) by visible representations; and such imputations must have been made with the intention of harming or with knowledge or having reason to believe that it will harm the reputation of the person concerning whom it is made.

That being the provisions of law to constitute an offence of "Defamation" making it punishable u/s 500, I.P.C. the foregoing discussions of facts, the findings of the learned S.D.J.M., and the argument advanced by the learned Counsel for the Petitioner go to show that there was No. proper nexus between the news item and the complainant, which could be established by the Petitioner either in his complaint petition and/or in his statement at the time of inquiry u/s 202, Code of Criminal Procedure. Approach of learned S.D.J.M. and the grounds assigned by him for refusing to take cognizance of the offence and to issue process u/s 204, Code of Criminal Procedure against the opposite parties can neither be termed as illegal nor unjustifiable. Hence, there is nothing to interfere with the impugned order.

7. For the foregoing reasons the criminal revision is dismissed.