

(1991) 04 AHC CK 0109
In the Allahabad High Court
Case No : Criminal Revision No. 1699 of 1990

Jodh Singh and Others

APPELLANT

Vs

State of Uttar Pradesh and Another

RESPONDENT

Date of Decision : 18-04-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 500, 504

Citation : (1991) CriLJ 3226

Hon'ble Judges : B.P. Singh, J

Bench : Single Bench

Advocate : H.C. Nayak, for the Appellant; B.N. Agrawal, for the Respondent

Final Decision : Allowed

Judgement

B.P. Singh, J.—Jodh Singh and two others have filed this application for revision against the order dated 13-6-1990 passed by IInd Additional C.J.M. Jhansi in Criminal Case No. 1434 of 1990.

2. Smt. Indra, wife of Bulbinder Singh, had filed a criminal complaint against Jodh Singh, Smt. Amrit Kaur and Har Prasad, u/s 500, IPC in the Court of IInd Additional C.J.M. Jhansi. Learned magistrate had examined Smt. Indra u/s 200, Cr. P.C. and witnesses Har Dayal Singh and Kanhaiya Jaiswal u/s 202, Cr. P.C.

3. Learned A.C.J.M., after going through the statement of the complainant and hearing the witnesses, was of the view that an offence u/s 504, IPC was made out against Jodh Singh and others. Consequently, learned magistrate summoned the applicants vide order dated 13-6-1990. Aggrieved by the order of the learned magistrate, Jodh Singh and others have come in revision.

4. I have heard learned counsel for the parties and have gone through the record of the case. The main contention of the learned counsel for the applicants is that on the basis of the allegations made in the complaint as well as in the statements of the witnesses, no offence u/s 504, IPC was made out against the

applicants and as such the learned A.C. J.M. Jhansi acted illegally in summoning the applicants. In my opinion the above contention has force. Section 504, IPC reads as follows:--

"504. Intentional insult with intent to provoke breach of the peace -- Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

5. On a perusal of the above quoted section it is quite clear that provisions of Section 504, IPC are attracted only when, firstly, the accused insults the complainant; secondly, the insult must be of such a nature that it should be a provocation to the complainant; and thirdly, that the accused intended or knew that the provocation was likely to cause the complainant to either break public peace or commit any other offence. If any one of these three ingredients is missing the accused cannot be said to have committed an offence u/s 504, IPC.

6. In a complaint u/s 504, IPC the complainant must mention the actual words which were used by the accused while insulting him/her otherwise the court will not have enough material before it to come to a conclusion whether the words used by the accused amounted to intentional insult. Further more the complainant must give out in the complaint that the accused intended or knew that insulting words used by him were likely to provoke the complainant in either to break the peace or to commit some other offence.

7. In the present case the only allegation in the complaint is that when the complainant resisted the attempts by the accused to evict her forcibly from the land in her tenancy, the accused persons abused her in filthy words. The complainant has not given out the actual words in her complaint which were said to have been used by the accused. Not only this the complainant has also not stated in her complaint that she was provoked by the insulting abuse. Where the complaint nowhere discloses that the insulting words used by the accused had provoked her or that the accused intended or knew that the provocation was likely to cause the complainant either to break the peace or commit any other offence, the trial court was not justified in summoning the accused for the offence u/s 504, IPC. Under these circumstances the order of the learned magistrate summoning the applicants for the offence u/s 504, IPC cannot be upheld.

The application for revision is allowed. The order dated 13-6-1990 passed by learned IInd A.C.J.M., Jhansi in Criminal case No. 1434 of 1990 (Smt. Indra v. Jodh Singh) is hereby set aside. As the application has been filed u/s 500, IPC it shall remain open to the court concerned to proceed in accordance with law.